Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, November 14, 2018
7:00 pm
Cupertino Community Hall
10350 Torre Avenue
Cupertino, 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.

Adoption of Resolution 2018-13 Commending Director Tate for His Dedicated Service to SVCE

Consent Calendar (Action)

1a) Approve Minutes of the October 24, 2018, Board of Directors Adjourned Regular Meeting

1b) Receive September 2018 Treasurer Report

1c) Adopt Resolution Amending the SVCE Operating Rules and Regulations to Change the Annual Appointment of Committee Assignments, With the Exception of the Executive Committee, to February

1d) Approve Amendment No. 1 to Employment Agreement for Chief Executive Officer

1e) Authorize CEO to Execute Agreement with Aaron Read & Associates, LLC. for 2019 Lobbying Services

Regular Calendar

2) CEO Report (Discussion)
3) Adopt Resolution to Authorize the Chief Executive Officer to Execute 
Service Agreements with 1) Hanover Strategy Advisors; 2) Flynn 
Resources Consulting Inc.; and 3) Ascend Analytics, Inc. and Delegate 
Authority to CEO to Spend up to $1,000,000 in Aggregate through 
September 30, 2021 Under Master Consultant Agreements (Action)

4) Overview Presentation on Building Design Incentives and Reach Codes 
(Discussion)

5) Executive Committee Report (Discussion)

6) Finance and Administration Committee Report (Discussion)

7) Legislative Ad Hoc Committee Report (Discussion)

**Board Member Announcements and Direction on Future Agenda Items**

**Adjourn**
RESOLUTION NO. 2018-13

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING DIRECTOR STEVE TATE FOR HIS PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HIS DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE CITY OF MORGAN HILL.

THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the Silicon Valley Clean Energy Authority (“SVCEA”) was formed on March 31, 2016, with eleven Cities and Towns and the County of Santa Clara deciding to become the initial members; and

WHEREAS, Steve Tate played an important role as Mayor in the City of Morgan Hill in promoting community clean energy in Santa Clara County and forming SVCEA with his City as a member; and

WHEREAS, the Morgan Hill City Council appointed Steve Tate as its first representative on the Board of Directors of SVCEA; and

WHEREAS, Director Tate actively participated in key decisions setting up the organization and management of SVCEA and establishing the Authority’s Community Choice Energy program, and

WHEREAS, these decisions have made it possible for SVCEA to launch Community Choice Energy service in April 2017;

WHEREAS, Director Tate approved SVCEA’s award-winning budget for responsible and transparent finances;

WHEREAS, Director Tate voted to establish SVCEA’s Net Energy Metering Program, which provides greater benefits for solar customers to earn more for their excess solar power;

WHEREAS, Director Tate supported the creation of the e-bike scholarship competition, Bike to the Future, encouraging high school students with a STEM learning opportunity;

WHEREAS, Director Tate approved long-term contracts for wind energy and solar-plus-storage, securing new renewable energy projects and reliability for SVCEA customers;

WHEREAS, Director Tate voted to accept the addition of the City of Milpitas into SVCEA, expanding the benefits of Community Choice Energy to a fellow Santa Clara County community;
WHEREAS, Director Tate established committees to provide advice, support and program input to SVCEA;

WHEREAS, Director Tate voted to match SVCEA funds for the FutureFit Home Electrification Program;

WHEREAS, Director Tate directed SVCEA to provide carbon-free electricity saving the City of Morgan Hill 59.5 million pounds of carbon emissions in 2018;

WHEREAS, while serving on the board of SVCEA, Director Tate voted for 2018 electricity rates that saved 15,481 Morgan Hill customers $895,000 on their energy bills;

NOW, THEREFORE, the Board of Directors of SVCEA hereby commends Director Steve Tate and expresses its sincere appreciation for his promotion of Community Choice Energy in Santa Clara County and his dedicated service as a member of the Board of Directors of the Authority.

