



Courtenay C. Corrigan, Chair
Town of Los Altos Hills

Margaret Abe-Koga, Vice Chair
City of Mountain View

Liz Gibbons
City of Campbell

Rod Sinks
City of Cupertino

Daniel Harney
City of Gilroy

Jeannie Bruins
City of Los Altos

Rob Rennie
Town of Los Gatos

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Nancy Smith
City of Sunnyvale

svcleanenergy.org

333 W El Camino Real
Suite 290
Sunnyvale, CA 94087

Silicon Valley Clean Energy Finance and Administration Committee Meeting

Tuesday, September 4, 2018
1:00 pm

Silicon Valley Clean Energy Office
Conference Room
333 W El Camino Real, Suite 290
Sunnyvale, CA

AGENDA

Call to Order

Roll Call

Public Comment on Matters Not Listed on the Agenda

The public may provide comments on any item not on the Agenda. Speakers are limited to 3 minutes each.

Consent Calendar

- 1a) Approve Minutes from the May 30, 2018 Finance and Administration Committee Meeting
- 1b) Approve Minutes from the June 19, 2018 Finance and Administration Committee Special Meeting
- 1c) Approve Minutes from the July 23, 2018 Finance and Administration Committee Special Meeting
- 1d) Approve to Recommend Amendment to Smartphone Stipend Policy
- 1e) Approve to Recommend Authorization to CEO to Execute Agreement with Richards, Watson & Gershon for Legal Services
- 1f) Approve to Recommend Authorization to CEO to Execute Agreement with Mail R Us dba Ad-Vantage Marketing, Inc. for Printing and Mailing Services
- 1g) Approve to Recommend Time Extension, Addition of Funds and Authorize CEO to Execute Second Amendment to Agreement with Above the Fold Designs for Graphic Design and Web Design Services
- 1h) Approve to Recommend Time Extension and Authorize CEO to Execute Amendment to Agreement with Pacific Printing for Printing Services



Courtenay C. Corrigan, Chair
Town of Los Altos Hills

1i) Approve to Recommend Authorization to CEO to Execute an Amended Agreement with Pacific Energy Advisors, Inc., for Power Management and Technical Consulting Services, October 2018 – September 2019

Margaret Abe-Koga, Vice Chair
City of Mountain View

1j) June 2018 Treasurer Report

1k) July 2018 Treasurer Report

Liz Gibbons
City of Campbell

1l) Approve Recommendation to Establish \$20 Million Line of Credit with River City Bank

Rod Sinks
City of Cupertino

1m) Approve to Recommend Access to Public Records – Request and Fees Policy

1n) Approve to Recommend Amendment to Employee Handbook to Establish Management Leave for Exempt Employees

Daniel Harney
City of Gilroy

1o) Approve to Recommend Amendment to Employee Handbook to Establish Specific Days During the Week Between Christmas and New Years as Agency Paid Holidays for 2018 and 2019

Jeannie Bruins
City of Los Altos

1p) Approve to Recommend Volunteer Time Off Policy

Rob Rennie
Town of Los Gatos

1q) Approve to Recommend Unpaid Personal Leave Policy

Marsha Grilli
City of Milpitas

Regular Calendar

2) SVCE Update to Benefits and Compensation Including Organization Chart and Salary Ranges (Action)

3) FY 2018-19 Operating Budget Overview (Discussion)

Steve Tate
City of Morgan Hill

Public Comment on Closed Session

The public may provide comments regarding the Closed Session item(s) just prior to the Board beginning the Closed Session. Closed Sessions are not open to the public.

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Convene to Closed Session

Conference with Real Property Negotiators
Property: 333 W. El Camino Real
Agency Negotiator: Girish Balachandran, CEO
Negotiating Parties: Sunnyvale Village Associates
Under Negotiation: Price and Terms of Payment

Nancy Smith
City of Sunnyvale

Report from Closed Session

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Committee/Staff Remarks

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Suite 290
Sunnyvale, CA 94087

Adjourn



Courtenay C. Corrigan, Chair
Town of Los Altos Hills

Margaret Abe-Koga, Vice Chair
City of Mountain View

Liz Gibbons
City of Campbell

Rod Sinks
City of Cupertino

Daniel Harney
City of Gilroy

Jeannie Bruins
City of Los Altos

Rob Rennie
Town of Los Gatos

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Nancy Smith
City of Sunnyvale

**Silicon Valley Clean Energy
Finance and Administration Committee Meeting**

Wednesday, May 30, 2018
11:00 am

Silicon Valley Clean Energy Office
Conference Room
333 W El Camino Real, Suite 290
Sunnyvale, CA

DRAFT MINUTES

Call to Order

Chair Craig called the meeting to order at 11:06 a.m.

Roll Call

Present:

Chair Burton Craig, City of Monte Sereno
Vice Chair Howard Miller, City of Saratoga
Director Liz Gibbons, City of Campbell
Director Rob Rennie, Town of Los Gatos

Absent:

None.

Public Comment on Matters Not Listed on the Agenda

No speakers.

Consent Calendar

Chair Craig suggested moving Items 2 and 3 to the consent calendar; following brief discussion, the committee was in consensus to leave the proposed items on the regular calendar.

1) Approve Minutes from the March 9, 2018 Finance and Administration Committee Meeting

MOTION: Director Gibbons moved and Vice Chair Miller seconded the motion to approve the Minutes of the March 9, 2018 Finance and Administration Committee Meeting as submitted.

The motion carried unanimously.

Regular Calendar

2) Amendment to Reserves Policy (Action)

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Courtenay C. Corrigan, Chair
Town of Los Altos Hills

Director of Administration and Finance Don Eckert introduced the item and a PowerPoint presentation; CEO Girish Balachandran noted the next phase would involve performing an analysis and quantifying risks. Staff responded to committee questions regarding maximum reserve targets and credit ratings; Mike Maher of Maher Accountancy provided his thoughts regarding the credit rating given to Marin Clean Energy (MCE).

Margaret Abe-Koga, Vice Chair
City of Mountain View

Director Miller requested if staff meets with MCE, staff inquire if MCE is comfortable with the credit rating given or if they are working on how to improve their rating.

Liz Gibbons
City of Campbell

Director Gibbons suggested staff include more information in the staff report to the Board including: the policy presented is an update based on current discussions, a full policy would be flushed out to address specific issues in the future, and include an analysis from MCE's credit rating.

Rod Sinks
City of Cupertino

Daniel Harney
City of Gilroy

CEO Balachandran suggested the Moody's scorecard matrix be brought back to the Finance and Administration Committee for discussion in the summer/fall time frame. CEO Balachandran summarized committee comments to note the policy presented is an incremental improvement from the previous version and a more detailed version would be brought to the Finance and Administration Committee.

Jeannie Bruins
City of Los Altos

Rob Rennie
Town of Los Gatos

MOTION: Vice Chair Miller moved and Director Gibbons seconded the motion to recommend Board approval of the proposed amended Financial Policy #9 – Cash Reserve Policy.

Marsha Grilli
City of Milpitas

The motion carried unanimously.

3) Establish Line of Credit (Action)

Burton Craig
City of Monte Sereno

Director of Administration and Finance Eckert introduced the item and responded to committee member questions.

Steve Tate
City of Morgan Hill

MOTION: Director Gibbons moved and Director Rennie seconded the motion to recommend the Board approve SVCE to engage River City Bank in establishing a \$20 million line of credit for one year.

Dave Cortese
County of Santa Clara

The motion carried unanimously.

4) Building Facility Options (Action)

Howard Miller
City of Saratoga

Director of Administration and Finance Eckert introduced the item; Administrative Assistant Eric Acedo and IT Specialist Nik Zanotto presented a PowerPoint presentation. Staff responded to committee member questions.

Nancy Smith
City of Sunnyvale

The committee discussed use of the potential new space.

Director Craig suggested exploring the option of purchasing office space.

CEO Balachandran summarized committee comments to include: reframing the item to focus on Option 3: *Expand SVCE Office Space by Leasing Adjacent Suite* as being the preferred alternative, set a firm timeline of getting design assistance, and compile the comments made to get a better estimate of construction and furniture costs. The group

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Courtenay C. Corrigan, Chair
Town of Los Altos Hills

discussed including the item on the consent calendar for the Board meeting with a timeline added into the report.

Margaret Abe-Koga, Vice Chair
City of Mountain View

MOTION: Director Rennie moved and Director Gibbons seconded the motion to authorize Staff to negotiate with Biagini Properties to lease an adjacent suite in the same building as SVCE's current offices.

Liz Gibbons
City of Campbell

The motion carried unanimously.

5) SVCE Benefits and Compensation (Action)

Rod Sinks
City of Cupertino

CEO Balachandran introduced the item; Director of Administration and Finance Eckert presented a PowerPoint presentation and responded to Committee questions.

Daniel Harney
City of Gilroy

The group discussed potential benefits for employees including a public transportation stipend, educational assistance, job development training, electric vehicle charging, self-directed benefit programs, cost of living adjustments, a recruitment incentive, additional paid time off, job sharing, and health care benefits.

Jeannie Bruins
City of Los Altos

Committee members provided feedback on the following:

Rob Rennie
Town of Los Gatos

Consider cost of living adjustments as performance based, support for capping a recruitment incentive at \$15,000 or 10% of employee's salary, evaluate SVCE's benefit health care options, allotting a specified dollar amount to be used for employees to select individual benefits, offering a range of benefits potential employees can select from, consider looking at other organizations such as joint power authorities, special districts, etc. when comparing benefits and compensation to SVCE, categorizing potential benefits, and provide benefits that encourage people to change their environmental behaviors.

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

CEO Balachandran summarized committee comments to bring the no cost benefits and recruitment incentive policy, which would be the greater of \$15,000 or 10% of salary, for the June Board of Directors Board meeting. Director Miller suggested these items be presented as separate items.

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

The committee voted unanimously to provide direction to staff to schedule a Special Meeting on June 19, 2018, 11:00 a.m. -1:00 p.m., to continue a discussion on benefits.

Howard Miller
City of Saratoga

6) FY 2018-19 Operating Budget Preview (Discussion)

Nancy Smith
City of Sunnyvale

Director of Administration and Finance Eckert introduced the item and presented a PowerPoint presentation. Director of Administration and Finance Eckert responded to committee questions. CEO Balachandran provided additional information regarding product offerings.

7) Second Quarter Financial Review (Discussion)

Director of Administration and Finance Eckert introduced the item and presented a PowerPoint presentation; Director of Administration and Finance Eckert and Maher of Maher Accountancy responded to Committee questions regarding SVCE's finances.

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Courtenay C. Corrigan, Chair
Town of Los Altos Hills

Director Miller requested staff include the number of days on the FY Outlook slide of the presentation.

Margaret Abe-Koga, Vice Chair
City of Mountain View

8) Popular Annual Financial Report (Discussion)

Director of Administration and Finance Eckert introduced the item; Administrative Analyst Stephanie Gutowski provided additional information.

Liz Gibbons
City of Campbell

Committee/Staff Remarks

CEO Balachandran noted the Milpitas launch event scheduled for June 1 had been cancelled and staff would distribute a press release on the launch.

Rod Sinks
City of Cupertino

Adjournment

Chair Craig adjourned the meeting at 1:19 p.m.

Daniel Harney
City of Gilroy

Jeannie Bruins
City of Los Altos

Rob Rennie
Town of Los Gatos

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Nancy Smith
City of Sunnyvale



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Rob Rennie
Town of Los Gatos

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Nancy Smith
City of Sunnyvale

**Silicon Valley Clean Energy
Finance and Administration Committee Special Meeting**

Tuesday, June 19, 2018
11:00 am

Silicon Valley Clean Energy Office
Conference Room
333 W El Camino Real, Suite 290
Sunnyvale, CA

DRAFT MINUTES

Call to Order

Chair Craig called the meeting to order at 11:15 a.m.

Roll Call

Present:

Chair Burton Craig, City of Monte Sereno
Vice Chair Howard Miller, City of Saratoga
Director Liz Gibbons, City of Campbell
Director Rob Rennie, Town of Los Gatos

Absent:

None.

Public Comment on Matters Not Listed on the Agenda

No speakers.

Regular Calendar

1) SVCE Benefits and Compensation

Director of Finance and Administration Don Eckert and CEO Girish Balachandran introduced the item and presented a PowerPoint presentation.

The group discussed the results of the compensation study performed by Bryce Consulting, Inc., ways to attract and retain staff, broadbanding, SVCE's budget, and self-directed benefits.

Committee members provided feedback including:

Using the compensation study for comparison purposes, a suggestion to develop the attributes of the type of employee SVCE wants, include a cap on accruals for paid time off, suggestions on how to bundle benefits, increasing some benefits with seniority, and adding a creative space to the existing office.

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Courtenay C. Corrigan, Chair
Town of Los Altos Hills

CEO Balachandran noted four outcomes of the meeting: 1) a survey would be distributed to employees to gather information on what employees would want as part of a self-directed benefits package, 2) feedback received on employee salary, 3) development of procedures, and 4) consideration of paid time off and additional leave.

Margaret Abe-Koga, Vice Chair
City of Mountain View

Committee members were in consensus to call a Special Meeting on July 23, 2018, 12:00 p.m. – 2:00 p.m. at the SVCE office.

Liz Gibbons
City of Campbell

Committee/Staff Remarks

None.

Rod Sinks
City of Cupertino

Daniel Harney
City of Gilroy

Adjournment

Chair Craig adjourned the meeting at 12:27 p.m.

Jeannie Bruins
City of Los Altos

Rob Rennie
Town of Los Gatos

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Nancy Smith
City of Sunnyvale

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City of Los Altos

Rob Rennie
Town of Los Gatos

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Nancy Smith
City of Sunnyvale

**Silicon Valley Clean Energy
Finance and Administration Committee Special Meeting**

Monday, July 23, 2018
12:00 pm

Silicon Valley Clean Energy Office
Conference Room
333 W El Camino Real, Suite 290
Sunnyvale, CA

DRAFT MINUTES

Call to Order

Chair Craig called the meeting to order at 12:14 p.m.

Roll Call

Present:

Chair Burton Craig, City of Monte Sereno
Vice Chair Howard Miller, City of Saratoga
Director Liz Gibbons, City of Campbell
Director Rob Rennie, Town of Los Gatos

Absent:

None.

Public Comment on Matters Not Listed on the Agenda

No speakers.

Regular Calendar

1) Approve the Cancellation of the September 5, 2018 Finance and Administration Committee Meeting and Approve the Scheduling of an Alternative Meeting Date (Action)

Director of Administration and Finance Don Eckert introduced the item.

MOTION: Vice Chair Miller moved and Director Rennie seconded the motion to approve the cancellation of the September 5, 2018 Finance and Administration Committee Meeting and approve the scheduling of an alternative meeting on September 4, 2018, from 1:00 to 3:00 p.m.

2) SVCE Benefits and Compensation (Discussion)

Director of Finance and Administration Eckert introduced the item and presented a PowerPoint presentation; CEO Girish Balachandran provided additional information. Staff responded to Committee questions.

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Town of Los Altos Hills

Margaret Abe-Koga, Vice Chair
City of Mountain View

Liz Gibbons
City of Campbell

Rod Sinks
City of Cupertino

Daniel Harney
City of Gilroy

Jeannie Bruins
City of Los Altos

Rob Rennie
Town of Los Gatos

Marsha Grilli
City of Milpitas

Burton Craig
City of Monte Sereno

Steve Tate
City of Morgan Hill

Dave Cortese
County of Santa Clara

Howard Miller
City of Saratoga

Nancy Smith
City of Sunnyvale

The committee discussed the compensation study performed by Bryce Consulting, Inc. and potential benefits for employees.

The following feedback was provided to staff: cost of living adjustments may be performance based, 80 hours of unpaid leave at the discretion of the CEO should be brought to the Board for approval at the September Board of Directors meeting, include organization goal based benefits, look into an in lieu of health payment for employees, consider the timing of the potential cost of living adjustments and merit increases, benefits should be identified with a goal of getting approval prior to the new year for implementation in 2019, and compensation and benefits should be reviewed as part of a system.

Committee/Staff Remarks

Director of Finance and Administration Eckert distributed a proposed list of agenda items for the September 4, 2018 Finance and Administration Committee meeting.

Vice Chair Miller inquired if SVCE has considered purchasing a building as opposed to leasing and suggested staff allocate a portion of reserves toward the purchase; Chair Craig encouraged staff to keep their eyes open for potential space.

Adjournment

Chair Craig adjourned the meeting at 1:44 p.m.



Staff Report – Item 1d

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1d: Approve to Recommend Amendment to Smartphone Stipend Policy

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board approve amendment to HRP1 – Smartphone Stipend Policy.

BACKGROUND

The Smartphone Stipend Policy was approved at the April 12, 2017 Board of Directors meeting to provide a stipend for eligible employees for business-related costs incurred when using their individually-owned smartphones.

ANALYSIS & DISCUSSION

Data security is of utmost importance to the Board of Directors and staff. The recommendation allows authorized staff to remove Office 365 data from mobile devices upon an employee's termination. This will enhance data security and is currently an information technology standard procedure.

STRATEGIC PLAN

The recommendation supports the Information Technology goals of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the committee on the Smartphone Stipend Policy.

FISCAL IMPACT

There is minimal fiscal impact with this recommendation.

ATTACHMENTS

1. HRP1 – Amended Smartphone Stipend Policy



HRP1

Category: Human Resources

SMARTPHONE STIPEND POLICY

I. PURPOSE

- a. SVCE recognizes that the performance of certain job responsibilities may be enhanced by or may require the use of a smartphone. The IRS considers these devices to be “listed property.” As such, IRS regulations (IRS Section 274(d)4) require detailed record keeping including (a) the amount of the expense, (b) the time and place of the call, and (c) the business purpose for the call. The IRS can declare that all undocumented use of a smartphone is personal and should be taxed as wages, even if the majority of the calls are for business purposes.
- b. In order to comply with IRS rules regarding the taxable nature of cell phone usage by employees, SVCE will issue a smartphone stipend for those employees who hold positions where the duties of that position require the use of a smartphone. The benefits of such an approach include:
 - i. A call log is not required;
 - ii. Monthly reporting is not required;
 - iii. A single phone may be used for both personal and business purposes;
 - iv. The stipend will not be considered taxable income to the employee.

2. II. SCOPE

This policy applies to all SVCE employees who will be receiving a stipend for their personal smartphone.

3. III. POLICY

A. Employees who hold positions that include the need for a smartphone (see eligibility criteria below) may receive a stipend to compensate for business-related costs incurred when using their individually-owned smartphone. SVCE will not own smartphones for the use of individual employees.

B. Employees who desire to use their smartphone for SVCE business shall configure Office 365 to work with either the Outlook App or the native email app. Prior to leaving the employment of SVCE, the employee will be required to delete all Office 365 data from their smartphone.



HRP1

Category: Human Resources

IV. ELIGIBILITY

- a. Employees whose job duties include the frequent need for a smartphone may receive extra compensation, in the form of a monthly stipend, to cover business related costs. An employee is eligible for a personal phone stipend if at least one of the following criteria is met:
 - i. The job function of the employee requires considerable time outside of his/her assigned office or work area and it is important to SVCE that s/he is accessible during those times;
 - ii. The job function of the employee requires him/her to be accessible outside of regularly scheduled or normal working hours where time sensitive decisions/notifications are required;
 - iii. The job function of the employee requires him/her to have wireless data and internet access.

V. STIPEND PLAN:

- A.** If an employee meets the eligibility requirements for a smartphone, as outlined above, a stipend may be requested in writing through their supervisor.
- B.** Once approved, the stipend amount will be added to the employee's regular pay. In order to meet IRS guidelines, any amount added for smartphone service will be identified as a non-taxable benefit.
- C.** The stipend will be paid as a flat rate per month.
- D.** The stipend allowance is neither permanent nor guaranteed. SVCE reserves the right to cancel the stipend for business reasons.
- E.** The amount of the stipend is \$50 per month.
- F.** If an employee's job duties do not include the need for a smartphone, the employee is not eligible for a stipend.
 - i.** Such employees may request reimbursement for the actual extra expenses of business calls on their personal phone.
 - ii.** Reimbursement documentation should identify the business purpose.

VI. EQUIPMENT PURCHASE

SVCE will not pay for the purchase of personal smartphones, activation fees or insurance.

VII. OVERSIGHT

Category: Human Resources

- a. A. The department head is responsible for overseeing employee smartphone needs and assessing each employee's continued need of a phone for business purposes.
- b. B. The Chief Executive Officer will have the final approval authority.
- c. C. Support from SVCE's Information Technology contractors is limited to connecting a personally-owned smartphone to SVCE-provided services including email, calendar, and contacts.

VIII. EMPLOYEES RIGHTS & RESPONSIBILITIES

- a. A. The employee is responsible for purchasing a smartphone and establishing a service contract with the cell phone service provider of his/her choice. The contract is in the name of the employee, who is solely responsible for all payments to the service provider.
- b. B. Because the smartphone is owned personally by the employee, the stipend provided is not considered taxable income and the employee may use the phone for both business and personal purposes, as needed.
- c. C. SVCE does not accept any liability for claims, charges or disputes between service provider and the employee.
- d. D. Any smartphone that has data capabilities must be secured based on current security standards including password protection and encryption. If a smartphone with data capabilities is stolen or missing, it must be reported to the employee's supervisor as soon as possible.
- e. E. Employees are expected to delete all SVCE data from the smartphone when their employment with the agency ends, except when required to maintain their data in compliance with litigation hold notice. The departing employee will allow the SVCE Information Technology representative to verify all Office 365 data has been deleted from the device. In the event that SVCE cannot verify that the data has been deleted, SVCE may remotely delete all the Office 365 data from the mobile device.



Staff Report – Item 1e

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1e: Approve to Recommend Authorization to CEO to Execute Agreement with Richards, Watson & Gershon for Legal Services

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board authorize the CEO to execute an agreement with Richards, Watson & Gershon (RWG) for legal services from October 1, 2018 through September 30, 2019.

BACKGROUND

Silicon Valley Clean Energy (SVCE) has been utilizing the services of RWG since the Agency's formation with the current agreement expiring on September 30, 2018. Compensation is to not exceed \$145,000 for the term of the agreement. The compensation ceiling is based on historical usage and updated hourly rates.

ANALYSIS & DISCUSSION

The scope of work is included as Exhibit A to the Agreement with RWG (see Attachment 1) and includes:

- Attendance at the monthly SVCE Board of Directors meetings and any special meetings and workshops as required by the CEO or Chair of the Board.
- Brown Act, Conflict of Interest and Public Records Act advice and representation.
- Preparation or review of consultant and vendor contracts.
- Advice to the CEO and designated staff on administrative and operational matters.
- Research and advice on legal questions asked by the Board, CEO and designated staff.
- Advice and assistance on other legal matters as may be assigned by the CEO.

STRATEGIC PLAN

The recommendation supports the Finance and Administration goals of the strategic plan.

ALTERNATIVE

There is no alternative associated with this report.

FISCAL IMPACT

The fiscal impact of this contract is \$145,000.

ATTACHMENTS

1. Agreement with Richards, Watson & Gershon for legal services

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
RICHARD, WATSON & GERSHON, A PROFESSIONAL CORPORATION FOR
LEGAL SERVICES**

THIS AGREEMENT, is entered into this 1st day of October, 2018, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and RICHARDS, WATSON & GERSHON, a professional corporation whose address is 44 Montgomery St., Suite 3800. San Francisco, CA 94104 (hereinafter referred to as "General Counsel") (collectively referred to as the "Parties").

RECITALS:

A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.

B. General Counsel possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and General Counsel desire to enter into an agreement for legal services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2018, and shall terminate on September 30, 2019, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

General Counsel shall perform each and every service set forth in Exhibit "A", which is attached hereto and incorporated herein by this reference.

3. **COMPENSATION TO GENERAL COUNSEL**

General Counsel shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed One hundred and forty-five thousand and 00/100 dollars (\$145,000) based on the rates and terms set forth in Exhibit "B," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

General Counsel and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

General Counsel agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of specially trained professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel.

6. **INDEPENDENT PARTIES**

Authority and General Counsel intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of General Counsel, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of General Counsel's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to General Counsel, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due General Counsel. Payments of the above items, if required, are the responsibility of General Counsel.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

General Counsel agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or General Counsel's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. General Counsel agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

General Counsel shall, to the fullest extent allowed by law and without limitation of the provisions of this Agreement related to insurance, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of, pertaining to, or related to the performance of this Agreement by General Counsel or General Counsel's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the Services by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the Services or termination of this Agreement.

10. **INSURANCE:**

A. **General Requirements.** On or before the commencement of the term of this Agreement, General Counsel shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and

certificates, which do not limit General Counsel's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Chief Executive Officer." General Counsel shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. General Counsel agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, General Counsel shall look solely to his/her/its insurance for recovery. General Counsel hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either General Counsel or Authority with respect to the services of General Counsel herein, a waiver of any right to subrogation which any such insurer of General Counsel may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If General Counsel at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the General Counsel's name or as an agent of the General Counsel and shall be compensated by the General Counsel for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect General Counsel. General Counsel is advised to confer with General Counsel's insurance broker to determine adequate coverage for General Counsel.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. CONFLICT OF INTEREST

General Counsel warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. General Counsel agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require General Counsel to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California

Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

General Counsel shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by General Counsel from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by General Counsel.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of General Counsel, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if General Counsel is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of General Counsel, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that General Counsel employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by General Counsel. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

General Counsel agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by General Counsel shall agree to be bound to General Counsel and Authority in the same manner and to the same extent as General Counsel is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. General Counsel shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. General Counsel shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by General Counsel pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. General Counsel shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to Authority the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. General Counsel may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by General Counsel may be used by Authority in execution or implementation of: (1) The original Project for which General Counsel was hired; (2) Completion of the original Project by others; (3) Subsequent additions to the original project; and/or (4) Other Authority projects as Authority deems appropriate in its sole discretion.

C. General Counsel shall, at such time and in such form as Authority may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided. All Reports shall also be provided in electronic format, both in the original file format (e.g., Microsoft Word) and in PDF format.

E. No Report, information or other data given to or prepared or assembled by General Counsel pursuant to this Agreement shall be made available to any individual or organization by General Counsel without prior approval by Authority.

15. **RECORDS**

General Counsel shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. General Counsel shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after General Counsel receives final payment from Authority for all services required under this agreement.

If supplemental examination or audit of the records is necessary due to concerns raised by Authority's preliminary examination or audit of records, and the Authority's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then General Counsel shall reimburse Authority for all reasonable costs and expenses associated with the supplemental examination or audit.

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Richards, Watson & Gershon shall represent General Counsel in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

General Counsel shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to General Counsel by Authority.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:
333 W. El Camino Real
Suite 290
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO GENERAL COUNSEL:
Richard, Watson & Gershon
Attn: Gregory W. Stepanicich
44 Montgomery St., Suite 3800
San Francisco, CA 94104
gstepanicich@rwglaw.com

19. **TERMINATION**

In the event General Counsel fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, General Counsel shall be deemed in default in the performance of this Agreement. If General Counsel fails to cure the default within the time specified and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Board of Directors may terminate the Agreement by giving General Counsel written notice thereof, which shall be effective immediately. Upon receipt of any notice of termination, General Counsel shall immediately discontinue performance.

Authority shall pay General Counsel for services satisfactorily performed up to the effective date of termination. If the termination is for cause, Authority may deduct from such payment the amount of actual damage, if any, sustained by Authority due to General Counsel's failure to perform its material obligations under this Agreement. Upon termination, General Counsel shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by General Counsel or given to General Counsel, in connection with this Agreement. Such materials shall become the property of Authority.

20. **COMPLIANCE**

General Counsel shall comply with all applicable local, state and federal laws.

21. **CONFLICT OF LAW**

This Agreement shall be interpreted under, and enforced by the laws of the State of California. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the Superior Court of the County of Santa Clara, State of California.

22. **ADVERTISEMENT**

General Counsel shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall

not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and General Counsel.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal Authority and authority to do so on behalf of their respective legal entities.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed as of the date set forth above.

RECOMMENDED FOR APPROVAL

Donald Eckert, Director of Finance & Administration

RICHARD, WATSON & GERSHON
A Professional Corporation

By _____
Name _____
Title _____
Date _____

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

By _____
Name Girish Balachandran
Title Chief Executive Officer
Date _____

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

Exhibit A
Scope of Services

As General Counsel for SVCEA, Richards, Watson & Gershon shall provide the general legal services typically required by a joint powers authority in addition to those general legal services related more specifically to the operation of a community choice aggregation program as described below. These legal services shall include the following:

- Attendance at the monthly SVCEA Board of Directors (“Board”) meetings and any special meetings and workshops as requested by the Chief Executive Officer or Chair of the Board.
- Brown Act, Conflict of Interest and Public Records Act advice and representation.
- Preparation or review of consultant and vendor contracts.
- Advice and preparation of documents related to personnel matters.
- Advice to the Chief Executive Officer and designated staff on administrative and operational matters.
- Research and advice on legal questions asked by the Board, Chief Executive Officer and designated staff.
- Advice and assistance on other legal matters as may be assigned by the Chief Executive Officer.

Legal services will not include matters in which Richards, Watson & Gershon has a conflict of interest that precludes the law firm from representing SVCEA. General Counsel services also will not include energy contracts or regulatory matters before the California Public Utilities Commission (CPUC) that require specialized legal services in these areas of law.

Exhibit B Compensation

Authority shall compensate General Counsel for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation shall be calculated based on the hourly rates set forth below up to the not to exceed budget amount set forth below.

The compensation to be paid to General Counsel under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of One Hundred Forty-Five Thousand and 00/100 dollars (\$145,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Rates

Shareholders	\$325/Hour
Associates	\$275/Hour
Paralegals	\$180/Hour

Invoices

Monthly Invoicing: In order to request payment, General Counsel shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority and shall only be reimbursed to the extent consistent with Authority's travel policy.

Additional Services

General Counsel shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority's Chief Executive Officer prior to commencement of any additional services. General Counsel shall submit, at the Chief Executive Officer's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit C
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

General Counsel shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:**
Statutory coverage as required by the State of California.
- (2) **Liability:**
Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:**
Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of General Counsel in the amount of at least \$1,000,000.



Staff Report – Item 1f

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1f: Approve to Recommend Authorization to CEO to Execute Agreement with Mail R Us dba Ad-Vantage Marketing, Inc. for Printing and Mailing Services

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommends the Board authorize the CEO to execute the agreement as shown in Attachment 1 with Mail R Us dba Ad-Vantage Marketing, Inc., for printing and mailing services from September 30, 2018 to September 30, 2021. Compensation is budgeted for \$135,000 annually, not to exceed \$405,000 for the three-year term of the agreement for any work performed under Exhibit A.

BACKGROUND

Mail R Us dba Ad-Vantage Marketing, Inc. Agreement for Printing and Mailing Services was approved by the Board of Directors on December 14, 2016, then amended on December 13, 2017 to extend the contract through September 30, 2018.

ANALYSIS & DISCUSSION

Ad-Vantage Marketing has been SVCE's mail house since inception and has consistently provided highly reliable printing and delivery services, and timely customer service. To comply with state regulatory requirements and CCA operational requirements, SVCE is responsible for sending out specific mailings throughout the year. Ad-Vantage Marketing is experienced with these required mailings from working with Sonoma Clean Power since 2015, and through having served SVCE since our launch. To date they have printed and mailed more than 1.5 million pieces for SVCE.

Ad-Vantage Marketing has established operational mechanisms in place to serve a CCA, such as secure data transfers and integration with our data service provider (Calpine) which ensures smooth processing when dealing with mass mailings and customer data. Ad-Vantage Marketing will be a key partner in future mailings, including targeted program marketing, and noticing more than 200,000 SVCE customers about the statewide Time-of-Use rate transition coming in 2020.

Mailings that Ad-Vantage Marketing is responsible for include:

1. Annual Joint Rate Mailer
2. Annual Power Content Label
3. Weekly maintenance mailings (opt outs, upgrades, delinquent accounts, etc.)
4. Notifications for new move in accounts
5. Two remaining Milpitas NEM enrollments
6. Annual contingency (e.g. program marketing, TOU rate mailings, and other mailing requirements that may arise due to changing regulatory landscape)

Agenda Item: 1f**Agenda Date: 9/4/2018**

Ad-Vantage was selected as an SVCE vendor through a competitive solicitation in late 2016. Since that time, staff has regularly received unsolicited proposals from other mail and print vendors for similar services, and Ad-Vantage Marketing consistently remains the most cost-competitive.

STRATEGIC PLAN

In SVCE's strategic plan, there is an emphasis on customer awareness in the customer and community section. The mailings that Ad-Vantage Marketing handles helps to improve SVCE awareness as well as promote customer satisfaction and meets the following Goals, Strategies and Tactics:

- Maintain competitive rates to acquire and retain customers (Goal 2)
 - Provide carbon-free electricity to additional customers in the SVCE service area and increase market share (Strategy 2.1)
 - Communicate competitive rates to all customers (Tactic 2.1.1)
 - Annually, communicate rates and power content mix of the SVCE electric supply in a joint rate comparison mailer with PG&E (Tactic 2.1.2)
- Benchmark customer awareness in 2019 and establish goals (Goal 3)
 - Build awareness and trust through continuous interaction with the SVCE community (Strategy 3.2)

ALTERNATIVES

Alternatives to a three-year extension of the Ad-Vantage agreement include 1) terminating the current agreement and re-bidding the services, or 2) extending the Ad-Vantage agreement by one year only.

The first alternative could result in a gap in the ongoing weekly mailing services that Ad-Vantage currently oversees. In addition, should a new vendor be chosen, time and effort to integrate the new vendor's service capabilities with SVCE and SVCE's data service provider would be required. The second alternative would require that time and effort is spent updating the annual agreement with Ad-Vantage Marketing after only one year instead of three. It should be noted that if Ad-Vantage service becomes unsatisfactory at any point in the three-year period, the contract could be terminated at that time with payment due only for services provided.

FISCAL IMPACT

The annual fiscal impact of this agreement is \$135,000, totalling \$405,000 over 3 years. Postage costs are not part of the agreement with Ad-Vantage Marketing as those costs are paid directly to the U.S. Postal Service under the SVCE mailing permit.

ATTACHMENTS

1. Agreement with Mail R Us dba Ad-Vantage Marketing, Inc. for Printing and Mailing Services

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
MAIL R US dba AD-VANTAGE MARKETING INC FOR
PRINTING AND MAILING SERVICES**

THIS AGREEMENT, is entered into this 1st day of October, 2018, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent joint powers authority, ("Authority"), and MAIL R US dba AD-VANTAGE MARKETING INC. (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

RECITALS:

A. Authority is an independent joint powers authority duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Consultant desire to enter into an agreement for printing and mailing services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2018, and shall terminate on September 30, 2021, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

Consultant shall perform each service set forth in Exhibit "A" of which is attached hereto and incorporated herein by this reference.

3. **COMPENSATION TO CONSULANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed four hundred five thousand dollars (\$405,000.00) based on the rates and terms set forth in Exhibit "B," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Consultant agrees to perform all services required by this Agreement in a manner

commensurate with the prevailing standards of specially trained professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Consultant shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liabilities, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of or related to the negligence or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors in the performance of this Agreement, except where caused by the sole or active negligence or willful misconduct of Authority or its members, officers, officials, agents, employees and volunteers. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the services provided by this Agreement by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the services or termination of this Agreement.

10. **INSURANCE:**

A. **General Requirements.** On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "C," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority, Attention: Chief Executive Officer." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. **Subrogation Waiver.** Consultant agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. **Failure to secure or maintain insurance.** If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. **Additional Insured.** Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under any policy required by this Agreement if not named as such additional insured. An additional insured named hereunder shall not be held liable for any premium, deductible portion of any loss, or expense of any nature under any policy required by this Agreement or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by any policy required by this Agreement.

E. **Sufficiency of Insurance.** The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. **Maximum Coverage and Limits.** It shall be a requirement under this Agreement that

any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Authority and the additional insureds

11. **CONFLICT OF INTEREST**

Consultant warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff capacity, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a corporation, partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the entity.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance required by this Agreement. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the indemnity and insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to Authority the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by Authority in the execution or implementation of: (1) The original project for which Consultant was hired; (2) Completion of the original project by others; (3) Subsequent additions to the original project; and/or (4) Other Authority projects as Authority deems appropriate in its sole discretion.

C. Consultant shall, at such time and in such form as Authority may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports shall also be provided in electronic format, both in the original file format (e.g., Microsoft Word) and in PDF format.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement that has not been publicly released shall be made available to any individual or organization by Consultant without prior approval by Authority.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this agreement.

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Dave Rankin shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to Consultant by Authority.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:

Silicon Valley Clean Energy Authority
333 W. El Camino Real
Suite 290
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO CONTRACTOR:

MAIL R US
dba AD-VANTAGE MARKETING INC
455 Tesconi Circle
Santa Rosa, CA 95401
Attention: Dave Rankin

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be not less than 10 days) and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of reports, studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

21. **CONFLICT OF LAW**

This Agreement shall be interpreted under, and enforced by the laws of the State of California. The Agreement and obligations of the parties are subject to all valid laws, orders, rules,

and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the Superior Court of the County of Santa Clara, State of California.

22. **ADVERTISEMENT**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal authority to do so on behalf of their respective party.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed as of the date set forth above.

RECOMMENDED FOR APPROVAL

Don Bray
Director of Account Services & Customer Relations

CONSULTANT NAME
MAIL R US
Dba AD-VANTAGE MARKETING INC

By: _____
Name: _____
Title: _____
Date: _____

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

By: _____
Name: Girish Balachandran
Title: Chief Executive Officer
Date: _____

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

Exhibit A
Scope of Services

Contractor shall perform all services related to the printing and mailing needs of the following:

1. Weekly account maintenance
 - a. Enrollment notifications for new accounts
 - i. As new customer set up electric accounts in our service area, they must receive two notices to inform them of their enrollment with a Community Choice Energy provider.
 - ii. There are still two remaining Milpitas NEM enrollments through March 2019, these customers will need their four notifications.
 - b. Opt out and Upgrade notices
 - i. Customers may elect to receive a mailed confirmation of their opt out or upgrade transaction with SVCE
 - c. Late payment letters
 - i. SVCE send delinquent payment notices to customers 90 and 60 days in advance of them being returned to PG&E
2. Annual Joint Rate Mailer
 - a. Per a California Public Utilities Commission requirement, SVCE and PG&E send an annual mailer no later than July 1 to compare rates and power content.
3. Annual Power Content Label
 - a. Per a California Energy Commission requirement, SVCE must mail all customers the Power Content Label in Q3 of each year with the verified power content from the prior year.
4. Data Processing
 - a. List setup, checking National Change of Address database and reporting any changes to SVCE for each mailing.
5. Production
 - a. Inkjet print setup, addressing letters, sort and bag, deliver to main Santa Clara County mail processing facilities.
6. Printing
 - a. Printing 6x11 cards for items 1a, 2 and 3 above, using FSC Certified recycled paper and soy-based ink.
 - b. Printing of weekly maintenance and late payment letters.
7. Contingency for additional program-related mailings
 - a. To be used at the discretion of the SVCE CEO for additional customer printing and mailing requirements that may arise. This includes additional targeted mailings for programs, letters to inform customers about the upcoming PG&E TOU rate change, or if there is a billing error that needs to be addressed.

Exhibit B
Compensation

Authority shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation shall be calculated based on the hourly rates set forth below up to the not to exceed budget amount set forth below.

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of four-hundred and five thousand dollars (\$405,000.00), as set forth below. Any work performed, or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	Estimated Budget
1. Joint Rate Mailer	\$ 15,000
2. Power Content Label	\$ 35,000
3. Weekly Mailings	\$20,000
4. Notification Printing	\$10,000
5. Milpitas NEM Enrollments	\$5,000
6. Annual Contingency (e.g. program marketing, TOU rate mailings, and other mailing requirements that may arise due to changing regulatory landscape)	\$50,000
Total Annual	\$135,000

Total for three-year contract term: \$405,000.00

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority.