ADOPTED AND APPROVED this 14th day of November 2018.

Chair

ATTEST:

Secretary
Call to Order

Chair Corrigan called the meeting to order at 5:01 p.m.

Roll Call

Present:
Chair Courtenay C. Corrigan, Town of Los Altos Hills
Vice Chair Margaret Abe-Koga, City of Mountain View
Director Marsha Grilli, City of Milpitas
Alternate Director Anthony Eulo, City of Morgan Hill
Director Nancy Smith, City of Sunnyvale (arrived at 5:03 p.m.)
Director Howard Miller, City of Saratoga
Director Rod Sinks, City of Cupertino
Director Rob Rennie, Town of Los Gatos
Director Liz Gibbons, City of Campbell
Director Dave Cortese, County of Santa Clara
Director Jeannie Bruins, City of Los Altos (arrived at 5:19 p.m.)
Director Burton Craig, City of Monte Sereno

Absent:
Director Daniel Harney, City of Gilroy

Public Comment on Matters Not Listed on the Agenda
No speakers.

Consent Calendar

MOTION: Director Gibbons moved and Alternate Director Eulo seconded the motion to approve the Consent Calendar.

The motion carried unanimously with Directors Smith, Harney and Bruins absent.

1a) Approve Minutes of the September 12, 2018, Board of Directors Meeting
1b) Approve Minutes of the October 10, 2018, Board of Directors Meeting
1c) Receive Customer Program Advisory Group Report  
1d) Receive August 2018 Treasurer Report  
1e) Confirm Appointment of Alternate Milpitas Representative to Customer Program Advisory Group  
1f) Approve Scholarship Funds for 2019 Bike to the Future Competition

**Regular Calendar**

2) **CEO Report (Discussion)**

CEO Girish Balachandran provided a CEO report which included an employee update. Manager of Regulatory and Legislative Affairs Hilary Staver provided a Regulatory/Legislative Update and PowerPoint presentation on the power charge indifference adjustment (PCIA), a verbal update on the resource adequacy proceeding, and noted staff would be receiving a first look at the aggregated impacts of the integrated resource plans from the California Public Utilities Commission (CPUC) submitted in August 2018. Manager of Regulatory and Legislative Affairs Staver responded to Board questions.

CEO Balachandran provided an update on SVCE’s Design Charette which occurred on September 18, 2018.

3) **Adopt Resolutions Authorizing the CEO to Execute Renewable Power Purchase Agreements with RE Slate 1 LLC and EDF BigBeau Solar LLC, and Any Necessary Ancillary Agreements and Documents (Action)**

Chair Corrigan introduced the item. Monica Padilla, SVCE Director of Power Resources, and Dennis Dyc-O’Neal, Monterey Bay Community Power’s Director of Power Services, presented a PowerPoint presentation and provided information regarding the proposed projects with RE Slate 1 LLC and EDF BigBeau Solar LLC. Director of Power Resources Padilla and Dyc-O’Neal responded to Board questions.

Chair Corrigan opened public comment.  
No speakers.  
Chair Corrigan closed public comment.

MOTION: Director Sinks moved and Director Miller seconded the motion to adopt resolutions authorizing the CEO to execute two Power Purchase Agreement (PPA) for solar renewable supply categorized as Power Content Category One (“PCC1”) under the California Energy Commission’s Renewable Portfolio Standard (RPS) eligibility criteria and any necessary ancillary documents as follows:

1. Resolution No. 2018-11 with RE Slate 1, LLC., (“Slate”) for solar plus battery storage and any necessary ancillary documents. Power delivery term: June 30, 2021 to June 29, 2036, in an amount not to exceed $141,000,000.
2. Resolution No. 2018-12 with BigBeau Solar, LLC., (“BigBeau”) for solar plus battery storage and any necessary ancillary documents. Power delivery term: December 1, 2021 to November 30, 2040, in an amount not to exceed $196,000,000.

The motion carried unanimously with Director Harney absent.

4) **Approve Timing of Chair/Vice Chair and Committee Selections (Action)**

Chair Corrigan introduced the item and opened the floor for discussion.

Chair Corrigan opened public comment.  
No speakers.  
Chair Corrigan closed public comment.
MOTION: Director Bruins moved and Alternate Director Eulo seconded the motion to approve to appoint SVCE’s Chair, Vice Chair and Executive Committee members in January, with remaining committees assigned at the February Board of Directors meeting with a selection process similar to 2018.

General Counsel Greg Stepanicich noted an amendment to SVCE’s Operating Rules and Regulations would be brought to the Board for approval at the next board meeting.

The motion carried with Director Harney absent.

5) Executive Committee Report (Discussion)

Chair Corrigan reported there was nothing to report; Board Clerk Pizano noted the next Executive Committee meeting would occur on December 4, 2018 at 11:30 a.m.

6) Finance and Administration Committee Report (Discussion)

Director Craig stated there was no report.

7) Legislative Ad Hoc Committee Report (Discussion)

Director Sinks reported the Legislative Ad Hoc Committee last met October 5 to evaluate SVCE’s 2017 legislative outcomes and advocacy, and kick off preparation for the next legislative session. Director Sinks noted the group would meet again in November/early December to discuss outreach progress and policy priorities for 2019.

Board Member Announcements and Direction on Future Agenda Items
None.

Public Comment on Closed Session
No speakers.

The Board adjourned to Closed Session in the Committee Room at 5:44 p.m.

Convene to Closed Session
Public Employee Performance Evaluation
Title: Chief Executive Officer

Conference with Labor Negotiator
Agency Representative: Courtenay Corrigan, Chair, Board of Directors
Unrepresented Employee: Chief Executive Officer

The Board returned to the Council Chambers at 5:57 p.m. with Director Harney absent.

Report from Closed Session
Chair Corrigan stated the Board met in Closed Session, there was nothing to report, and the Board would advise staff to move forward with the items discussed.

Adjourn

Chair Corrigan adjourned the meeting at 5:57 p.m.
**TREASURER REPORT**

Fiscal Year to Date  
As of September 30, 2018  
*(Preliminary & Unaudited)*

Issue Date: November 14, 2018

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<td>Accounts Receivable Aging Report</td>
<td>15</td>
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</table>
### Financial Highlights for the month of September 2018:

Note that the financial audit, due to be completed February 2019, may result in material adjustments to the preliminary schedules contained in this report.

- SVCE operations resulted in positive change in net position for the month of $5.6 million and year-to-date positive change in net position of $52.6 million.
  - September’s revenue of $25.1 million accounted for 303 GWh in net retail consumption.
  - Fiscal year revenues are at $249.9 million vs $254.1 million budgeted, while year-to-date margin of $62.4 million is now $9.2 million below budget.
  - SVCE ends the fiscal year achieving the minimum target for cash reserves.

- Retail GWh sales for the month came in 50 GWh below budget for the month and 1% below budget year-to-date.
  - September’s weather was much milder than expected.
  - Energy load was re-forecasted for February though September in the mid-year budget. Forecasted GWh sales for the fiscal year is 3,642.

- Power Supply
  - Power supply costs for the month included the settlement of above market hedges to cover the balance of August and all of September open positions.
  - Margins were also below plan due to REC purchases.
  - SVCE ends the month with a significant deposit with CAISO. Most of the deposit will be returned by the end of the calendar year.
  - Negotiations have concluded on the remaining long term power purchase agreements featuring solar + storage.

- Programs/Capital
  - Year-to-date programs activity includes GHG accounting services.
  - A Programs Roadmap will be presented to the Board of Directors in December 2018.

- Investing/Financing
  - SVCE is debt free at the end of January 2018.