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority’s Chief Executive Officer prior to commencement of any additional services. Consultant shall submit, at the Chief Executive Officer’s request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit C
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:**
Statutory coverage as required by the State of California. Note: Sole proprietors are excluded from this requirement, however, proof of worker's compensation must be provided if the Consultant hires one or more employees, otherwise this agreement will be terminated.
- (2) **Liability:**
Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:**
Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.



Staff Report – Item 1g

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1g: Approve to Recommend Time Extension, Addition of Funds and Authorize CEO to Execute Second Amendment to Agreement with Above the Fold Designs for Graphic Design and Web Design Services

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommends the Board authorize the CEO to approve the second amendment to the agreement with Above the Fold Designs for graphic and web design services from October 1, 2018 through September 30, 2019 and for an additional amount not to exceed \$10,500.

BACKGROUND

SVCE executed an agreement with Above the Fold Designs for \$40,000 as approved by the Board on April 11, 2018. The agreement will expire on September 30, 2018. Approximately \$14,500 remains unspent in the existing agreement. Staff is requesting to extend the agreement to September 30, 2019. Staff also recommends allocating an additional \$10,500 to the contract, for a new total not-to-exceed contract amount of \$50,500.

ANALYSIS & DISCUSSION

Above the Fold has supported SVCE in graphic and web design since July 2017 and has provided high quality services, quick turnaround and competitive rates. These services are an ongoing need for the agency as a means for effectively communicating with customers.

With programs launching this fiscal year, SVCE will need continued creative support with developing collateral materials, such as brochures, flyers and ads to promote our decarbonization efforts and get customers to participate. In addition to launching programs, there are various ongoing projects and required regulatory reports and mailings where SVCE needs to continue utilizing the services of a professional graphic design firm.

Customer awareness and education is an ongoing need that aligns with several SVCE communications strategies and tactics. Utilizing professional graphic designers assures that SVCE's brand continues to build and grow and provides consistency in all the materials being produced for customers. It is also important to continue to build awareness and create a positive image of SVCE so that when there are programs to advertise and promote, customers will be more likely to participate from having prior awareness and trust of the agency.

STRATEGIC PLAN

SVCE's Board-adopted Strategic Plan identifies several Goals, Strategies and Tactics related to advertising. These include:

- Maintain competitive rates to acquire and retain customers (Goal 2)
 - Provide carbon-free electricity to additional customers in the SVCE service area and increase market share (Strategy 2.1)
 - Communicate competitive rates to all customers (Tactic 2.1.1)

Agenda Item: 1g**Agenda Date: 9/4/2018**

- Annually, communicate rates and power content mix of the SVCE electric supply in a joint rate comparison mailer with PG&E (Tactic 2.1.2)
- Benchmark customer awareness in 2019 and establish goals (Goal 3)
 - Build awareness and trust through continuous interaction with the SVCE community (Strategy 3.2)

ALTERNATIVE

Do not approve the extended contract with Above the Fold. Staff will pursue a new graphic and web design vendor.

FISCAL IMPACT

\$10,500 from the Account Services and Community Relations budget will be allocated to the contract for a total not-to-exceed amount of \$50,500.

ATTACHMENTS

1. Second Amendment to Agreement with Above the Fold Designs for Graphic and Web Design Services
2. First Amendment to Agreement with Above the Fold Designs for Graphic Web Design Services
3. Executed Agreement with Above the Fold Designs for Graphic and Web Design Services

**SECOND AMENDMENT TO AGREEMENT WITH ABOVE THE FOLD DESIGNS, FOR
GRAPHIC AND WEB DESIGN SERVICES**

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and Above the Fold Designs entered into that certain agreement entitled Graphic and Web Design Services Agreement, effective on July 23, 2017, hereinafter referred to as “Original Agreement”; and

WHEREAS, Authority and Above the Fold Designs have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1. Section 1 (term) of Original Agreement shall be amended to read as follows:

“The term of this agreement shall be extended from October 1, 2018 and shall terminate on September 30, 2019, unless terminated earlier as set forth herein.”

2. Section 3 (compensation) of Original Agreement shall be amended to read as follows:

“Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed fifty thousand and five hundred dollars (\$50,500.00) based on the rates and terms set forth in Exhibit “C”, which is attached hereto and incorporated herein by this reference.

3. This Amendment shall be effective on October 1, 2018.

4. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.

5. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates set forth besides their signatures below.

RECOMMENDED FOR APPROVAL

Don Bray, Director of Account Services & Customer Relations

CONSULTANT NAME
ABOVE THE FOLD DESIGNS

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Girish Balachandran
Title: Chief Executive Officer
Date: _____

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

**FIRST AMENDMENT TO AGREEMENT WITH ABOVE THE FOLD DESIGNS, FOR
GRAPHIC AND WEB DESIGN SERVICES**

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and Above the Fold Designs. entered into that certain agreement entitled Graphic and Web Design Services Agreement, effective on July 23, 2017, hereinafter referred to as “Original Agreement”; and

WHEREAS, Authority and Above the Fold Designs have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1. Article 1, Section C (Term) of Original Agreement shall be amended to read as follows:

“The term of this agreement shall commence on April 11, 2018 and shall terminate on September 30, 2018, unless terminated earlier as set forth herein.”

2. Article 3, Section C (Compensation) of Original Agreement shall be amended to read as follows:

“Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed \$40,000 based on the rates and terms set forth in Exhibit “C”, which is attached hereto and incorporated herein by this reference.”

3. This Amendment shall be effective on April 11, 2018.

4. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.

5. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Exhibit C
Compensation

Authority shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation shall be calculated based on the hourly rates set forth below up to the not to exceed budget amount set forth below.

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of sixty thousand dollars (\$60,000.00), as set forth below. Any work performed, or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

<u>Task</u>	<u>Not to Exceed Amount</u>
Graphic Design	\$25,000.00
Web Design	\$15,000.00
Total	\$40,000.00
Hourly-rate for all services	\$80.00/hour

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority and shall only be reimbursed to the extent consistent with Authority's travel policy.

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority's Chief Executive Officer prior to commencement of any additional services. Consultant shall submit, at the Chief Executive Officer's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates set forth besides their signatures below.

CONSULTANT, Above the Fold Designs

By:



[signature]
David Cullen

[employee name]
Co-owner

[title/department]

Date: _____

SILICON VALLEY CLEAN ENERGY
AUTHORITY,
A Joint Powers Authority

By:



[signature]
Girish Balachandran

[name]
CEO

[title]

Date: 4/19/18

RECOMMENDED FOR APPROVAL



Director Customer Care

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
ABOVE THE FOLD DESIGNS FOR
GRAPHIC AND WEB DESIGN SERVICES**

THIS AGREEMENT, is entered into this 23rd day of July, 2017, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and Above the Fold Designs, a California corporation whose address is 219 Cleaves Court, San Jose, CA 95126 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

RECITALS:

A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Consultant desire to enter into an agreement for graphic and web design services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on July 23, 2017, and shall terminate on June 30, 2018, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

Consultant shall perform each and every service set forth in Exhibit "A" pursuant to the schedule of performance set forth in Exhibit "B," both of which are attached hereto and incorporated herein by this reference.

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed twenty-four thousand dollars (\$24,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Consultant agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of specially trained professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law and without limitation of the provisions of this Agreement related to insurance, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of, pertaining to, or related to the performance of this Agreement by Consultant or Consultant's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the Services by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the Services or termination of this Agreement.

10. **INSURANCE:**

A. **General Requirements.** On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and

certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Chief Executive Officer." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her/its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. CONFLICT OF INTEREST

Consultant warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to Authority the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by Authority in execution or implementation of: (1) The original Project for which Consultant was hired; (2) Completion of the original Project by others; (3) Subsequent additions to the original project; and/or (4) Other Authority projects as Authority deems appropriate in its sole discretion.

C. Consultant shall, at such time and in such form as Authority may require, furnish reports

concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided. All Reports shall also be provided in electronic format, both in the original file format (e.g., Microsoft Word) and in PDF format.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement shall be made available to any individual or organization by Consultant without prior approval by Authority.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this agreement.

If supplemental examination or audit of the records is necessary due to concerns raised by Authority's preliminary examination or audit of records, and the Authority's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Consultant shall reimburse Authority for all reasonable costs and expenses associated with the supplemental examination or audit.

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. David Cullen shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to Consultant by Authority.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:
333 W El Camino Real
Suite 290

Sunnyvale, CA 94087
Attention: Chief Executive Officer

TO CONSULTANT:
David Cullen
Above the Fold Designs
219 Cleaves Court
San Jose, CA 95126

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. If the termination is for cause, Authority may deduct from such payment the amount of actual damage, if any, sustained by Authority due to Consultant's failure to perform its material obligations under this Agreement. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

21. **CONFLICT OF LAW**

This Agreement shall be interpreted under, and enforced by the laws of the State of California. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the Superior Court of the County of Santa Clara, State of California.

22. **ADVERTISEMENT**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or

condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal Authority and authority to do so on behalf of their respective legal entities.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed as of the date set forth above.

CONSULTANT
Above the Fold Designs

By David Cullen
Title Co-Owner
Date 6/29/17

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

By [Signature]
Chief Executive Officer
Date 7/19/2017

RECOMMENDED FOR APPROVAL

[Signature]
Alan Suleiman, Director of Marketing
and Public Affairs

Exhibit A
Scope of Services

Above the Fold Designs will assist Silicon Valley Clean Energy (SVCE) with design services, collateral development and web design support.

SVCE needs to prepare a suite of collateral material that provides information about the agency, our electricity choices, programs and other materials to support community and business outreach efforts. The materials must be designed in a way that easily informs and educates the target audience about SVCE's services. The materials must also align with the agency's brand guidelines, while also assisting with brand building and awareness goals.

Above the Fold Designs is a San Jose-based design studio that offers the following services:

- Logos
- Illustrations
- Book/Editorial Design
- Branding Identity
- Poster/Ad Creations
- Photoshoots
- Drone Photography/Videography (Remote Pilot License)
- Aerials/Map Designs, Hand Drawn Renderings (Illustrator)
- Website Design

The team is made up of the following members:

- David Cullen – Co-Owner – David has his Bachelor's in Business Management. He has been in the design industry for five years now and handles all our communication with clients and finds new leads. He also specializes in creating maps/aerials and he also has his Remote Pilot License for drone photography/videography.
- Gilbert Garlitos – Co-Owner – Gil is the life of the party for our group. His creativity and wit is expressed in his designs. His background with illustrating for newspapers has helped him become the amazing illustrator he is today. He has also taught classes at the Academy of Arts in San Francisco.
- Grant Zhao – Graphic Designer – Grant has a knack for making unique brochures and magazines. His creative modern designs makes a book have character and his designs stand out far from any others. Grant is also our main photographer and he has an eye for catching the perfect angles. He has a passion for design and is a constant student of the industry.
- Shobin Thomas – Graphic Designer – Shobin is our main web designer, but that is not where his talents stop. Shobin is a jack of all trades and can handle web design, brochures, and video editing. He is a dedicated and hard worker who can turn around a deadline faster than most.

- Jinx Macabenta – Web Designer - Jinx is our newest member to the family and is also a fellow Academy of Arts graduate and has had Director roles with different companies including; Froomz, LifeStreet Corporation, and RevJet. He has also worked for Yahoo! and Samsung. Jinx is one of the easiest people to not only relate to, but to also get along with.

Above the Fold Designs charges \$60/hour for all services, plus any license image download fees.

SVCE staff will work with Above the Fold Designs on project scope and budget before beginning any project outside what is listed in the Schedule of Performance (Exhibit B).

Exhibit B
Schedule of Performance

Exhibit B

Schedule of Performance

This schedule of performance is tentative and subject to change.

1. **Strategic Plan**
 - Budget – approx. 20 hours, \$1,200.00
2. **General tri-fold brochure –**
 - 25 hour estimate per brochure, 50 hours total estimate - \$3,000
 - Versions for:
 - Residents (multilingual versions)
 - Business
3. **Pop-up banners – 32 hour estimate - \$1,920**
4. **Window Clings for EVs, Residents and Businesses –**
 - 4 hours per item, all graphics are hand drawn, total is 12 hours - \$720
 - EV version – Driving 100% Carbon Free w/ Silicon Valley Clean Energy logo incorporated
 - Business version – Our business runs on 100% carbon free electricity, or simplified for less words, just say “Powered by 100% carbon free electricity” w/ SVCE logo on the cling
 - GreenPrime customers who have upgraded to 100% renewable energy, we need a business and residential version that says, “Our business/home is powered by 100% renewable energy” w/ SVCE logo
5. **Pinwheel design –**
 - Estimate 1 hour, \$60
6. **Regional Community Choice Energy (CCE) map handout –**
 - Estimate 40 hours, \$2,400
7. **Discount program brochure/postcard –**
 - 6 hours per card, 3 versions in language, 15 hours - \$1,080
8. **Hanging Banner for Festivals - 6 hours, \$360**
9. **Website design services – As needed**
 - Estimated website improvements and build out as SVCE programs launch is expected to take up to 200 design hours, or \$12,000.

Exhibit C
Compensation

Authority shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation shall be calculated based on the hourly rates set forth below up to the not to exceed budget amount set forth below.

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of twenty-four thousand dollars (\$24,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

<u>Task</u>	<u>Not to Exceed Amount</u>
Graphic Design	\$12,000.00
Web Design	\$12,000.00
Total	\$24,000.00

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority and shall only be reimbursed to the extent consistent with Authority's travel policy.

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority's Chief Executive Officer prior to commencement of any additional services. Consultant shall submit, at the Chief Executive Officer's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit D
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:**
Statutory coverage as required by the State of California. Note: Sole proprietors are excluded from this requirement, however, proof of worker's compensation must be provided if the Consultant hires one or more employees, otherwise this agreement will be terminated.
- (2) **Liability:**
Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:**
Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.



Staff Report – Item 1h

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1h: Approve to Recommend Time Extension and Authorize CEO to Execute Amendment to Agreement with Pacific Printing for Printing Services

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board authorize the CEO to extend the existing agreement with Pacific Printing for printing services from October 1, 2018 through September 30, 2019.

BACKGROUND

The existing agreement with Pacific Printing is for \$80,000 and was approved by the Board on November 29, 2018. The agreement will expire on September 30, 2018. Staff is requesting to extend the agreement to September 30, 2019. Approximately \$50,000 remains in the agreement.

ANALYSIS & DISCUSSION

Pacific Printing is a union printing company offering a variety of specialty printing services. SVCE utilizes Pacific Printing for print services for collateral needs such as business cards, flyers, brochures, window clings and banners. These services are an ongoing need for SVCE as a means for effectively communicating with customers and building recognition of the agency through community events.

As SVCE continues developing programs, there will be an ongoing need to print promotional and education materials for our customers to learn about our offerings. In addition to launching programs, there are various ongoing projects where SVCE needs to continue utilizing the services of a professional printer. Materials such as our general brochures and guidebooks need to be updated annually as our rate comparisons and program offerings will change each year.

STRATEGIC PLAN

SVCE's Board-adopted Strategic Plan identifies several Goals, Strategies and Tactics related to advertising. These include:

- Maintain competitive rates to acquire and retain customers (Goal 2)
 - Provide carbon-free electricity to additional customers in the SVCE service area and increase market share (Strategy 2.1)
 - Communicate competitive rates to all customers (Tactic 2.1.1)
 - Annually, communicate rates and power content mix of the SVCE electric supply in a joint rate comparison mailer with PG&E (Tactic 2.1.2)
- Benchmark customer awareness in 2019 and establish goals (Goal 3)
 - Build awareness and trust through continuous interaction with the SVCE community (Strategy 3.2)

ALTERNATIVE

Do not approve the extended contract with Pacific Printing. Staff will pursue a new print services vendor.

FISCAL IMPACT

There will be no monetary changes as result of acceptance of the recommendation, as there is still approximately \$50,000 left in the existing agreement.

ATTACHMENTS

1. First Amendment to Agreement with Pacific Printing for printing services
2. Executed Agreement with Pacific Printing for printing services

FIRST AMENDMENT TO AGREEMENT WITH PACIFIC PRINTING FOR PRINTING SERVICES

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and “PACIFIC PRINTING”. entered into that certain agreement entitled “PRINTING SERVICES”, effective on “JULY 23, 2017”, hereinafter referred to as “Original Agreement”; and

WHEREAS, Authority and PACIFIC PRINTING have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1. Section 1 of Original Agreement shall be amended to read as follows:

“The term of this agreement shall commence on October 1, 2018 and shall terminate on September 30, 2019, unless terminated earlier as set forth herein.”
2. This Amendment shall be effective on October 1, 2018
3. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
4. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates set forth besides their signatures below.

RECOMMENDED FOR APPROVAL

Don Bray, Director of Account Services & Customer Relations

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
PACIFIC PRINTING FOR
PRINTING SERVICES**

THIS AGREEMENT, is entered into this 23rd day of July 2017, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and Pacific Printing, a California corporation whose address is 1445 Monterey Highway, San Jose, CA 95110 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

RECITALS:

- A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.
- B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.
- C. Authority and Consultant desire to enter into an agreement for printing services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**
The term of this Agreement shall commence on July 23, 2017, and shall terminate on June 30, 2018, unless terminated earlier as set forth herein.
2. **SERVICES TO BE PERFORMED**
Consultant shall perform each and every service set forth in Exhibit "A" pursuant to the schedule of performance set forth in Exhibit "B," both of which are attached hereto and incorporated herein by this reference.
3. **COMPENSATION TO CONSULTANT**
Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed twenty-four thousand dollars (\$24,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.
4. **TIME IS OF THE ESSENCE**
Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.
5. **STANDARD OF CARE**
Consultant agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of specially trained professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law and without limitation of the provisions of this Agreement related to insurance, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of, pertaining to, or related to the performance of this Agreement by Consultant or Consultant's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the Services by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the Services or termination of this Agreement.

10. **INSURANCE:**

A. **General Requirements.** On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and

certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Chief Executive Officer." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her/its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. CONFLICT OF INTEREST

Consultant warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to Authority the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by Authority in execution or implementation of: (1) The original Project for which Consultant was hired; (2) Completion of the original Project by others; (3) Subsequent additions to the original project; and/or (4) Other Authority projects as Authority deems appropriate in its sole discretion.

C. Consultant shall, at such time and in such form as Authority may require, furnish reports

concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided. All Reports shall also be provided in electronic format, both in the original file format (e.g., Microsoft Word) and in PDF format.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement shall be made available to any individual or organization by Consultant without prior approval by Authority.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this agreement.

If supplemental examination or audit of the records is necessary due to concerns raised by Authority's preliminary examination or audit of records, and the Authority's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Consultant shall reimburse Authority for all reasonable costs and expenses associated with the supplemental examination or audit.

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Andrew Goett shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

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Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to Consultant by Authority.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:
333 W. El Camino Real

Suite 290
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO CONSULTANT:
Andrew Goett
Pacific Printing
1445 Monterey Highway
San Jose, CA 95112

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. If the termination is for cause, Authority may deduct from such payment the amount of actual damage, if any, sustained by Authority due to Consultant's failure to perform its material obligations under this Agreement. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

21. **CONFLICT OF LAW**

This Agreement shall be interpreted under, and enforced by the laws of the State of California. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the Superior Court of the County of Santa Clara, State of California.

22. **ADVERTISEMENT**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall

not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal Authority and authority to do so on behalf of their respective legal entities.

26. **INSERTED PROVISIONS**

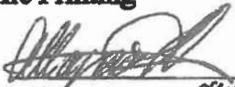
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27. **CAPTIONS AND TERMS**

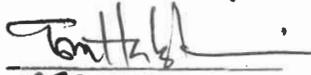
The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed as of the date set forth above.