<table>
<thead>
<tr>
<th>Change in Net Position</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Total</th>
<th>Amended Budget</th>
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<tbody>
<tr>
<td>Actual</td>
<td>6,742</td>
<td>1,818</td>
<td>578</td>
<td>2,847</td>
<td>94</td>
<td>(416)</td>
<td>1,155</td>
<td>8,308</td>
<td>11,068</td>
<td>5,385</td>
<td>7,934</td>
<td>5,615</td>
<td>52,537</td>
<td>55,881</td>
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<th>Power Supply Costs</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Total</th>
<th>Amended Budget</th>
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<td>Energy &amp; REC’s</td>
<td>13,251</td>
<td>12,727</td>
<td>14,439</td>
<td>13,620</td>
<td>14,902</td>
<td>14,302</td>
<td>12,992</td>
<td>11,700</td>
<td>12,163</td>
<td>12,687</td>
<td>11,525</td>
<td>17,860</td>
<td>162,289</td>
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<td>Capacity</td>
<td>275</td>
<td>743</td>
<td>657</td>
<td>724</td>
<td>742</td>
<td>643</td>
<td>714</td>
<td>800</td>
<td>1,421</td>
<td>2,423</td>
<td>2,379</td>
<td>2,525</td>
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<td>CAISO Charges</td>
<td>1,034</td>
<td>534</td>
<td>2,813</td>
<td>882</td>
<td>1,292</td>
<td>453</td>
<td>325</td>
<td>297</td>
<td>283</td>
<td>2,594</td>
<td>2,264</td>
<td>(530)</td>
<td>12,211</td>
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<td>NEM Expense</td>
<td>44 (16)</td>
<td>(47)</td>
<td>(63)</td>
<td>(4)</td>
<td>26</td>
<td>36</td>
<td>265</td>
<td>413</td>
<td>406</td>
<td>272</td>
<td>200</td>
<td>1,530</td>
<td></td>
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<tr>
<td>Charge/Credit (IST/Net Rev)</td>
<td>591</td>
<td>(1,127)</td>
<td>(1,828)</td>
<td>(2,934)</td>
<td>(2,789)</td>
<td>285</td>
<td>(843)</td>
<td>(1,528)</td>
<td>719</td>
<td>5,084</td>
<td>2,394</td>
<td>(510)</td>
<td>(2,586)</td>
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<tr>
<th>Other</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Total</th>
<th>Amended Budget</th>
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<tbody>
<tr>
<td>Capital Expenditures</td>
<td>-</td>
<td>-</td>
<td>9</td>
<td>2</td>
<td>-</td>
<td>10</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>11</td>
<td>14</td>
<td>4</td>
<td>50</td>
<td>50</td>
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<tr>
<td>Energy Programs</td>
<td>-</td>
<td>-</td>
<td>14</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>86</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>89</td>
<td>4,780</td>
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<table>
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<tr>
<th>Load Statistics - GWh</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Total</th>
<th>Amended Budget</th>
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</thead>
<tbody>
<tr>
<td>Retail Sales Actual</td>
<td>285</td>
<td>266</td>
<td>295</td>
<td>276</td>
<td>254</td>
<td>282</td>
<td>255</td>
<td>257</td>
<td>315</td>
<td>367</td>
<td>343</td>
<td>303</td>
<td>3,510</td>
<td></td>
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<tr>
<td>Retail Sales Budget</td>
<td>285</td>
<td>266</td>
<td>295</td>
<td>276</td>
<td>269</td>
<td>256</td>
<td>261</td>
<td>265</td>
<td>315</td>
<td>346</td>
<td>342</td>
<td>363</td>
<td>3,542</td>
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Other Statistics and Ratios