CONSULTANT
Pacific Printing

By 
Title OPERATIONS MANAGER
Date 4/27/17

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

By 
Title CEO
Date 7/19/2017

RECOMMENDED FOR APPROVAL


Alan Suleiman, Director of Marketing &
Public Affairs

Exhibit A
Scope of Services

Silicon Valley Clean Energy will utilize Pacific Printing for print services for a variety of collateral needs such as business cards, flyers, brochures, window clings and banners. A list of expected items and estimates are provided in Exhibit B.

History of Pacific Printing:

With a combined experience of over 35 years, Pacific Printing brings to you unparalleled service and cost-effective savings, backed by a 100% guarantee. And because we work so closely with labor unions, we are sensitive to the demands and needs of your busy schedule and budget.

Here are some reasons why you should allow us to help you with your printing needs:

- We are a union printer that helps fuel union printing needs
- We are family owned and operated
- We serve both local and out-of-state unions
- We use top quality paper stock and inks
- We use industry-trusted presses
- All of our work is 100% guaranteed

Since we are a union printing company, you can be assured that the men and women who work on your printed materials receive decent wages and benefits. So, when you patronize our services, you are helping to maintain the union advantage in the printing industry.

Exhibit B
Schedule of Performance

This schedule may be modified with the written approval of the Authority.

Item Description	Specs	Quote (in quantity breakdowns)
Flyers	100lb matte text - 100% Recycled 8.5x11 Full Color 2 Sides	500 - \$471.00 1,000 - \$621.00 2,500 - \$812.00 5,000 - \$1074.00
Business Cards	80lb uncoated cover - 100% Recycled 2 Sides 3.5x2 2 PMS Colors	250 - \$150.00 500 - \$200.00
Brochures	100lb matte text - 100% Recycled 8.5x11 Full Color 2 Sides Tri-Fold	500 - \$340.00 1,000 - \$420.00 2,500 - \$710.00 5,000 - \$1,000.00
Booklets	16 pages including the cover Insides - 80lb matte text - 100% Recycled Cover - 80lb matt cover - 100% Recycled Full Color 11x17 Saddle Stitch to 8.5x11	10,000 - \$9,200.00 12,000 - \$10,400.00 15,000 - \$12,200.00 20,000 - \$15,250.00
Pinwheel	100lb dull text - 100% Recycled Full color 1 Side Die Cut	2,500 - \$775.00 5,000 - \$1,500.00
Info postcards	5x7 Full Color 2 sides 100lb dull cover - 100% Recycled	1,000 - \$411.00 2,500 - \$746.00 5,000 - \$1090.00
Pop-Up Banners	Full Color 33x78 inches	\$250 each

Exhibit C
Compensation

Authority shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below. Compensation shall be calculated based on the hourly rates set forth below up to the not to exceed budget amount set forth below.

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of twenty-four thousand dollars (\$24,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

<u>Task</u>	<u>Not to Exceed Amount</u>
Printing	\$24,000.00

Total	\$24,000.00
--------------	--------------------

Rates
Depends on project, see Exhibit B

Invoices
Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

Reimbursable Expenses
Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority and shall only be reimbursed to the extent consistent with Authority's travel policy.

Additional Services
Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority's Chief Executive Officer prior to commencement of any additional services. Consultant shall submit, at the Chief Executive Officer's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit D
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:**
Statutory coverage as required by the State of California.
- (2) **Liability:**
Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:**
Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.



Staff Report – Item 1i

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1i: Approve to Recommend Authorization to CEO to Execute an Amended Agreement with Pacific Energy Advisors, Inc., for Power Management and Technical Consulting Services, October 2018 – September 2019

Date: 9/4/2018

RECOMMENDATION

Staff recommends the Finance and Administration Committee recommends the Board Authorize the Chief Executive Officer to finalize, with non-substantive changes, and execute the attached amended agreement with Pacific Energy Advisors, Inc., for technical consulting services. The amended agreement provides for the following:

1. Extends the contract term for twelve months for a new termination date of September 30, 2019;
2. Amends the scope of work for Task 1 of Exhibit A;
3. Amends the compensation structure in Exhibit B;
4. Continues under a retainer fee compensation structure of \$25,000 per month for the first six months;
5. Includes an option to renegotiate the monthly retainer fee after six months;
6. Includes an option to move to a time-and-material contract fee structure after six months in lieu of the retainer structure subject to a mutually agreeable scope of work.

BACKGROUND

In November 2015, the Silicon Valley Community Choice Energy Partnership (SVCCEP) contracted with Pacific Energy Advisors (PEA) to conduct a Technical Feasibility Study for a regional CCA program in Santa Clara County. The study draft was released in November 2015 and the final study published in April 2016. The study evaluated CCA program viability for twelve communities that are SVCEA member agencies.

In April 2016, SVCEA entered into an agreement with PEA to support the CEO in all operational functions related to resource planning and acquisition. The contract was time and materials based and was superseded by a new agreement in April 2017.

On April 12, 2017 the Board approved an agreement with Pacific Energy Advisors for Technical Consulting Services for the period of time from April 13, 2017 through September 30, 2018. The terms of the contract included a broad set of tasks to be included under a monthly retainer charge of \$25,000 and additional tasks under a time and material basis for an amount not to exceed \$90,000. To date, all work completed by PEA has been under the broad retainer structure.

ANALYSIS & DISCUSSION

Power supply planning and acquisition requires specialized knowledge and expertise to perform the requisite analysis, plan development, regulatory submittals, and effective energy procurement. Accordingly, these

Agenda Item: 1i**Agenda Date: 9/4/2018**

functions are well suited to be served through consulting expertise until SVCEA can develop the necessary internal systems and bandwidth.

PEA has deep experience with supporting the power supply acquisition and regulatory compliance functions of a CCA program and serve as a critical resource in helping SVCE staff carry out day-to-day activities in addition to providing high level strategic support. SVCE staff is actively expanding bandwidth through training of existing staff, process and efficiency improvements and recruitment of new personnel to carry out some of the essential functions currently provided by PEA. It is staff's expectation that within six months, several of the functions for which SVCE relies on PEA can be handled in-house. However, an agreement to continue to utilize PEA is necessary should SVCE staff not be able to expand its internal bandwidth or specific matters arise that still require the expertise of PEA.

The amended agreement will allow for the maximum flexibility to continue the current fee structure for up to twelve months, however it is staff's expectation that either the retainer amount will be reduced after six months or the contract will move to a time and material basis. The agreement authorizes the CEO to negotiate reductions in services and compensation to be effective on April 1, 2019 or another mutually agreed upon date during the term of the Agreement.

ALTERNATIVE

There is no alternative associated with this report.

FISCAL IMPACT

At the current level of services, compensation to PEA shall be based on a monthly retainer of \$25,000 for work described in Task 1, and not to exceed \$90,000 for work described in Task 2; for a total not to exceed amount of \$390,000. The agreement will be for a term of October 1, 2018 to September 30, 2019.

ATTACHMENTS

1. Amended Agreement with Pacific Energy Advisors for Technical Consulting Services

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
PACIFIC ENERGY ADVISORS FOR
TECHNICAL CONSULTING SERVICES**

THIS AGREEMENT, is entered into this 1st day of October 2018, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent joint powers authority, ("Authority"), and PACIFIC ENERGY ADVISORS, INC, a California corporation whose address is 1839 Iron Point Road, Suite 120, Folsom, CA 95630 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

RECITALS:

A. Authority is an independent joint powers authority duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Consultant desire to enter into an agreement for technical consulting services to support the implementation of a community choice energy program upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2018, and shall terminate on September 30, 2019, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

Consultant shall perform the service set forth in Exhibit "A" pursuant to the schedule of performance set forth in Exhibit "B," both of which are attached hereto and incorporated herein by this reference. The Parties agree that due to the expansion of Authority staff duties and expertise and the addition of increased staffing, it may be appropriate to reduce the Scope of Services provided by Consultant under Task 1 described in Exhibit A, attached hereto, after the first six months of the term of this Agreement. By no later than March 1, 2019, the Parties will consult on whether reductions to the Scope of Services under Task 1 should be made. The Chief Executive Officer of Authority may approve in writing mutually agreed upon reductions in the Scope of Services that result in a corresponding reduction in the compensation paid to Consultant effective April 1, 2019 or such other date mutually agreed upon by the Parties.

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

The Parties agree to amend Exhibit C to reflect any reductions in the Scope of Services set forth in Exhibit A as described in Section 2 above.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

Consultant agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of specially trained professionals in California's electric utility industry and agrees that all services shall be performed by qualified and experienced personnel.

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members. Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liabilities, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of or related to the negligence or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors in the performance of this Agreement, except where caused by the sole or active negligence or willful misconduct of Authority or its members, officers, officials, agents, employees and volunteers.

Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the services provided by this Agreement by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the services or termination of this Agreement.

10. **INSURANCE:**

A. **General Requirements.** On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by mail, Attention: Chief Executive Officer," Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. **Subrogation Waiver.** Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her/its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. **Failure to secure or maintain insurance.** If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. **Additional Insured.** Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. **Sufficiency of Insurance.** The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. **Maximum Coverage and Limits.** It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. **CONFLICT OF INTEREST**

Consultant warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. **SUBCONTRACTOR APPROVAL**

Unless prior written consent from Authority is obtained, only those persons and subcontractors whose names are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Consultant shall agree to be bound to Consultant and Authority in the same manner and to the same extent as Consultant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Consultant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. Consultant shall require all subcontractors to provide valid certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to Authority the copyright to Reports created pursuant to this Agreement. Any Report, information and

data acquired or required by this Agreement shall become the property of Authority, and all publication rights are reserved to Authority. Consultant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by Authority in execution or implementation of: (1) The original Project for which Consultant was hired; (2) Completion of the original Project by others; (3) Subsequent additions to the original project; and/or (4) Other Authority projects as Authority deems appropriate in its sole discretion.

C. Consultant shall, at such time and in such form as Authority may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports shall be provided in electronic format, both in the original file format (e.g., Microsoft Word) and in PDF format.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement that has not been publicly released by Authority shall be made available to any individual or organization by Consultant without prior approval by Authority.

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this agreement.

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. John Dalessi or Kirby Dusel shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to Consultant by Authority.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:
333 W. El Camino Real
Suite 290
Sunnyvale CA 94087

Attention: Chief Executive Officer

TO CONSULTANT:
Pacific Energy Advisors, Inc.
1839 Iron Point Road, Suite 120
Folsom, CA 95630
Attn: John Dalessi, President

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be not less than 10 days) and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

21. **CONFLICT OF LAW**

This Agreement shall be interpreted under, and enforced by the laws of the State of California. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the Superior Court of the County of Santa Clara, State of California.

22. **ADVERTISEMENT**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from Authority to do otherwise.

23. **WAIVER**

A waiver by Authority of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are

merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Consultant.

25. **AUTHORITY**

The individual(s) executing this Agreement represent and warrant that they have the legal Authority and authority to do so on behalf of their respective legal entities.

26. **INSERTED PROVISIONS**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

27. **CAPTIONS AND TERMS**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed as of the date set forth above.

RECOMMENDED FOR APPROVAL

Monica Padilla
Director Of Power Resources

CONSULTANT NAME

PACIFIC ENERGY ADVISORS

By: _____
Name: _____
Title: _____
Date: _____

SILICON VALLEY CLEAN ENERGY

AUTHORITY

A Joint Powers Authority

By: _____
Name: Girish Balachandran
Title: Chief Executive Officer
Date: _____

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

Exhibit A
Scope of Services

Task 1. Power Resources Management

Working with SVCEA leadership and its designated Scheduling Coordinator, PEA will assist in managing SVCEA's power resources portfolio in accordance with SVCEA's adopted policies and applicable regulatory requirements. PEA will support SVCEA in the areas of resource planning, portfolio management, electric procurement, and regulatory compliance activities related to electric power supply. The following tasks are included within this service area:

(a) Maintain Annual and Long Term Sales Forecast:

- Prepare and maintain SVCE customer and electric sales forecasts including forecast of: 1) monthly enrolled accounts, megawatt hours ("MWh") and megawatts ("MW") by load profile group; and 2) monthly coincident peak MW and hourly MW for the SVCE system.
- Update long term sales forecasts biannually and more frequently as necessary; monitor accuracy of load forecast on monthly basis; consider adjustment if variance exceeds threshold of 5% forecast error.

(b) Electric Supply Management:

- Maintain load and resource balance model to identify incremental electric procurement needs in consideration of quantified open positions, SVCE resource and risk management policies, and applicable regulatory requirements; coordinate with management to develop procurement strategies to address electric resource needs.
- Monitor net open positions and provide monthly reporting of net open positions pursuant to SVCE risk management policies.
- Support procurement and/or sales of energy and capacity products including preparing requisite solicitation documents, participating in supplier/developer communications, providing analytical support during proposal/bid evaluation, supporting contract negotiations, and other related, as-needed activities.
- Review and validate periodic invoices received from SVCE's Scheduling Coordinator and confirm that scheduled volumes from electric suppliers are consistent with contract terms; bring any identified discrepancies to management's attention; and support attempts to resolve issues with counterparties.
- Monitor energy market activities, including pricing trends and forward curves related to market energy, renewable energy and capacity.
- Prepare forecast of power supply expenses for annual budget.
- Maintain/manage relationships with qualified suppliers of requisite energy products: participate in periodic calls, email exchanges and other communications with and/or on behalf of SVCE.

(c) Regulatory Compliance:

- Manage renewable energy portfolio per state/program standards; prepare Renewable Portfolio Standards ("RPS") compliance filings and serve as SVCE's liaison with pertinent regulatory agencies for matters related to RPS compliance.
- Assist with the management of SVCE's Western Renewable Energy Generation

- Information System (“WREGIS”) account and various subaccounts, including report preparation, certificate transfer review and retirement (to facilitate mandatory and regulatory compliance), as-needed generator registration (example: Feed-In Tariff projects under contract with SVCE) and other account management activities. Provide support during third-party audit processes, if applicable (Green Prime product, for example, if SVCE chooses to pursue Green-e Energy certification for this product option), including data gathering and analysis, reporting and liaison activities with SVCE’s selected auditor and Green-e Energy staff.
- Manage Resource Adequacy portfolio per state/program standards; prepare year-ahead and month-ahead peak demand forecasts and resource adequacy compliance demonstration filings; coordinate with SVCEA’s Scheduling Coordinator and regulatory agencies to resolve any discrepancies that may arise during compliance review.
 - Provide data analysis and assist in preparing reports related to the California’s Power Source Disclosure Program, including technical elements of Power Content Label development and review; such support may also entail regulatory liaison activities required to successfully complete applicable reports.
 - Prepare compliance filings pursuant to the California Energy Commission’s biennial Integrated Energy Policy Report, Quarterly Fuels and Energy Report, and the U.S. Energy Information Agency monthly EIA-826 and annual EIA-861 reports.
 - PEA will prepare required compliance documentation under this task and coordinate with SVCE’s regulatory personnel or contractors, who will be responsible for formal submission of filings to the appropriate regulatory body.

(d) Financial Modeling and Ratesetting

- Maintain pro forma financial model and support SVCE staff in preparing annual budgets and conducting scenario analyses.
- As necessary, coordinate with SVCE and its financial advisors with regard to matters that may impact SVCE’s financial standing, debt levels, electric rates, annual budget, resource planning and other key concerns.
- Assist with the development of proposed SVCE rate schedules and PG&E rates benchmarking.

Task 2. Regulatory Support & Other Services

This task includes as-needed regulatory and other consulting services not otherwise included in Task 1. These services are generally expected to fall within the following support areas:

(a) Regulatory Support:

- Provide technical expertise, analysis and advice in relation to pertinent regulatory proceedings. Such services shall entail periodic reviews and editorial support during comment/brief drafting as well as coordination with SVCE staff/advisors on such matters.
- Provide support for other regulatory compliance filings such as those that may relate to storage mandates or mandated resource plans.
- Update Implementation Plan as necessary to address changes to SVCE membership.

(b) Expert Witness Services:

- Includes preparing testimony and related expert witness services; representation in hearings and workshops; and lead/primary drafting responsibilities with regard to comments and briefs.

(c) Other Implementation Support/Staff Augmentation, as requested

Exhibit B
Schedule of Performance

The work performed under Task 1 will be completed on an ongoing basis throughout the term of this Agreement. Work performed under Task 2 will be completed upon request and subject to mutually agreeable timelines for completion.

Exhibit C
Compensation

Authority shall compensate Consultant for professional services in accordance with the terms and conditions of this Agreement based on the rates and compensation schedule set forth below.

Compensation Schedule

Task 1. Power Resources Management: \$25,000/month.

Task 2. Regulatory Support & Other Services; billed on a time and materials basis at the hourly rate schedule set forth below, subject to a total not to exceed cost of \$90,000 for the term of the agreement.

Rates

Staff	Hourly Rate
John Dalessi	\$305
Kirby Dusel	\$285
Sam Kang	\$285
Brian Goldstein	\$235
Alden Walden	\$125

Invoices and Payment

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked (Task 2 only), task(s) for which work was performed). Payment shall be made by the Authority to Consultant within thirty (30) days after receipt of a proper invoice.

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Prior to reimbursement, travel expenses must be authorized in writing by Authority.

Exhibit D
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:**
Statutory coverage as required by the State of California.
- (2) **Liability:**
Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:**
Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.



TREASURER REPORT

**Fiscal Year to Date
As of June 30, 2018**

(Preliminary & Unaudited)

Issue Date: August 13, 2018

Table of Contents

	<u>Page</u>
Summary	2-3
Statement of Net Position	4
Statement of Revenues, Expenses & Changes in Net Position	5
Statement of Cash Flows	6-7
Actuals to Budget Report	8-9
Monthly Change in Net Position	10
Personnel Report	11
Investments Report	12
Customer Accounts	13
Weather Statistics	14
Accounts Receivable Aging Report	15

SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights (\$ in 000's)

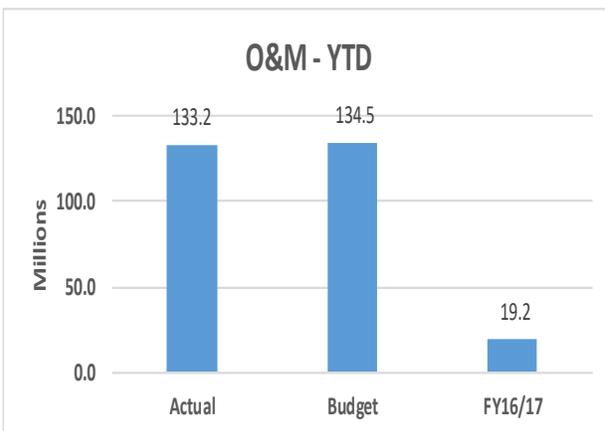
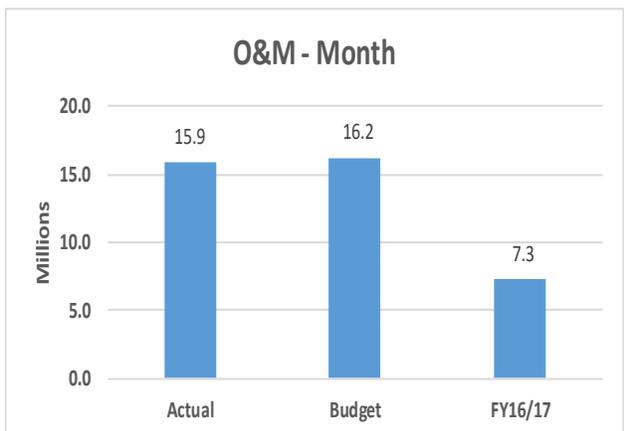
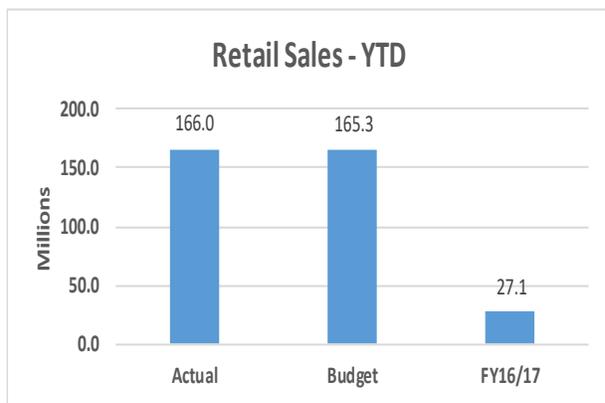
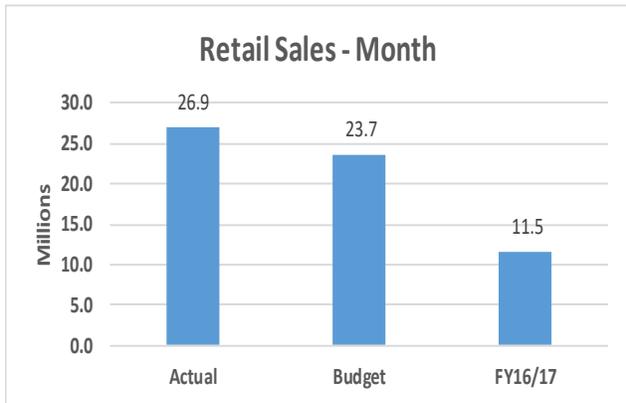
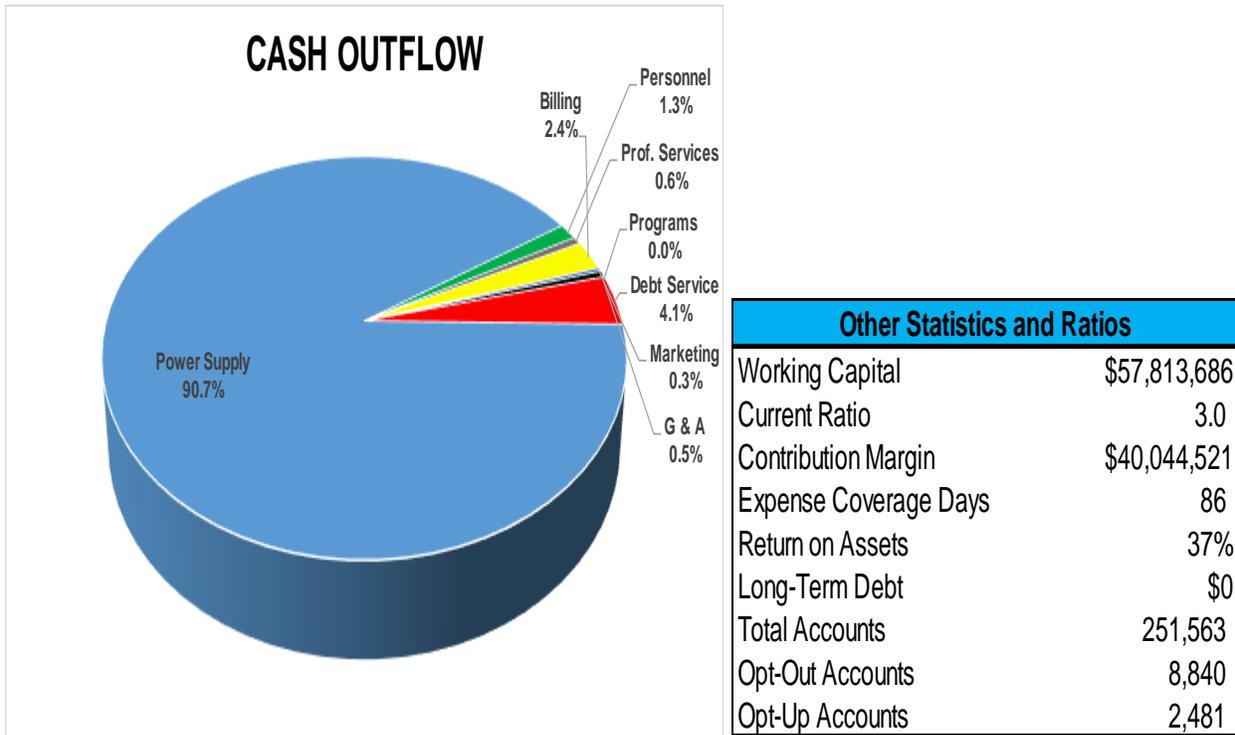
Financial Highlights for the month of June 2018:

SVCE began serving the City of Milpitas on June 1, 2018. June will be a transition month with all eligible accounts on-line by the end of the month.

SVCE ends the month in stable financial condition.

- > SVCE operations resulted in positive change in net position for the month of \$11.1 million and year-to-date positive change in net position of \$32.8 million.
 - o June's revenue of \$26.9 million accounted for 315 GWh in net retail consumption.
 - o Results for the month came in \$0.4 million above plan.
 - o Year-to-date contribution margin is \$40.1 million with a current ratio of 3.0.
- > Retail GWh sales are on target.
 - o Since the mid-year budget adjustment, volume has been a combined 6 GWh's ahead of the amended budget.
 - o Energy load was re-forecasted for February through September in the mid-year budget. Forecasted GWh sales for the fiscal year is 3,542.
- > Power Supply
 - o Power supply costs for the month were on target to plan.
 - o SVCE has accrued a large desposit balance with PG&E for future Resource Adequacy needs.
 - o One of the three long-term power purchase agreements negotiations concluded in June. Supply begins in 2021.
 - o Incremental power supply needs, due to serving Milpitas, have been secured through the end of the calendar year.
- > Programs/Capital
 - o Year-to-date programs activity includes GHG accounting services.
 - o A Customer Program Advisory Group was initiated in January 2018. Recommendations were presented at the June 2018 Board of Directors meeting.
- > Investing/Financing
 - o SVCE is debt free at the end of January 2018.

Change in Net Position	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Actual	6,742	1,818	578	2,847	94	(416)	1,155	8,908	11,068				32,794	55,893
Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Energy & REC's	13,251	12,727	14,439	13,620	14,992	14,302	12,992	11,700	12,163				120,186	
Capacity	275	743	657	724	742	643	714	800	1,421				6,718	
CAISO Charges	1,034	534	2,813	882	1,292	453	325	297	283				7,913	
NEM Expense	44	(19)	(47)	(63)	(4)	26	38	265	413				653	
Charge/Credit (IST/Net Rev)	591	(1,127)	(1,828)	(2,934)	(2,789)	285	(943)	(1,528)	719				(9,554)	
Net Power Costs	15,195	12,859	16,034	12,228	14,233	15,708	13,127	11,534	14,999	-	-	-	125,917	182,561
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amdended Budget
Capital Expenditures	-	-	9	2	-	10	-	-	-				21	50
Energy Programs	-	-	-	14	-	-	-	-	-				14	4,780
Load Statistics - GWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Retail Sales Actual	285	266	295	278	254	282	255	267	315				2,497	
Retail Sales Budget	285	266	295	278	269	256	261	266	315				2,491	3,543



SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION

As of June 30, 2018

ASSETS

Current Assets

Cash & Cash Equivalents	\$ 34,939,606
Accounts Receivable, net of allowance	18,441,454
Energy Settlements Receivable	-
Accrued Revenue	18,207,261
Other Receivables	299,206
Prepaid Expenses	6,199,223
Deposits	5,505,770
Restricted cash - lockbox	2,500,000

Total Current Assets **86,092,520**

Noncurrent assets

Capital assets, net of depreciation	166,979
Deposits	3,129,060

Total Noncurrent Assets **3,296,039**

Total Assets **89,388,559**

LIABILITIES

Current Liabilities

Accounts Payable	694,639
Accrued Cost of Electricity	25,168,515
Accrued Payroll & Benefits	250,198
Other Accrued Liabilities	109,000
User Taxes and Energy Surcharges due to other gov'ts	871,482
Supplier Security Deposits	1,185,000

Total Current Liabilities **28,278,834**

NET POSITION

Net investment in capital assets	166,979
Unrestricted (deficit)	60,942,746
Total Net Position	<u><u>\$ 61,109,725</u></u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

**STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION**

October 1, 2017 through June 30, 2018

OPERATING REVENUES

Electricity Sales, Net	\$ 165,262,850
GreenPrime electricity premium	534,218
Other income	165,060

TOTAL OPERATING REVENUES **165,962,128**

OPERATING EXPENSES

Cost of Electricity	125,917,607
Staff Compensation and benefits	1,870,236
Data Management	2,526,946
Service Fees - PG&E	865,584
Consultants and Other Professional Fees	600,191
Legal	268,221
Communications & Noticing	443,755
General & Administrative	702,795
Depreciation	27,878

TOTAL OPERATING EXPENSES **133,223,213**

OPERATING INCOME(LOSS) **32,738,915**

NONOPERATING REVENUES (EXPENSES)

Interest Income	70,979
Interest and related expenses	(15,666)

TOTAL NONOPERATING EXPENSES **55,313**

CHANGE IN NET POSITION 32,794,228

Net Position at beginning of period 28,315,497

Net Position at end of period **\$ 61,109,725**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2017 through June 30, 2018

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from electricity sales	\$ 165,505,853
Receipts from other income	116,060
Receipts from supplier security deposits	1,185,000
Tax and surcharge receipts from customers	3,599,453
Energy settlements received	7,476,748
Desposits and collateral received	2,200,300
Payments to purchase electricity	(135,003,201)
Payments for staff compensation and benefits	(1,705,158)
Payments for data manager fees	(2,774,183)
Payments for PG&E service fees	(715,886)
Payments for consultants and other professional services	(617,693)
Payments for legal fees	(258,860)
Payments for communications and noticing	(410,979)
Payments for general and administrative	(762,170)
Energy settlements paid	(5,057,116)
Payments of deposits and collateral	(7,468,770)
Tax and surcharge payments to other governments	(3,504,125)
Net cash provided (used) by operating activities	<u>21,805,273</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Principal payments on loan	(5,630,000)
Interest and related expense payments	(22,892)
Net cash provided (used) by non-capital financing activities	<u>(5,652,892)</u>

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Acquisition of capital assets	<u>(27,351)</u>
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CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Interest income received	<u>70,979</u>
--------------------------	---------------

Net change in cash and cash equivalents	16,196,009
Cash and cash equivalents at beginning of year	<u>21,243,597</u>
Cash and cash equivalents at end of period	<u>\$ 37,439,606</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)

October 1, 2017 through June 30, 2018

**RECONCILIATION OF OPERATING INCOME (LOSS) TO NET
CASH PROVIDED (USED) BY OPERATING ACTIVITIES**

Operating Income (loss)	\$ 32,738,915
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	27,878
Revenue reduced for uncollectible accounts	833,151
(Increase) decrease in net accounts receivable	2,145,745
(Increase) decrease in energy settlements receivable	266,328
(Increase) decrease in othe receivables	(99,206)
(Increase) decrease in accrued revenue	(3,230,939)
(Increase) decrease in prepaid expenses	(6,127,381)
(Increase) decrease in current deposits	(5,268,470)
Increase (decrease) in accounts payable	(155,583)
Increase (decrease) in accrued payroll & benefits	165,175
Increase (decrease) in energy settlements payable	512,777
Increase (decrease) in supplier security deposits	1,185,000
Increase (decrease) in accrued cost of electricity	(1,332,373)
Increase (decrease) in accrued liabilities	88,100
Increase (decrease) taxes and surcharges due to other governments	56,156
Net cash provided (used) by operating activities	<u>\$ 21,805,273</u>

SILICON VALLEY CLEAN ENERGY
BUDGETARY COMPARISON SCHEDULE
October 1, 2017 through June 30, 2018

	FYTD <u>Actual</u>	FYTD <u>Amended Budget</u>	<u>Variance</u> \$	%	FY 2017-18 <u>Amended Budget</u>	% Budget <u>Spent</u>
REVENUES & OTHER SOURCES						
Energy Sales	\$ 165,262,850	\$ 164,782,721	\$ 480,129	0%	\$ 253,508,101	
Green Prime Premium	534,218	456,467	77,751	17%	609,889	
Other Income	165,060	43,250	121,810	282%	50,750	
Investment Income	<u>70,979</u>	<u>50,000</u>	<u>20,979</u>	<u>0%</u>	<u>100,000</u>	
TOTAL REVENUES & OTHER SOURCES	<u>166,033,107</u>	<u>165,332,438</u>	<u>700,669</u>	<u>0%</u>	<u>254,268,741</u>	
EXPENDITURES & OTHER USES						
CURRENT EXPENDITURES						
Power Supply	125,917,607	126,657,423	739,816	1%	182,561,000	69%
Data Management	2,526,946	2,432,687	(94,259)	-4%	3,276,512	77%
PG&E Fees	865,584	725,818	(139,766)	-19%	886,912	98%
Salaries & Benefits	1,870,236	2,493,523	623,287	25%	3,555,301	53%
Professional Services	854,574	993,750	139,176	14%	1,325,000	64%
Marketing & Promotions	303,101	412,500	109,399	27%	550,000	55%
Notifications	140,654	117,500	(23,154)	-20%	125,000	113%
Lease	240,556	250,969	10,413	4%	334,650	72%
General & Administrative	<u>462,239</u>	<u>448,425</u>	<u>(13,814)</u>	<u>-3%</u>	<u>597,900</u>	<u>77%</u>
TOTAL CURRENT EXPENDITURES	<u>133,181,497</u>	<u>134,532,594</u>	<u>1,351,097</u>	<u>1%</u>	<u>193,212,276</u>	<u>69%</u>
OTHER USES						
Customer Programs	13,838	3,173,939	3,160,101	0%	5,070,000	0%
Office Equipment	21,142	35,249	14,107	40%	50,000	42%
TOTAL OTHER USES	<u>34,980</u>	<u>3,209,188</u>	<u>3,174,208</u>	<u>99%</u>	<u>5,120,000</u>	<u>1%</u>
DEBT SERVICE						
Interest	15,666	15,666	-	0%	15,666	100%
Principal	<u>5,630,000</u>	<u>5,630,000</u>	<u>-</u>	<u>0%</u>	<u>5,630,000</u>	<u>100%</u>
TOTAL DEBT SERVICE	<u>5,645,666</u>	<u>5,645,666</u>	<u>-</u>	<u>0%</u>	<u>5,645,666</u>	<u>100%</u>
Total Expenditures, Other Uses & Debt Service	<u>138,862,143</u>	<u>143,387,449</u>	<u>4,525,306</u>	<u>3%</u>	<u>203,977,942</u>	<u>68%</u>
Net Increase(Decrease) in Available Fund Balance	<u>\$ 27,170,964</u>	<u>\$ 21,944,989</u>	<u>\$ 5,225,975</u>	<u>24%</u>	<u>\$ 50,290,799</u>	

SILICON VALLEY CLEAN ENERGY AUTHORITY

**BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION**

Net Increase (decrease) in available fund balance per budgetary comparison schedule	\$ 27,170,964
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position	
Subtract depreciation expense	(27,878)
Add back capital asset acquisitions	21,142
Add back principal payments on debt	<u>5,630,000</u>
Change in Net Position	<u><u>32,794,228</u></u>

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2017 through June 30, 2018

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	\$ 22,523,034	\$ 15,426,854	\$ 17,324,129	\$ 15,778,435	\$ 14,921,265	\$ 16,117,978	\$ 15,156,265	\$ 21,182,416	\$ 26,832,474	\$ -	\$ -	\$ -	\$ 165,262,850
Green electricity premium	32,946	63,341	61,848	62,605	57,222	64,918	60,208	63,856	67,274				534,218
Other income	-	-	24,450	6,300	-	34,560	22,750	28,000	49,000				165,060
Total operating revenues	22,555,980	15,490,195	17,410,427	15,847,340	14,978,487	16,217,456	15,239,223	21,274,272	26,948,748	-	-	-	165,962,128
OPERATING EXPENSES													
Cost of electricity	15,195,616	12,859,048	16,034,462	12,228,493	14,232,977	15,707,933	13,126,160	11,533,566	14,999,352				125,917,607
Staff compensation and benefits	196,743	168,026	197,149	161,974	209,855	228,403	200,838	242,800	264,448				1,870,236
Data manager	276,838	277,564	277,114	281,602	275,000	287,603	281,378	269,300	300,547				2,526,946
Service fees - PG&E	920	200,000	104,290	120,027	101,645	81,816	84,000	88,886	84,000				865,584
Consultants and other professional fees	78,816	90,373	106,105	141,733	1,900	159,302	334,755	196,776	202,407				1,312,167
General and administration	55,285	66,571	110,236	62,956	59,744	168,407	74,931	54,233	50,432				702,795
Depreciation	2,762	2,762	3,001	3,059	3,058	3,153	3,299	3,364	3,420				27,878
Total operating expenses	15,806,980	13,664,344	16,832,357	12,999,844	14,884,179	16,636,617	14,105,361	12,388,925	15,904,606	-	-	-	133,223,213
Operating income (loss)	6,749,000	1,825,851	578,070	2,847,496	94,308	(419,161)	1,133,862	8,885,347	11,044,142	-	-	-	32,738,915
NONOPERATING REVENUES (EXPENSES)													
Interest income	-	-	-	-	-	3,452	20,727	22,840	23,960				70,979
Interest and related expense	(7,442)	(8,224)	-	-	-	-	-	-	-	-	-	-	(15,666)
Total nonoperating revenues (expenses)	(7,442)	(8,224)	-	-	-	3,452	20,727	22,840	23,960	-	-	-	55,313
CHANGE IN NET POSITION	\$ 6,741,558	\$ 1,817,627	\$ 578,070	\$ 2,847,496	\$ 94,308	\$ (415,709)	\$ 1,154,589	\$ 8,908,187	\$ 11,068,102	\$ -	\$ -	\$ -	\$ 32,794,228

PERSONNEL REPORT

HEADCOUNT				
<u>Position</u>	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>	
Account Representative I	1	1	0	
Account Representative II	1	0	1	
Account Services Manager	1	1	0	
Administrative Analyst	1	1	0	
Administrative Assistant	1	1	0	
Associate Legislative Analyst	1	0	1	
Board Clerk/Executive Assistant	1	1	0	
Chief Executive Officer	1	1	0	
Community Outreach Manager	1	1	0	
Community Outreach Specialist	1	1	0	
Director of Finance and Administration	1	1	0	
Director of Customer Care	1	1	0	
Director of Decarbonization and Grid Innovation Programs	1	1	0	
Director of Power Resources	1	1	0	
IT Specialist	1	1	0	
Manager of Regulatory & Legislative Effectiveness	1	1	0	
Power Contracts & Compliance Manager	1	1	0	
Power Settlements & Compliance Analyst	1	1	0	
Senior Regulatory Analyst	<u>1</u>	<u>0</u>	<u>1</u>	
Total*	19	16	3	