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
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<tbody>
<tr>
<td>Working Capital</td>
<td>$77,539,004</td>
</tr>
<tr>
<td>Current Ratio</td>
<td>3.3</td>
</tr>
<tr>
<td>Contribution Margin</td>
<td>$62,458,478</td>
</tr>
<tr>
<td>Expense Coverage Days</td>
<td>99</td>
</tr>
<tr>
<td>Return on Assets</td>
<td>46%</td>
</tr>
<tr>
<td>Long-Term Debt</td>
<td>$0</td>
</tr>
<tr>
<td>Total Accounts</td>
<td>267,070</td>
</tr>
<tr>
<td>Opt-Out Accounts</td>
<td>9,309</td>
</tr>
<tr>
<td>Opt-Up Accounts</td>
<td>3,055</td>
</tr>
</tbody>
</table>

Retail Sales - Month

- Actual: 26.1
- Budget: 30.7
- FY16/17: 23.5

Retail Sales - YTD

- Actual: 250.1
- Budget: 254.3
- FY16/17: 94.0

O&M - Month

- Actual: 20.5
- Budget: 20.5
- FY16/17: 15.8

O&M - YTD

- Actual: 197.4
- Budget: 193.2
- FY16/17: 64.3
<table>
<thead>
<tr>
<th>ASSETS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current Assets</strong></td>
<td></td>
</tr>
<tr>
<td>Cash &amp; Cash Equivalents</td>
<td>$ 56,963,340</td>
</tr>
<tr>
<td>Accounts Receivable, net of allowance</td>
<td>23,661,147</td>
</tr>
<tr>
<td>Accrued Revenue</td>
<td>16,931,361</td>
</tr>
<tr>
<td>Other Receivables</td>
<td>86,261</td>
</tr>
<tr>
<td>Prepaid Expenses</td>
<td>1,123,847</td>
</tr>
<tr>
<td>Deposits</td>
<td>11,055,770</td>
</tr>
<tr>
<td>Restricted cash - lockbox</td>
<td>2,000,000</td>
</tr>
<tr>
<td><strong>Total Current Assets</strong></td>
<td>111,821,726</td>
</tr>
<tr>
<td><strong>Noncurrent assets</strong></td>
<td></td>
</tr>
<tr>
<td>Capital assets, net of depreciation</td>
<td>184,319</td>
</tr>
<tr>
<td>Deposits</td>
<td>3,129,560</td>
</tr>
<tr>
<td><strong>Total Noncurrent Assets</strong></td>
<td>3,313,879</td>
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<tr>
<td><strong>Total Assets</strong></td>
<td>115,135,605</td>
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<table>
<thead>
<tr>
<th>LIABILITIES</th>
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<tbody>
<tr>
<td><strong>Current Liabilities</strong></td>
<td></td>
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<tr>
<td>Accounts Payable</td>
<td>700,685</td>
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<tr>
<td>Accrued Cost of Electricity</td>
<td>31,767,349</td>
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<tr>
<td>Accrued Payroll &amp; Benefits</td>
<td>209,303</td>
</tr>
<tr>
<td>User Taxes and Energy Surcharges due to other gov'ts</td>
<td>1,020,385</td>
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<tr>
<td>Supplier Security Deposits</td>
<td>585,000</td>
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<tr>
<td><strong>Total Current Liabilities</strong></td>
<td>34,282,722</td>
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<tr>
<th>NET POSITION</th>
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<tbody>
<tr>
<td>Net investment in capital assets</td>
<td>184,319</td>
</tr>
<tr>
<td>Unrestricted (deficit)</td>
<td>80,668,564</td>
</tr>
<tr>
<td><strong>Total Net Position</strong></td>
<td>$ 80,852,883</td>
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# SILICON VALLEY CLEAN ENERGY AUTHORITY

## STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2017 through September 30, 2018

### OPERATING REVENUES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Electricity Sales, Net</td>
<td>$249,204,377</td>
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<tr>
<td>GreenPrime electricity premium</td>
<td>730,235</td>
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<tr>
<td>Other income</td>
<td>13,500</td>
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<tr>
<td><strong>TOTAL OPERATING REVENUES</strong></td>
<td><strong>249,948,112</strong></td>
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### OPERATING EXPENSES