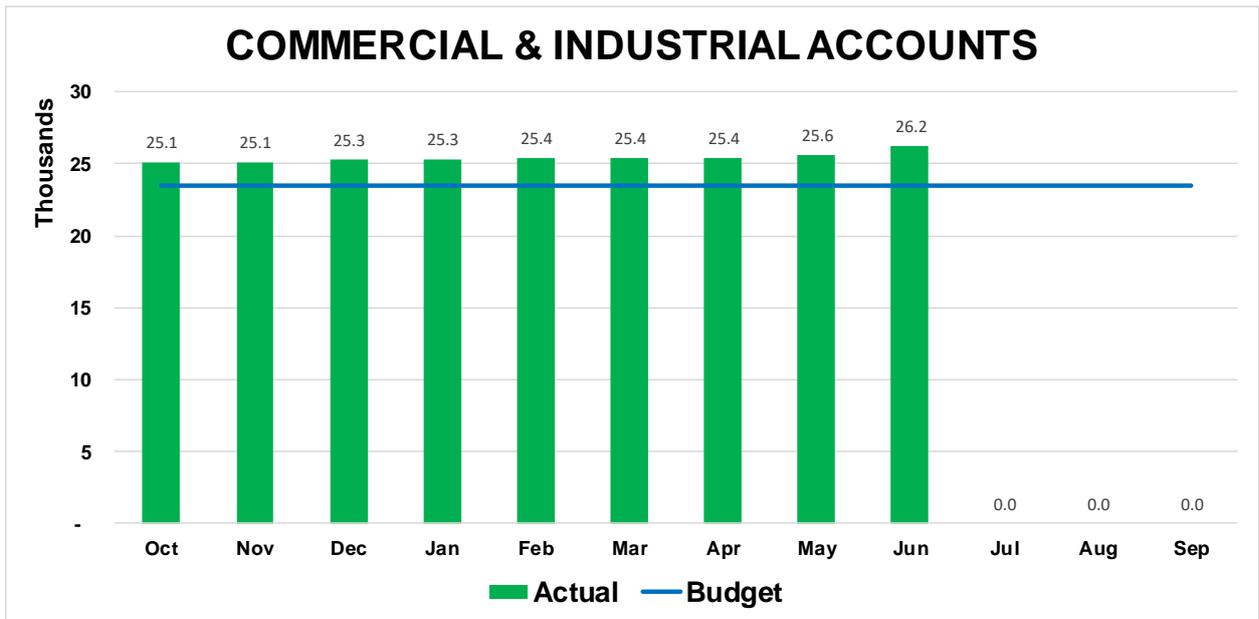
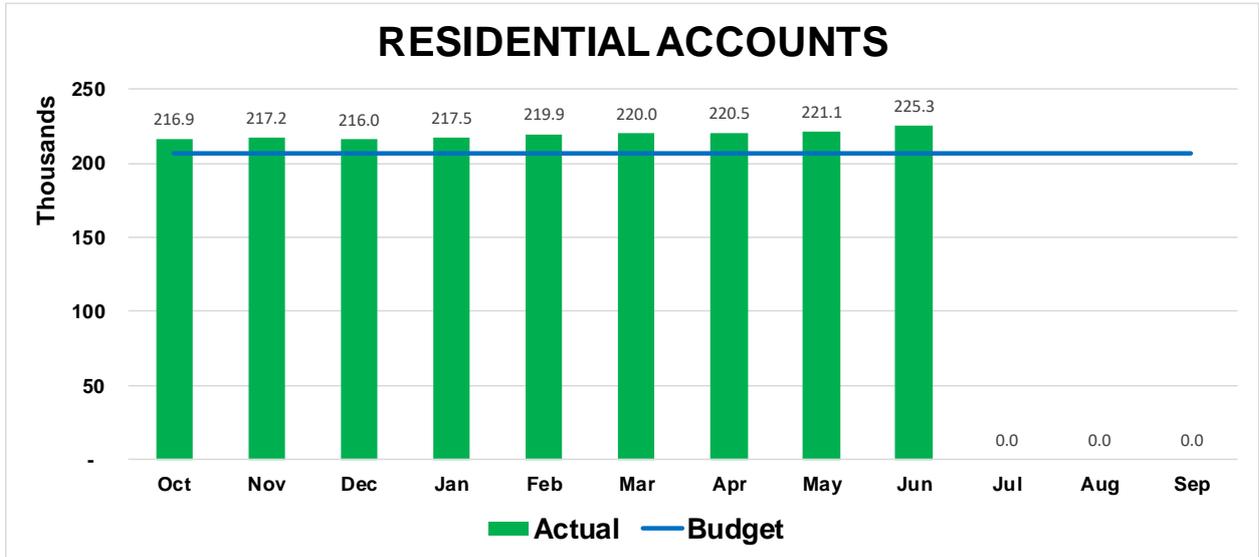
*Note: There are 21 total positions approved but 2 positions are being developed.

CONTINGENT POSITIONS			
<u>Position</u>	<u>Positions</u>		<u>Variance</u>
	<u>FY2017-18 Budget</u>	<u>FY2017-18 Actual</u>	
Climate Fellows / Temporary	4	4	-

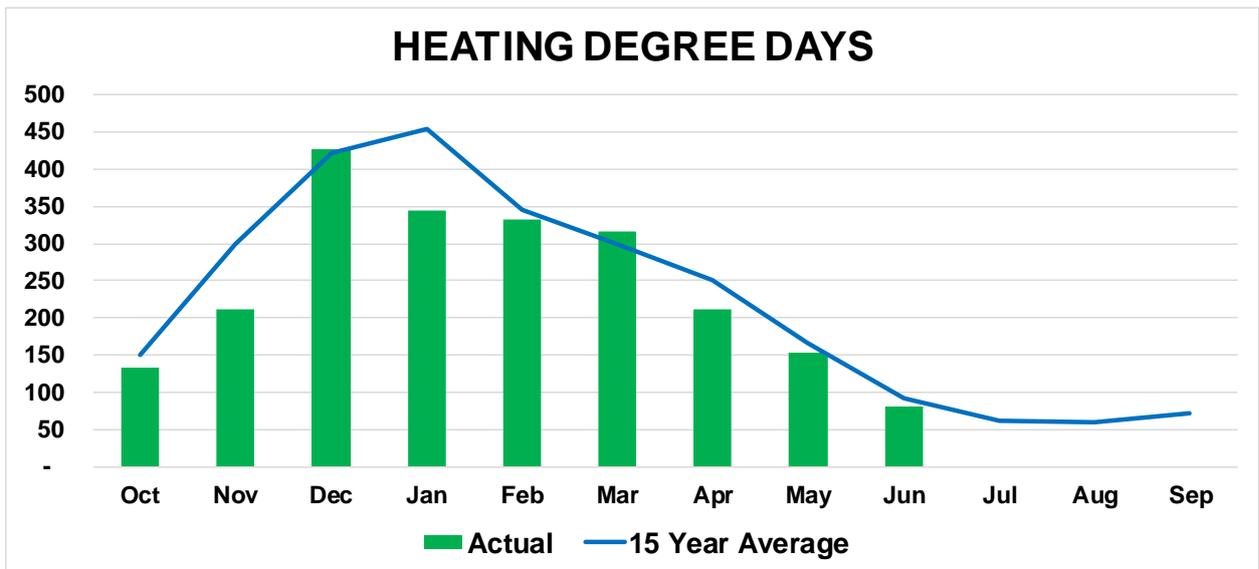
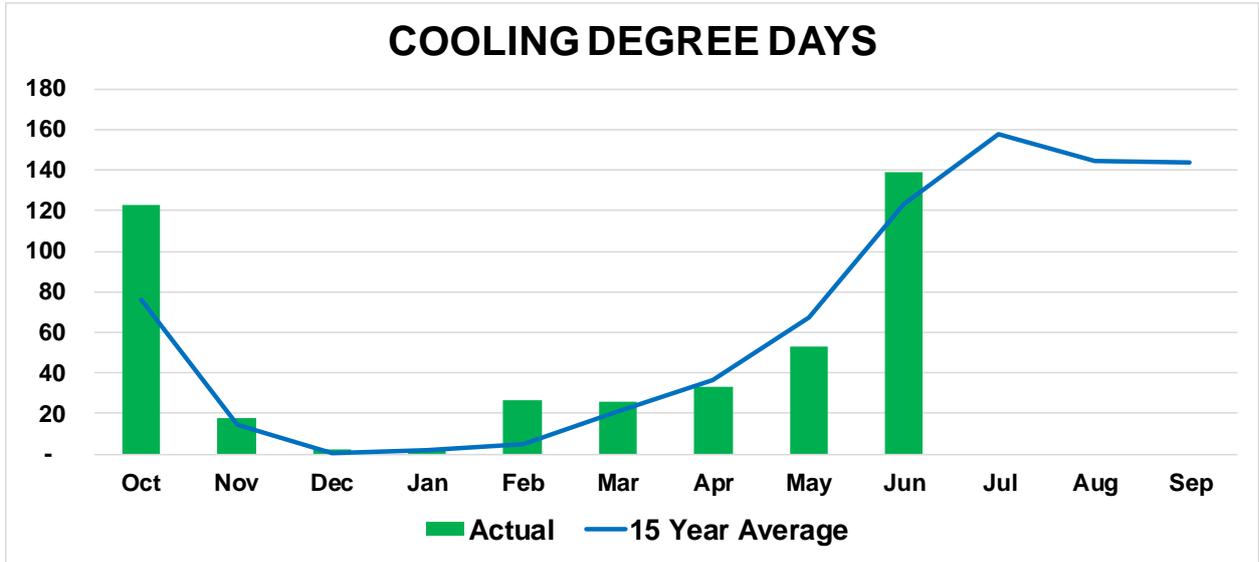
SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2017 through June 30, 2018

Return on Investments	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	YTD
<i>Money Market</i>	\$0	\$0	\$0	\$0	\$0	\$3,452	\$20,727	\$22,840	\$23,960				<u>\$70,979</u>
<hr/>													
Portfolio Invested													
<i>Average daily portfolio available to invest</i>						\$36,750,070	37,850,501	34,800,713	32,162,513				
<i>Average daily portfolio invested</i>						\$20,003,452	20,004,143	20,024,915	20,048,616				
<i>% of average daily portfolio invested</i>						54.4%	52.9%	57.5%	62.3%				
<hr/>													
Detail of Portfolio													
	<u>Purchased</u>	<u>Maturity</u>											
	<u>Rate %</u>	<u>Rate %</u>	<u>Carrying</u>										
	<u>Value</u>												
<i>Money Market - River City Bank</i>	1.26%	1.26%	\$20,070,979										

CUSTOMER ACCOUNTS



WEATHER STATISTICS



**SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT**

	Total	Days				
		0-30	31-60	61-90	90-120	Over 120
Accounts Receivable	\$19,746,667	\$18,108,830	\$731,200	\$291,827	\$158,301	\$456,509
Period %	100%	91.7%	3.7%	1.5%	0.8%	2.3%



TREASURER REPORT

**Fiscal Year to Date
As of July 31, 2018**

(Preliminary & Unaudited)

Issue Date: August 31, 2018

Table of Contents

	<u>Page</u>
Summary	2-3
Statement of Net Position	4
Statement of Revenues, Expenses & Changes in Net Position	5
Statement of Cash Flows	6-7
Actuals to Budget Report	8-9
Monthly Change in Net Position	10
Personnel Report	11
Investments Report	12
Customer Accounts	13
Weather Statistics	14
Accounts Receivable Aging Report	15

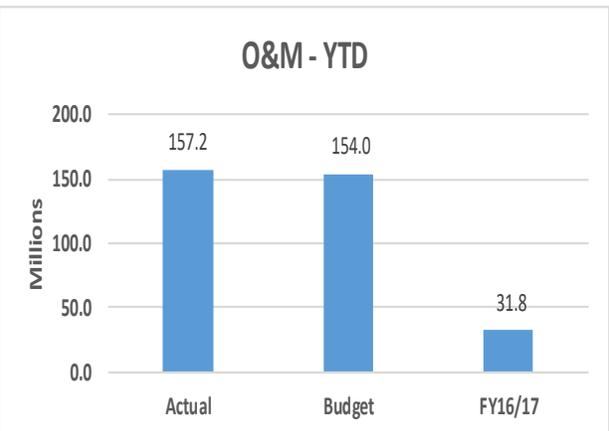
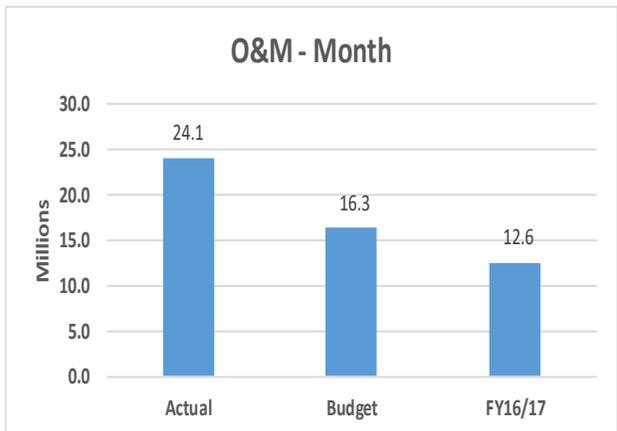
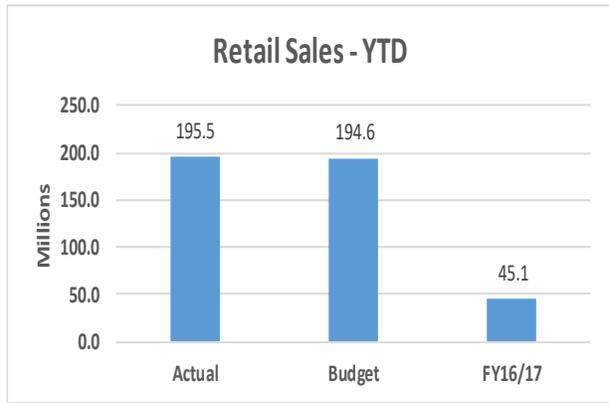
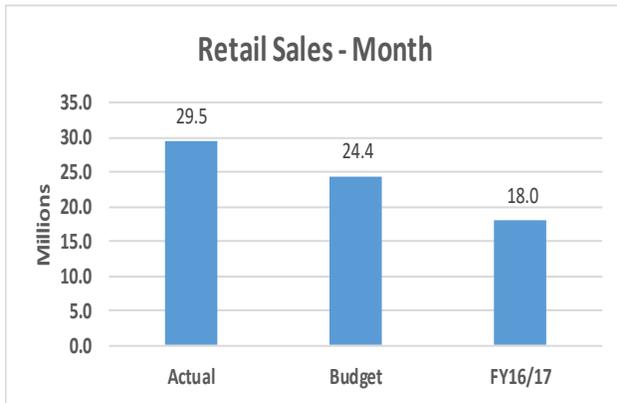
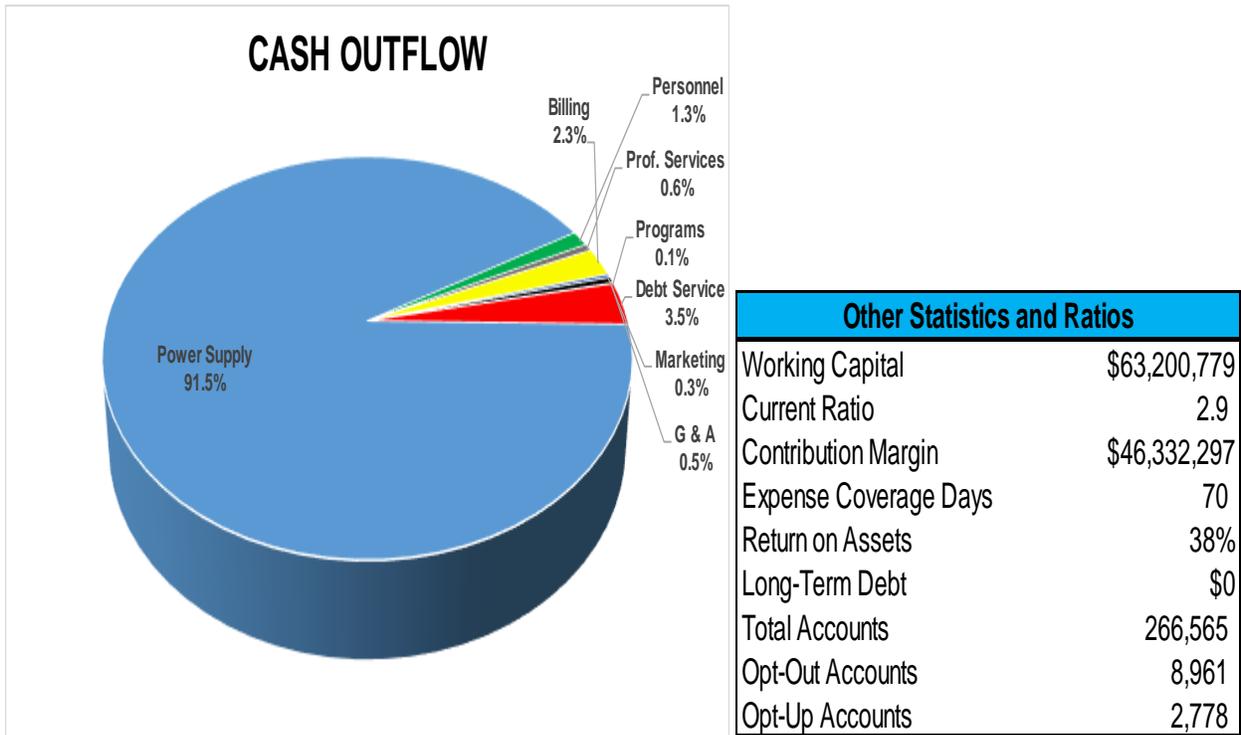
SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights (\$ in 000's)

Financial Highlights for the month of July 2018:

July was an unusually hot month. Weather induced high demand combined with other factors such as transmission constraints and price spikes in natural gas resulted in volatility in power prices during the latter half of the month. The high demand combined with new load from Milpitas resulted in SVCE being under-hedged and exposed to high power prices.

- > SVCE operations resulted in positive change in net position for the month of \$5.4 million and year-to-date positive change in net position of \$38.2 million.
 - o July's revenue of \$29.6 million accounted for 367 GWh in net retail consumption.
 - o Even though sales were well above target, margin was at target due to the price volatility in power supply.
 - o Year-to-date contribution margin is \$46.3 million with a current ratio of 2.9.
- > Retail GWh sales were well above target for the month due to the unusually hot weather.
 - o Retail energy was 6% above target for the month.
 - o Energy load was re-forecasted for February through September in the mid-year budget. Forecasted GWh sales for the fiscal year is 3,542.
- > Power Supply
 - o Power supply costs for the month were well above target. YTD power supply is 3% above budget.
 - o Mitigation strategy was implemented by closing open positions for August and September.
 - o Due to high purchases from CAISO, SVCE was required to post significant collateral with CAISO. Funds should be returned later in the year.
 - o Capacity charges for the month include \$2.4 million receivable for RA purchased on behalf of MBCP. SVCE will be reimbursed in August.
 - o Negotiations continue with the remaining two long-term power supply contracts that feature solar + storage.
- > Programs/Capital
 - o Year-to-date programs activity includes GHG accounting services.
 - o A Customer Program Advisory Group was initiated in January 2018. A Programs roadmap will be presented at the September Board meeting.
- > Investing/Financing
 - o SVCE is debt free at the end of January 2018.