<table>
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<th>Description</th>
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<tr>
<td>Cost of Electricity</td>
<td>187,489,634</td>
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<tr>
<td>Staff Compensation and benefits</td>
<td>2,644,652</td>
</tr>
<tr>
<td>Data Management</td>
<td>3,431,478</td>
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<tr>
<td>Service Fees - PG&amp;E</td>
<td>1,161,129</td>
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<tr>
<td>Consultants and Other Professional Fees</td>
<td>892,267</td>
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<tr>
<td>Legal</td>
<td>341,116</td>
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<tr>
<td>Communications &amp; Noticing</td>
<td>617,516</td>
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<tr>
<td>General &amp; Administrative</td>
<td>931,479</td>
</tr>
<tr>
<td>Depreciation</td>
<td>39,629</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING EXPENSES</strong></td>
<td><strong>197,548,900</strong></td>
</tr>
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**OPERATING INCOME(LOSS)**  
52,399,212

### NONOPERATING REVENUES (EXPENSES)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tr>
<td>Interest Income</td>
<td>153,840</td>
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<tr>
<td>Interest and related expenses</td>
<td>(15,666)</td>
</tr>
<tr>
<td><strong>TOTAL NONOPERATING EXPENSES</strong></td>
<td><strong>138,174</strong></td>
</tr>
</tbody>
</table>

### CHANGE IN NET POSITION

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Position at beginning of period</td>
<td>28,315,497</td>
</tr>
<tr>
<td><strong>Net Position at end of period</strong></td>
<td><strong>$ 80,852,883</strong></td>
</tr>
</tbody>
</table>


### CASH FLOWS FROM OPERATING ACTIVITIES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receipts from electricity sales</td>
<td>$245,936,491</td>
</tr>
<tr>
<td>Receipts from other income</td>
<td>13,500</td>
</tr>
<tr>
<td>Receipts from supplier security deposits</td>
<td>1,185,000</td>
</tr>
<tr>
<td>Tax and surcharge receipts from customers</td>
<td>5,160,891</td>
</tr>
<tr>
<td>Energy settlements received</td>
<td>8,917,455</td>
</tr>
<tr>
<td>Deposits and collateral received</td>
<td>2,200,300</td>
</tr>
<tr>
<td>Payments to purchase electricity</td>
<td>(173,409,480)</td>
</tr>
<tr>
<td>Payments for staff compensation and benefits</td>
<td>(2,436,099)</td>
</tr>
<tr>
<td>Payments for data manager fees</td>
<td>(3,634,640)</td>
</tr>
<tr>
<td>Payments for PG&amp;E service fees</td>
<td>(1,254,229)</td>
</tr>
<tr>
<td>Payments for consultants and other professional services</td>
<td>(868,421)</td>
</tr>
<tr>
<td>Payments for legal fees</td>
<td>(384,411)</td>
</tr>
<tr>
<td>Payments for communications and noticing</td>
<td>(581,714)</td>
</tr>
<tr>
<td>Payments for general and administrative</td>
<td>(955,536)</td>
</tr>
<tr>
<td>Energy settlements paid</td>
<td>(18,044,959)</td>
</tr>
<tr>
<td>Payments of deposits and collateral</td>
<td>(13,019,270)</td>
</tr>
<tr>
<td>Return of security deposits to suppliers</td>
<td>(600,000)</td>
</tr>
<tr>
<td>Tax and surcharge payments to other governments</td>
<td>(4,953,547)</td>
</tr>
</tbody>
</table>

**Net cash provided (used) by operating activities**

43,271,331

### CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal payments on loan</td>
<td>(5,630,000)</td>
</tr>
<tr>
<td>Interest and related expense payments</td>
<td>(22,892)</td>
</tr>
</tbody>
</table>

**Net cash provided (used) by non-capital financing activities**

(5,652,892)

### CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of capital assets</td>
<td>(52,536)</td>
</tr>
</tbody>
</table>

### CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest income received</td>
<td>153,840</td>
</tr>
</tbody>
</table>

Net change in cash and cash equivalents 37,719,743
Cash and cash equivalents at beginning of year 21,243,597

**Cash and cash equivalents at end of period**

$58,963,340
### RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Income (loss)</td>
<td>$ 52,399,212</td>
</tr>
<tr>
<td>Adjustments to reconcile operating income to net cash provided (used) by operating activities</td>
<td></td>
</tr>
<tr>
<td>Depreciation expense</td>
<td>$ 39,629</td>
</tr>
<tr>
<td>Revenue reduced for uncollectible accounts</td>
<td>$ 1,255,952</td>
</tr>
<tr>
<td>(Increase) decrease in net accounts receivable</td>
<td>($ 3,496,749)</td>
</tr>
<tr>
<td>(Increase) decrease in energy settlements receivable</td>
<td>$ 266,328</td>
</tr>
<tr>
<td>(Increase) decrease in other receivables</td>
<td>$ 113,739</td>
</tr>
<tr>
<td>(Increase) decrease in accrued revenue</td>
<td>($ 1,955,039)</td>
</tr>
<tr>
<td>(Increase) decrease in prepaid expenses</td>
<td>($ 1,052,005)</td>
</tr>
<tr>
<td>(Increase) decrease in current deposits</td>
<td>($10,818,970)</td>
</tr>
<tr>
<td>Increase (decrease) in accounts payable</td>
<td>($ 153,443)</td>
</tr>
<tr>
<td>Increase (decrease) in accrued payroll &amp; benefits</td>
<td>$ 124,280</td>
</tr>
<tr>
<td>Increase (decrease) in energy settlements payable</td>
<td>$ 134,409</td>
</tr>
<tr>
<td>Increase (decrease) in supplier security deposits</td>
<td>$ 585,000</td>
</tr>
<tr>
<td>Increase (decrease) in accrued cost of electricity</td>
<td>$ 5,644,829</td>
</tr>
<tr>
<td>Increase (decrease) in accrued liabilities</td>
<td>($ 20,900)</td>
</tr>
<tr>
<td>Increase (decrease) taxes and surcharges due to other governments</td>
<td>$ 205,059</td>
</tr>
<tr>
<td><strong>Net cash provided (used) by operating activities</strong></td>
<td><strong>$ 43,271,331</strong></td>
</tr>
</tbody>
</table>
## SILICON VALLEY CLEAN ENERGY