Change in Net Position	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Actual	6,742	1,818	578	2,847	94	(416)	1,155	8,908	11,068	5,395			38,189	55,889
Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Energy & REC's	13,251	12,727	14,439	13,620	14,992	14,302	12,992	11,700	12,163	12,687			132,874	
Capacity	275	743	657	724	742	643	714	800	1,421	2,423			9,142	
CAISO Charges	1,034	534	2,813	882	1,292	453	325	297	283	2,564			10,477	
NEM Expense	44	(19)	(47)	(63)	(4)	26	38	265	413	405			1,059	
Charge/Credit (IST/Net Rev)	591	(1,127)	(1,828)	(2,934)	(2,789)	285	(943)	(1,528)	719	5,084			(4,470)	
Net Power Costs	15,195	12,859	16,034	12,228	14,233	15,708	13,127	11,534	14,999	23,163	-	-	149,081	182,561
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amdended Budget
Capital Expenditures	-	-	9	2	-	10	-	-	-	11			32	50
Energy Programs	-	-	-	14	-	-	-	-	-	85			99	4,780
Load Statistics - GWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Retail Sales Actual	285	266	295	278	254	282	255	267	315	367			2,864	
Retail Sales Budget	285	266	295	278	269	256	261	266	315	346			2,837	3,543



SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION

As of July 31, 2018

ASSETS

Current Assets

Cash & Cash Equivalents	\$ 36,059,921
Accounts Receivable, net of allowance	23,622,376
Accrued Revenue	18,522,220
Other Receivables	2,652,440
Prepaid Expenses	3,185,794
Deposits	10,205,770
Restricted cash - lockbox	2,500,000

Total Current Assets **96,748,521**

Noncurrent assets

Capital assets, net of depreciation	174,504
Deposits	3,129,060

Total Noncurrent Assets **3,303,564**

Total Assets **100,052,085**

LIABILITIES

Current Liabilities

Accounts Payable	588,023
Accrued Cost of Electricity	30,520,501
Accrued Payroll & Benefits	282,370
Other Accrued Liabilities	108,000
User Taxes and Energy Surcharges due to other gov'ts	863,848
Supplier Security Deposits	1,185,000

Total Current Liabilities **33,547,742**

NET POSITION

Net investment in capital assets	174,504
Unrestricted (deficit)	66,329,839
Total Net Position	\$ 66,504,343

SILICON VALLEY CLEAN ENERGY AUTHORITY

**STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION**

October 1, 2017 through July 31, 2018

OPERATING REVENUES

Electricity Sales, Net	\$ 194,799,295
GreenPrime electricity premium	599,830
Other income	13,500

TOTAL OPERATING REVENUES **195,412,625**

OPERATING EXPENSES

Cost of Electricity	149,080,328
Staff Compensation and benefits	2,090,977
Data Management	2,828,326
Service Fees - PG&E	962,234
Consultants and Other Professional Fees	740,950
Legal	299,368
Communications & Noticing	496,431
General & Administrative	775,479
Depreciation	31,499

TOTAL OPERATING EXPENSES **157,305,592**

OPERATING INCOME(LOSS) **38,107,033**

NONOPERATING REVENUES (EXPENSES)

Interest Income	97,479
Interest and related expenses	(15,666)

TOTAL NONOPERATING EXPENSES **81,813**

CHANGE IN NET POSITION 38,188,846

Net Position at beginning of period 28,315,497

Net Position at end of period **\$ 66,504,343**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2017 through July 31, 2018

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from electricity sales	\$ 189,633,183
Receipts from other income	13,500
Receipts from supplier security deposits	1,185,000
Tax and surcharge receipts from customers	4,120,652
Energy settlements received	7,599,289
Desposits and collateral received	2,200,300
Payments to purchase electricity	(145,257,822)
Payments for staff compensation and benefits	(1,894,960)
Payments for data manager fees	(3,074,729)
Payments for PG&E service fees	(968,772)
Payments for consultants and other professional services	(655,497)
Payments for legal fees	(294,125)
Payments for communications and noticing	(493,295)
Payments for general and administrative	(858,089)
Energy settlements paid	(12,121,520)
Payments of deposits and collateral	(12,168,770)
Tax and surcharge payments to other governments	(4,054,112)
Net cash provided (used) by operating activities	<u>22,910,233</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Principal payments on loan	(5,630,000)
Interest and related expense payments	(22,892)
Net cash provided (used) by non-capital financing activities	<u>(5,652,892)</u>

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Acquisition of capital assets	<u>(38,496)</u>
-------------------------------	-----------------

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Interest income received	<u>97,479</u>
--------------------------	---------------

Net change in cash and cash equivalents	17,316,324
Cash and cash equivalents at beginning of year	<u>21,243,597</u>
Cash and cash equivalents at end of period	<u>\$ 38,559,921</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)

October 1, 2017 through July 31, 2018

**RECONCILIATION OF OPERATING INCOME (LOSS) TO NET
CASH PROVIDED (USED) BY OPERATING ACTIVITIES**

Operating Income (loss)	\$ 38,107,033
 Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	31,498
Revenue reduced for uncollectible accounts	981,905
(Increase) decrease in net accounts receivable	(3,183,931)
(Increase) decrease in energy settlements receivable	266,328
(Increase) decrease in other receivables	(2,452,440)
(Increase) decrease in accrued revenue	(3,545,898)
(Increase) decrease in prepaid expenses	(3,113,952)
(Increase) decrease in current deposits	(9,968,470)
Increase (decrease) in accounts payable	(262,199)
Increase (decrease) in accrued payroll & benefits	197,347
Increase (decrease) in energy settlements payable	4,398,201
Increase (decrease) in supplier security deposits	1,185,000
Increase (decrease) in accrued cost of electricity	134,189
Increase (decrease) in accrued liabilities	87,100
Increase (decrease) taxes and surcharges due to other governments	48,522
Net cash provided (used) by operating activities	<u>\$ 22,910,233</u>

SILICON VALLEY CLEAN ENERGY
BUDGETARY COMPARISON SCHEDULE
October 1, 2017 through July 31, 2018

	FYTD <u>Actual</u>	FYTD <u>Amended Budget</u>	<u>Variance</u> \$	%	FY 2017-18 <u>Amended Budget</u>	% Budget <u>Spent</u>
REVENUES & OTHER SOURCES						
Energy Sales	\$ 194,799,295	\$ 194,004,714	\$ 794,581	0%	\$ 253,508,101	
Green Prime Premium	599,830	507,607	92,223	18%	609,889	
Other Income	13,500	45,750	(32,250)	-70%	50,750	
Investment Income	97,479	66,667	30,812	0%	100,000	
TOTAL REVENUES & OTHER SOURCES	<u>195,510,104</u>	<u>194,624,738</u>	<u>885,366</u>	<u>0%</u>	<u>254,268,741</u>	
EXPENDITURES & OTHER USES						
CURRENT EXPENDITURES						
Power Supply	149,080,328	145,199,267	(3,881,061)	-3%	182,561,000	82%
Data Management	2,828,326	2,713,962	(114,364)	-4%	3,276,512	86%
PG&E Fees	962,234	779,516	(182,718)	-23%	886,912	108%
Salaries & Benefits	2,090,977	2,847,449	756,472	27%	3,555,301	59%
Professional Services	940,974	1,104,167	163,193	15%	1,325,000	71%
Marketing & Promotions	350,053	458,333	108,280	24%	550,000	64%
Notifications	146,378	120,000	(26,378)	-22%	125,000	117%
Lease	267,069	278,863	11,794	4%	334,650	80%
General & Administrative	508,410	498,250	(10,160)	-2%	597,900	85%
TOTAL CURRENT EXPENDITURES	<u>157,174,749</u>	<u>153,999,807</u>	<u>(3,174,942)</u>	<u>-2%</u>	<u>193,212,276</u>	<u>81%</u>
OTHER USES						
Customer Programs	99,344	3,805,960	3,706,616	0%	5,070,000	2%
Office Equipment	32,287	40,166	7,879	20%	50,000	65%
TOTAL OTHER USES	<u>131,631</u>	<u>3,846,126</u>	<u>3,714,495</u>	<u>97%</u>	<u>5,120,000</u>	<u>3%</u>
DEBT SERVICE						
Interest	15,666	15,666	-	0%	15,666	100%
Principal	5,630,000	5,630,000	-	0%	5,630,000	100%
TOTAL DEBT SERVICE	<u>5,645,666</u>	<u>5,645,666</u>	<u>-</u>	<u>0%</u>	<u>5,645,666</u>	<u>100%</u>
Total Expenditures, Other Uses & Debt Service	<u>162,952,046</u>	<u>163,491,598</u>	<u>539,552</u>	<u>0%</u>	<u>203,977,942</u>	<u>80%</u>
Net Increase(Decrease) in Available Fund Balance	<u>\$ 32,558,058</u>	<u>\$ 31,133,139</u>	<u>\$ 1,424,919</u>	<u>5%</u>	<u>\$ 50,290,799</u>	

SILICON VALLEY CLEAN ENERGY AUTHORITY

**BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION**

Net Increase (decrease) in available fund balance per budgetary comparison schedule	\$ 32,558,058
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position	
Subtract depreciation expense	(31,499)
Add back capital asset acquisitions	32,287
Add back principal payments on debt	<u>5,630,000</u>
Change in Net Position	<u><u>38,188,846</u></u>

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2017 through July 31, 2018

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	\$22,523,034	\$15,426,854	\$17,324,129	\$15,778,435	\$14,921,265	\$16,117,978	\$15,156,265	\$21,182,416	\$26,832,474	\$29,536,445	\$ -	\$ -	\$194,799,295
Green electricity premium	32,946	63,341	61,848	62,605	57,222	64,918	60,208	63,856	67,274	65,612			599,830
Other income	-	-	24,450	6,300	-	34,560	22,750	28,000	49,000	(151,560)			13,500
Total operating revenues	22,555,980	15,490,195	17,410,427	15,847,340	14,978,487	16,217,456	15,239,223	21,274,272	26,948,748	29,450,497	-	-	195,412,625
OPERATING EXPENSES													
Cost of electricity	15,195,616	12,859,048	16,034,462	12,228,493	14,232,977	15,707,933	13,126,160	11,533,566	14,999,352	23,162,721			149,080,328
Staff compensation and benefits	196,743	168,026	197,149	161,974	209,855	228,403	200,838	242,800	264,448	220,741			2,090,977
Data manager	276,838	277,564	277,114	281,602	275,000	287,603	281,378	269,300	300,547	301,380			2,828,326
Service fees - PG&E	920	200,000	104,290	120,027	101,645	81,816	84,000	88,886	84,000	96,650			962,234
Consultants and other professional fees	78,816	90,373	106,105	141,733	1,900	159,302	334,755	196,776	202,407	224,582			1,536,749
General and administration	55,285	66,571	110,236	62,956	59,744	168,407	74,931	54,233	50,432	72,684			775,479
Depreciation	2,762	2,762	3,001	3,059	3,058	3,153	3,299	3,364	3,420	3,621			31,499
Total operating expenses	15,806,980	13,664,344	16,832,357	12,999,844	14,884,179	16,636,617	14,105,361	12,388,925	15,904,606	24,082,379	-	-	157,305,592
Operating income (loss)	6,749,000	1,825,851	578,070	2,847,496	94,308	(419,161)	1,133,862	8,885,347	11,044,142	5,368,118	-	-	38,107,033
NONOPERATING REVENUES (EXPENSES)													
Interest income	-	-	-	-	-	3,452	20,727	22,840	23,960	26,500			97,479
Interest and related expense	(7,442)	(8,224)	-	-	-	-	-	-	-	-	-	-	(15,666)
Total nonoperating revenues (expenses)	(7,442)	(8,224)	-	-	-	3,452	20,727	22,840	23,960	26,500	-	-	81,813
CHANGE IN NET POSITION	\$ 6,741,558	\$ 1,817,627	\$ 578,070	\$ 2,847,496	\$ 94,308	\$ (415,709)	\$ 1,154,589	\$ 8,908,187	\$ 11,068,102	\$ 5,394,618	\$ -	\$ -	\$ 38,188,846

PERSONNEL REPORT

PERSONNEL REPORT FOR JULY 2018

HEADCOUNT				
Position	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>	
Account Representative I	1	1	0	
Account Representative II	1	1	0	
Account Services Manager	1	1	0	
Administrative Analyst	1	1	0	
Administrative Assistant	1	1	0	
Associate Legislative Analyst	1	0	1	
Board Clerk/Executive Assistant	1	1	0	
Chief Executive Officer	1	1	0	
Community Outreach Manager	1	1	0	
Community Outreach Specialist	1	1	0	
Director of Finance and Administration	1	1	0	
Director of Customer Care	1	1	0	
Director of Decarbonization and Grid Innovations	1	1	0	
Director of Power Resources	1	1	0	
IT Support Specialist	1	1	0	
Manager of Regulatory & Legislative Effectiveness	1	1	0	
Power Contracts & Compliance Manager	1	1	0	
Power Settlements & Compliance Analyst	1	1	0	
Senior Regulatory Analyst	<u>1</u>	<u>0</u>	<u>1</u>	
Total*	<u>19</u>	<u>17</u>	<u>2</u>	

*Note: There are 21 total positions approved but 2 positions are being developed.

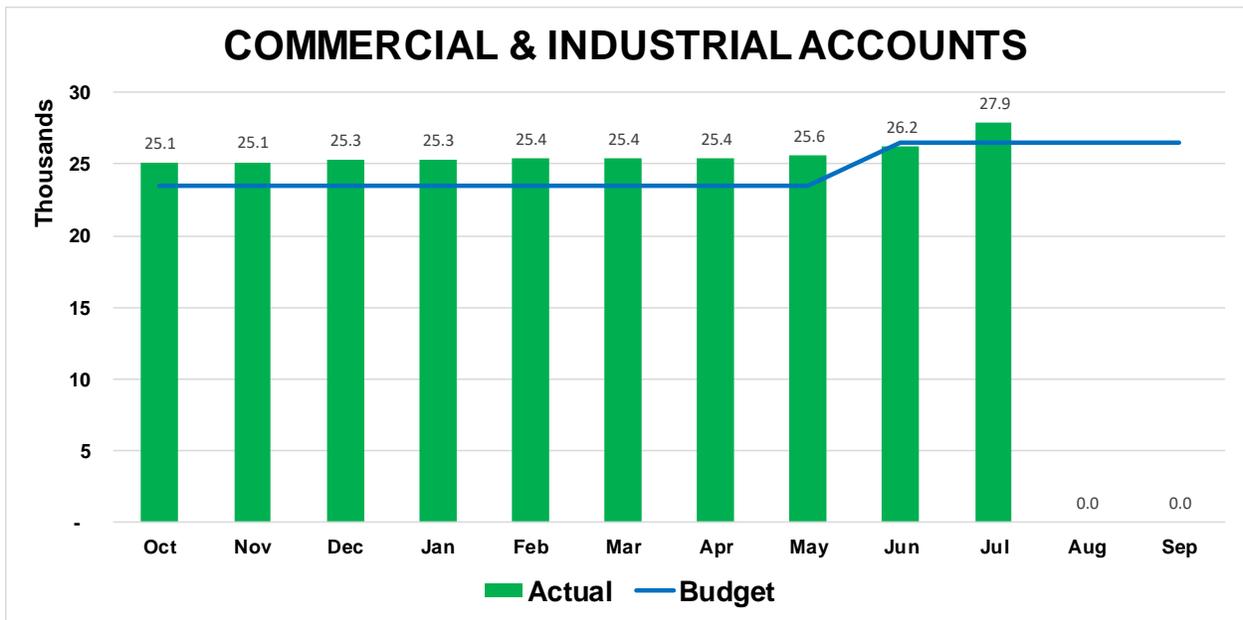
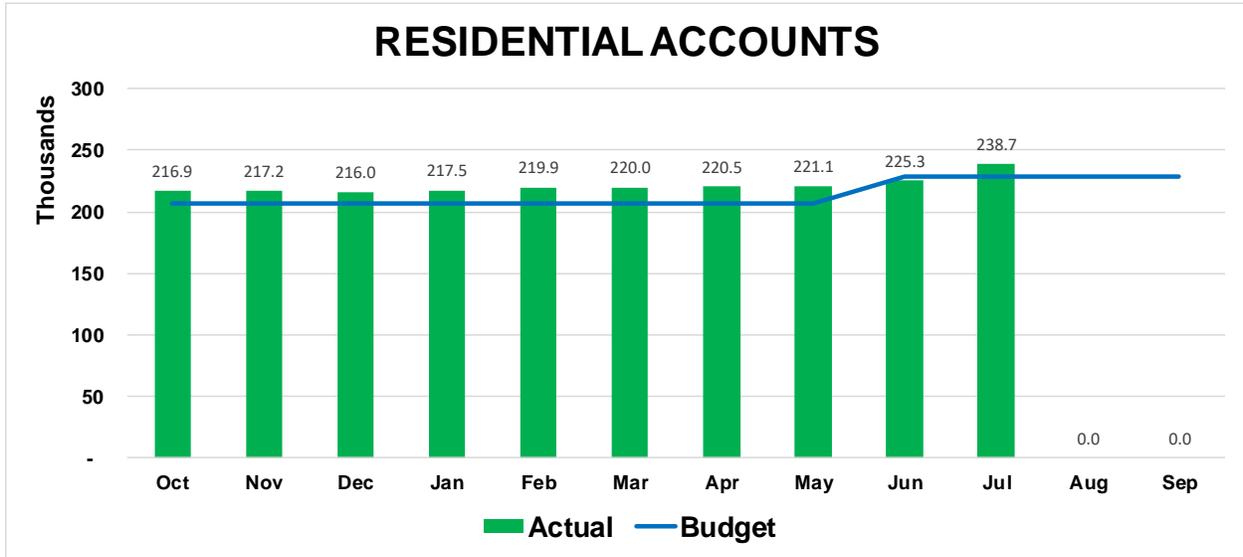
CONTINGENT POSITIONS			
Position	Positions		Variance
	FY2017-18 Budget	FY2017-18 Actual	
Climate Fellows / Temporary	2	2	-

SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2017 through July 31, 2018

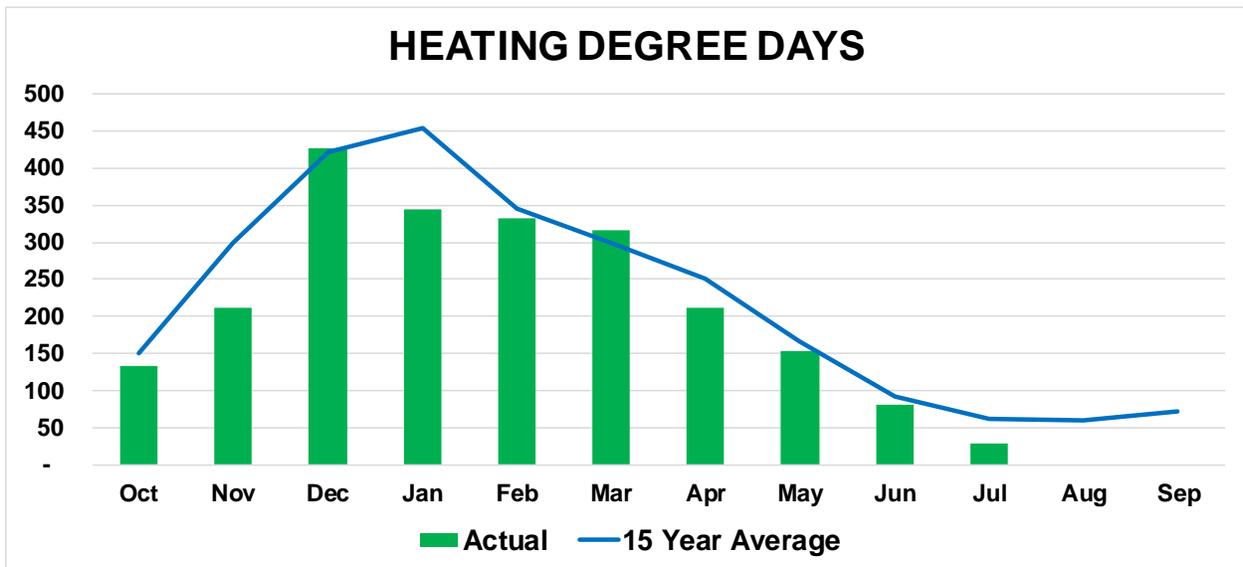
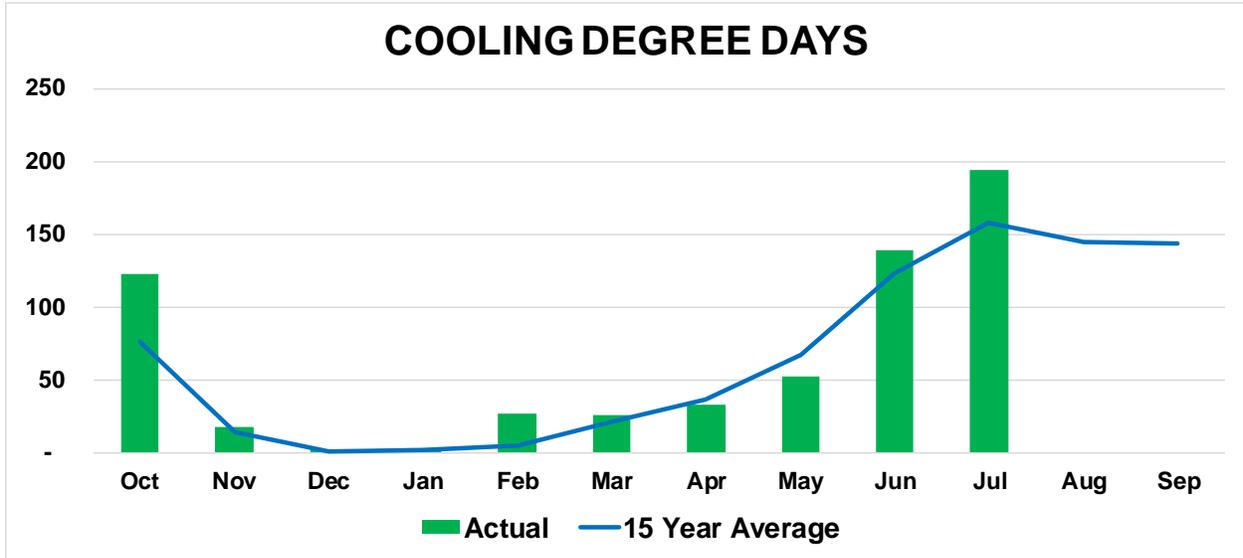
Return on Investments	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	YTD <u>Total</u>
<i>Money Market</i>	\$0	\$0	\$0	\$0	\$0	\$3,452	\$20,727	\$22,840	\$23,960	\$26,500			<u>\$97,479</u>
<hr/>													
Portfolio Invested													
<i>Average daily portfolio available to invest*</i>						\$36,750,070	37,850,501	34,800,713	32,162,513	31,511,318			
<i>Average daily portfolio invested</i>						\$20,003,452	20,004,143	20,024,915	20,048,616	20,071,834			
<i>% of average daily portfolio invested</i>						54.4%	52.9%	57.5%	62.3%	63.7%			
<hr/>													
Detail of Portfolio													
	<u>Purchased Rate %</u>	<u>Maturity Rate %</u>	<u>Carrying Value</u>										
<i>Money Market - River City Bank</i>	1.26%	1.26%	\$20,097,479										

* Note: Balance available to invest does not include balance in the Lockbox.

CUSTOMER ACCOUNTS



WEATHER STATISTICS



**SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT**

	Total	Days				
		0-30	31-60	61-90	90-120	Over 120
Accounts Receivable	\$25,076,343	\$23,711,742	\$472,610	\$223,886	\$178,742	\$489,362
Period %	100%	94.6%	1.9%	0.9%	0.7%	2.0%



Staff Report – Item 11

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 11: Approve Recommendation to Establish \$20 Million Line of Credit with River City Bank

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board approve SVCE to engage River City Bank in establishing a \$20 million line of credit for one year.

BACKGROUND

Maintaining a strong liquidity profile is a key credit consideration when procuring power for customers. Liquidity provides time for SVCE to react with its locally controlled rate setting and to implement other mitigation strategies.

ANALYSIS & DISCUSSION

Having access to external liquidity to supplement SVCE's balance sheet will be advantageous for future negotiations of power supply and may help avoid SVCE having to post collateral to suppliers that are not agreeable to the lockbox credit structure. It would also provide greater flexibility in negotiating credit terms for power supply and may result in more supplier options and better pricing.

A line of credit is viewed positively by the credit rating agencies and was one of many factors that was referenced by Moody's Rating Agency when establishing a credit rating for Marin Clean Energy (MCE).

STRATEGIC PLAN

The recommendation supports the Financial and Power Supply goals of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the committee regarding the establishment of a line of credit.

FISCAL IMPACT

Fees due upon closing:

- Documentation Fee of \$2,500
- Loan Fee: 0.25% of the Line Amount or \$50,000
- Legal fees are expected to be minimal since a relationship with River City Bank is already established

Interest expense on outstanding balances as a result of draws against the line of credit is 1.75% + 1-Month LIBOR

Upon maturity, 0.15% of the average unused Line Amount. Maximum cost is \$30,000

ATTACHMENTS

1. There are no attachments with this report. However, the credit agreement is being reviewed by SVCE's outside counsel. Contingent upon a favorable review from counsel, the credit agreement will be presented at the September 12th Board of Directors meeting.



Staff Report – Item 1m

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1m: Approve to Recommend Access to Public Records – Request and Fees Policy

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board approve GAP4 – Access to Public Records – Request and Fees Policy.

BACKGROUND

The California Public Records Act (CPRA) compels a public agency to disclose, make available for inspection, or copy a document that does exist, if it is a public record, and disclosable. As a public agency, Silicon Valley Clean Energy (SVCE), has complied with the CPRA. The Access to Public Records policy (see Attachment 1) establishes guidelines for SVCE in the handling and response to CPRA requests.

STRATEGIC PLAN

The recommendation supports the Financial and Administration department goals of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the committee regarding the Access to Public Records – Request for Fees Policy.

FISCAL IMPACT

There is no fiscal impact to the agency for adoption of this benefit.

ATTACHMENTS

1. GAP4 – Access to Public Records – Requests and Fees Policy



GAP4

Category: General and Administrative

ACCESS TO PUBLIC RECORDS – REQUESTS AND FEES

I. PURPOSE

The purpose of this policy is to establish guidelines and procedures for Silicon Valley Clean Energy's (SVCE) handling and response to California Public Records Act (CPRA) requests. The Office of the Board Clerk has sole responsibility for handling and preparing the Agency's response to requests made by members of the public under the CPRA. The Board Clerk shall advise the Chief Executive Officer and Director of Finance and Administration of any significant CPRA requests. SVCE departments will cooperate fully with the Board Clerk in producing records in a timely manner.

II. PERSONS AFFECTED

This policy applies to all SVCE employees and members of the Board of Directors. SVCE employees and members of the Board of Directors who receive requests for public records are required to contact the Board Clerk's Office to report the request.

III. DEFINITIONS

"Exempt Record" means a record that may be withheld from disclosure under California law.

"Electronic Record" means a record, document, or writing contained, transcribed or held in electronic format, such as computer records, databases, e-mails, and texts.

"Member of the Public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his/her membership, agency, office or employment.



GAP4

Category: General and Administrative

“Person” means any natural person, corporation, partnership, limited liability company, firm, or association.

“Public Records” include any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by SVCE regardless of physical form or characteristics.

“Writing” means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

IV. POLICY

The CPRA provides that the public has a right to inspect and obtain a copy of most of the records retained by public agencies in the course of doing business. The Legislature has declared that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in the state. The public’s right to access public records is also guaranteed by the California Constitution.

SVCE affirms the public’s right to access its public records, in compliance with the CPRA and the California Constitution. This policy shall be interpreted and enforced in a manner that is consistent with those laws.

Limitations

The CPRA’s right of access is not unlimited. The CPRA does not require a public agency to create records that are not in existence



GAP4

Category: General and Administrative

at the time the request is made (e.g., a written summary of a document or a list of expenditures or events).

In addition, certain categories of records are exempt from disclosure and need not be provided for inspection or reproduction.

Common exemptions include but are not limited to:

- personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;
- pending litigation records;
- closed session records;
- software or proprietary information;
- attorney-client privileged communications; and
- preliminary drafts or notes not kept in the ordinary course of business where the public's interest in non-disclosure clearly outweighs the public's interest in disclosure.

The Office of the Board Clerk shall consult with the SVCE General Counsel to determine whether records or portions of records are exempt from disclosure.

If SVCE determines that the requested records are to be withheld, in whole or in part, the Office of the Board Clerk shall so notify the requestor in the determination letter and shall cite the specific exemption(s). In those cases where portions of a record are public and other portions are exempt, the Board Clerk shall redact or remove the exempt information before disclosing the remainder of the record.

Complying with a Records Request

1. Requests for Public Records
 - a. Any member of the public may request to view or pay for a copy of a public record. SVCE may request, but shall not require that a requester give their name or other identifying information or put their request in writing. The requester does not have to explain why



GAP4

Category: General and Administrative

they want the record. A request may be made over the telephone, in person, in writing, by facsimile or electronic mail.

- b. A requester must identify an actual public record; requests that are too vague cannot be fulfilled. If known, the requester should identify the name or title of the desired record or provide a written description. The Office of the Board Clerk shall assist the requester in identifying the desired public records.

2. Inspection of Public Records

- a. Public records are open to inspection at SVCE's Offices Monday through Friday, except holidays, during regular business hours (8:30 a.m. to 5:00 p.m.).
- b. If portions of the requested record are exempt from disclosure, any reasonable portion of the record that is public shall be made available for inspection after the exempt portions are redacted or deleted.
- c. It is requested that any person wishing to inspect public records contact the Office of the Board Clerk to schedule an appointment to minimize delays.
- d. Inspection of original SVCE files/records by a requester may be supervised by a SVCE employee. Under no circumstances shall any record be altered, destroyed, or removed from the premises.

3. SVCE Response Time

- a. Within ten (10) calendar days of receipt of a request for public records, the Office of the Board Clerk shall determine whether to grant or deny a request for public records and respond to the requestor in writing with the determination. The 10-day response period starts with the first calendar day after the date of receipt.
- b. When unusual circumstances exist, the Office of the Board Clerk may extend the 10-day response time by



GAP4

Category: General and Administrative

an additional fourteen (14) days. Written notice to the requestor shall set forth reasons for the extension and the date for determination. Unusual circumstances include the following: the need to search for, collect and examine a voluminous amount of records; the need to consult another agency that has an interest in the determination; the need to compile data or write programming language, a computer program or construct a computer report to extract data.

- c. The 10-day response period is not the time period for complying with the request. Rather, it is the time period for responding to the requestor with a written determination as to whether records responsive have been located and what, if any, information in those records is exempt from disclosure.

4. Fees for Copies of Records

- a. The cost for copying the requested records is the direct cost of duplication or, where applicable, a statutory fee.
 - i. Direct costs do not include the staff time for tasks associated with retrieval, inspection and handling of the file from which the copy is extracted, or the time to review and compile the records.
 - ii. The Office of the Board Clerk may elect to waive the fees in certain cases in his/her sole discretion.
- b. In all cases, a requester must pay the applicable costs or fees before copies of disclosable records will be released.
- c. Photocopies:
 - i. SVCE has determined that the direct cost of duplication for normal sized photocopies is ten cents (\$0.10) per page.
 - ii. If an outside duplication firm is employed to make the requested copies, the cost charged to SVCE will be passed on to the requester.



GAP4

Category: General and Administrative

- d. Electronic Records:
 - i. If SVCE maintains a disclosable public record in an electronic format, it shall make the record available in the electronic format when requested. If an electronic copy is requested but no format is specified, it shall be assumed that the requester is seeking a portable document format (PDF).
 - ii. The requestor is responsible for the direct cost of producing the electronic record, if any. The direct cost includes the cost of the data storage device, such as a compact disk or flash drive, unless provided in advance in new and unopened original packaging.
 - iii. If a request requires compilation, extraction, or computer programming to produce the record, or requires the production of an electronic record that is otherwise produced only at regularly scheduled intervals, the requester shall bear the cost of producing the electronic copy, including the fully burdened hourly rate of staff members required to construct the record or the cost charged by an outside programmer or consultant.
 - iv. SVCE is not required to reconstruct electronic copies of records that are no longer maintained or available in an electronic format, or to release a record in electronic form if the release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

5. Special Rules for FPPC Filings

- a. No later than the second business day following the day on which a request is received, reports and statements filed pursuant to the Political Reform Act (Gov't Code §



GAP4

Category: General and Administrative

81000 et seq.) must be made available for public inspection.

- b. Pursuant to Government Code Section 81008, the fee for copies of reports and statements shall be ten cents (\$0.10) per page.



Staff Report – Item 1n

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1n: Approve Amendment to Employee Handbook to Establish Management Leave for Exempt Employees

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board approve amendment to the employee handbook to establish forty (40) hours of Management Leave for exempt status employees.

BACKGROUND

Due to the agency's limited staff and complexity of duties, staff is often required to work past 40 hours per week and occasionally on weekends and holidays. Non-exempt status employees receive overtime compensation for working over 40 hours per week.

At the July 23, 2018 Finance and Administration Committee, committee members supported staff's proposal to include 40 hours of Management Leave for exempt employees.

ANALYSIS & DISCUSSION

On an annual basis, all employees who are exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) and who are not on a performance improvement plan will receive forty (40) hours of Management Leave.

The 40 hours of Management Leave shall be granted on January 1 of each year.

Management Leave must be used in the calendar year in which it is granted and may not be cashed out or carried forward to the following year. Management Leave may be taken at the employee's discretion upon supervisor approval.

Employees hired within the previous calendar year will earn Management Leave on a pro rata basis, provided they've worked enough hours to earn a minimum of eight (8) hours of Management Leave.

STRATEGIC PLAN

The recommendation supports the "Best Place to Work" goal of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the committee on the terms of a Management Leave policy.

Agenda Item: 1n

Agenda Date: 9/4/2018

FISCAL IMPACT

There is no fiscal impact to the agency for adoption of this benefit.



Staff Report – Item 1o

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1o: Approve Amendment to Employee Handbook to Establish Specific Days During the Week between Christmas and New Years as Agency Paid Holidays for 2018 and 2019

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board approve amendment to the employee handbook to include specific business days between Christmas and New Years for 2018 and 2019 as agency paid holidays.

BACKGROUND

At the June 13th Board of Directors meeting, staff presented several benefit options with the Board supporting the closure of the office between Christmas and New Years and business days between those holidays as agency paid holidays.

ANALYSIS & DISCUSSION

Staff recommends the closure of the office between Christmas and New Years with business days during that week to be included as paid holidays for employees. This recommendation will be reviewed by the Board in 2020 to consider continuation of this benefit.

For 2018, the additional paid holidays would be December 26th, 27th, 28th and the 31st.

For 2019, the additional paid holidays would be December 26th, 27th, 30th and 31st.

STRATEGIC PLAN

The recommendation supports the “Best Place to Work” goal of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the committee.

FISCAL IMPACT

There is no fiscal impact to the agency for adoption of this benefit.



Staff Report – Item 1p

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1p: Approve to Recommend Volunteer Time Off Policy

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board approve HRP3 – Volunteer Time Off Policy.

BACKGROUND

The intention of the Volunteer Time Off Policy is to create community engagement opportunities for SVCE employees that are meaningful, purposeful and help those in need. At the same time, SVCE recognizes participating in these activities will also enrich and inspire the lives of our employees. 'Community' is not defined as just local community, but may encompass a global perspective.

STRATEGIC PLAN

The recommendation supports the "Best Place to Work" goal of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the committee regarding the Volunteer Time Off Policy.

FISCAL IMPACT

There is no fiscal impact to the agency for adoption of this benefit.

ATTACHMENTS

1. HRP3 – Volunteer Time Off Policy



HRP3

Category: Human Resources

VOLUNTEER TIME OFF PROGRAM AND POLICY

I. PURPOSE

The purpose of SVCE's volunteer program (VTO) is to:

1. Support volunteer activities that enhance and serve communities in which we live and work.
2. Support communities that are impacted by disasters.
3. Address issues that impact quality of life.

II. POLICY

Amount of Time

All regular full-time and part-time employees can volunteer up to 40 hours per calendar year with a 501(c)(3) nonprofit or its U.S. equivalent in accordance with SVCE's giving and volunteering guidelines. More than one organization may be chosen. If you are not sure of the status of your chosen organization, please contact the Director of Finance and Administration for guidelines.

- Employees will be paid at their normal pay rate for the volunteer hours taken.
- No more than 2 days per quarter.
- Minimum of 2 hours per opportunity.
- VTO is refreshed at the beginning of the each calendar year and cannot be accrued or carried-over into the following year – "use it or lose it" policy.
- Usage of this time does not affect PTO or Management Leave usage.

Note: Disaster Response Volunteering is managed separately based on individual skill sets and community needs. Please contact Finance and Administration for guidelines and to request clarification.

Eligibility



HRP3

Category: Human Resources

All full time regular employees of SVCE are eligible to participate in this program after one month from date-of-hire. The employee must be in good standing. The employee must provide reasonable notice to their supervisor and work demands can take priority over the VTO request. Employees can choose a charity of their choice or work together with other CCAs on a team volunteer activity.

Ineligibility

Employees are ineligible to participate in the VTO program if:

- The employee is on a Performance Improvement Plan.
- The employee's employment with SVCE terminates for any reason.
- The VTO program is discontinued. SVCE reserves the right to modify, amend, suspend or discontinue this program at any time without prior notice. SVCE also reserves the right to revoke approval if it is felt that the employee is misusing the program.

Approval Process

Employees must complete the VTO request form and submit to his/her supervisor at least one week before the requested time off. The supervisor should consult with Finance and Administration with any questions or concerns before approving or denying the request. Approval is at the discretion of the employee's supervisor and Finance and Administration.

Examples of Appropriate Uses for VTO:

- Building a house for Habitat for Humanity
- Volunteering at a food bank
- Cleaning up a beach, park or trail
- Volunteering at a local hospital
- Judging a science fair competition
- Serving on a nonprofit board

Examples of Inappropriate Uses for VTO:



HRP3

Category: Human Resources

- Coaching your child's basketball team
- Serving as your child's scout leader
- Attending a professional, religious, or personal interest conference
- Taking a ski vacation and charitably giving ski lessons
- Judging a beauty pageant

VTO may not be used for organizations that discriminate based on race, color, age, gender, religious creed, veteran status, marital status, sexual orientation, national origin or ancestry, physical or mental disability, medical condition or genetic information, or political affiliation.



HRP3

Category: Human Resources

VOLUNTEER TIME OFF REQUEST FORM

Date of Request: _____

Employee Name: _____

Charitable Organization Information:

Name: _____

Address: _____

City/State/Zip: _____

Website: _____

Date and Time of requested VTO: _____

Total # of hours requested _____

Description of volunteer activity you would like to do: _____

I certify that the information provided is complete and correct to the best of my knowledge. By signing below, I verify that the volunteer efforts and recipient organization meet SVCE's VTO guidelines.

Employee Signature/Date

Manager Supervisor/Date



Staff Report – Item 1q

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 1q: Approve to Recommend Unpaid Personal Leave Policy

Date: 9/4/2018

RECOMMENDATION

Staff recommends that the Finance and Administration Committee recommend the Board approve HRP4 – Unpaid Personal Leave Policy.

BACKGROUND

In an effort to recognize the need of employees who require time off in addition to other types of leave, the Chief Executive Officer may consider an unpaid personal leave of absence without pay for up to a maximum of 80 hours.

STRATEGIC PLAN

The recommendation supports the “Best Place to Work” goal of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the Finance and Administration Committee regarding the Unpaid Personal Leave Policy.

FISCAL IMPACT

There is no fiscal impact to the agency for adoption of this benefit.

ATTACHMENTS

1. HRP4 – Unpaid Personal Leave Policy



HRP4

Category: Human Resources

UNPAID PERSONAL LEAVE POLICY

I. PURPOSE

In an effort to recognize the need of employees who require time off in addition to other types of leave, the Chief Executive Officer may consider an unpaid personal leave of absence without pay for up to a maximum of 80 hours.

II. POLICY

Eligibility

All full time regular employees employed by SVCE for a minimum of 90 days are eligible to apply for an unpaid personal leave of absence. Job performance, absenteeism and departmental requirements all will be taken into consideration before a request is approved. Approvals of the immediate supervisor, department director and CEO are required. Requests for unpaid personal leave may be denied or granted by SVCE for any reason or no reason and are within the sole discretion of SVCE. SVCE reserves the right to terminate employment for any reason or no reason during the leave of absence.

Supervisor

The immediate supervisor will:

- Review the request taking workload scheduling and departmental requirements into consideration.
- Make a recommendation to and obtain a decision from the department director/manager.
- Submit the department-level decision to the CEO for final approval.
- Return a decision to the employee as soon as feasible after receipt of the written request.
- If the request is approved, the supervisor will notify the Finance and Administration Department.



HRP4

Category: Human Resources

Payroll

Finance and Administration is responsible for ensuring that any employee on an approved personal leave of absence is not paid.

Return to Work/Extension of Leave

An employee is required to return from the unpaid personal leave on the originally scheduled return date. If the employee is unable to return, he or she must request an extension of the leave in writing. If SVCE declines to extend the leave, the employee must then return to work on the originally scheduled return date or be considered to have voluntarily resigned from his or her employment. Extensions of leave will be considered on a case-by-case basis.



Staff Report – Item 2

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 2: SVCE Update to Benefits and Compensation Including Organization Chart and Salary Ranges

Date: 9/4/2018

This item will be addressed in the form of a presentation to the Finance and Administration Committee.



Staff Report – Item 3

To: Silicon Valley Clean Energy Finance and Administration Committee

From: Girish Balachandran, CEO

Item 3: FY 2018-19 Operating Budget Overview

Date: 9/4/2018

This item will be addressed in the form of a presentation to the Finance and Administration Committee.