**BUDGETARY COMPARISON SCHEDULE**

October 1, 2017 through September 30, 2018

<table>
<thead>
<tr>
<th>REVENUES &amp; OTHER SOURCES</th>
<th>FYTD</th>
<th>FYTD</th>
<th>Variance</th>
<th>FY 2017-18</th>
<th>% Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Amended Budget</td>
<td>$</td>
<td>%</td>
<td>Amended Budget</td>
</tr>
<tr>
<td>Energy Sales</td>
<td>$249,204,377</td>
<td>$253,508,101</td>
<td>$(4,303,724)</td>
<td>-2%</td>
<td>$253,508,101</td>
</tr>
<tr>
<td>Green Prime Premium</td>
<td>730,235</td>
<td>609,889</td>
<td>120,346</td>
<td>20%</td>
<td>609,889</td>
</tr>
<tr>
<td>Other Income</td>
<td>13,500</td>
<td>50,750</td>
<td>(37,250)</td>
<td>-73%</td>
<td>50,750</td>
</tr>
<tr>
<td>Investment Income</td>
<td>153,840</td>
<td>100,000</td>
<td>53,840</td>
<td>0%</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>TOTAL REVENUES &amp; OTHER SOURCES</strong></td>
<td><strong>250,101,952</strong></td>
<td><strong>254,268,741</strong></td>
<td><strong>(4,166,789)</strong></td>
<td><strong>-2%</strong></td>
<td><strong>254,268,741</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXPENDITURES &amp; OTHER USES</th>
<th>CURRENT EXPENDITURES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Power Supply</td>
</tr>
<tr>
<td></td>
<td>187,489,634</td>
</tr>
<tr>
<td></td>
<td>Data Management</td>
</tr>
<tr>
<td></td>
<td>3,431,478</td>
</tr>
<tr>
<td></td>
<td>PG&amp;E Fees</td>
</tr>
<tr>
<td></td>
<td>1,161,129</td>
</tr>
<tr>
<td></td>
<td>Salaries &amp; Benefits</td>
</tr>
<tr>
<td></td>
<td>2,644,652</td>
</tr>
<tr>
<td></td>
<td>Professional Services</td>
</tr>
<tr>
<td></td>
<td>1,134,039</td>
</tr>
<tr>
<td></td>
<td>Marketing &amp; Promotions</td>
</tr>
<tr>
<td></td>
<td>381,439</td>
</tr>
<tr>
<td></td>
<td>Notifications</td>
</tr>
<tr>
<td></td>
<td>236,077</td>
</tr>
<tr>
<td></td>
<td>Lease</td>
</tr>
<tr>
<td></td>
<td>320,100</td>
</tr>
<tr>
<td></td>
<td>General &amp; Administrative</td>
</tr>
<tr>
<td></td>
<td>611,379</td>
</tr>
<tr>
<td><strong>TOTAL CURRENT EXPENDITURES</strong></td>
<td><strong>197,409,927</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OTHER USES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Programs</td>
</tr>
<tr>
<td>99,344</td>
</tr>
<tr>
<td>Office Equipment</td>
</tr>
<tr>
<td>49,921</td>
</tr>
<tr>
<td><strong>TOTAL OTHER USES</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DEBT SERVICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest</td>
</tr>
<tr>
<td>15,666</td>
</tr>
<tr>
<td>Principal</td>
</tr>
<tr>
<td>5,630,000</td>
</tr>
<tr>
<td><strong>TOTAL DEBT SERVICE</strong></td>
</tr>
</tbody>
</table>

| Total Expenditures, Other Uses & Debt Service | 203,204,858 | 203,977,942 | 773,084 | 0% | 203,977,942 | 100% |

| Net Increase(Decrease) in Available Fund Balance | $46,897,094 | $50,290,799 | $(3,393,705) | -7% | $50,290,799 | 100% |
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 $ 46,897,094

Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position

- Subtract depreciation expense (39,629)
- Add back capital asset acquisitions 49,921
- Add back principal payments on debt 5,630,000

Change in Net Position 52,537,386
<table>
<thead>
<tr>
<th>Item 1b</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th>OPERATING REVENUES</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>YTD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity sales, net</td>
<td>$22,523,034</td>
<td>$15,426,854</td>
<td>$17,324,129</td>
<td>$15,778,435</td>
<td>$14,921,265</td>
<td>$16,117,978</td>
<td>$15,156,265</td>
<td>$21,182,416</td>
<td>$26,832,474</td>
<td>$29,536,445</td>
<td>$28,355,143</td>
<td>$26,049,939</td>
<td>$249,204,377</td>
</tr>
<tr>
<td>Green electricity premium</td>
<td>32,946</td>
<td>63,341</td>
<td>61,848</td>
<td>62,605</td>
<td>57,222</td>
<td>64,918</td>
<td>60,208</td>
<td>63,856</td>
<td>67,274</td>
<td>65,612</td>
<td>65,337</td>
<td>65,068</td>
<td>710,235</td>
</tr>
<tr>
<td>Other income</td>
<td>-</td>
<td>-</td>
<td>24,450</td>
<td>6,300</td>
<td>-</td>
<td>34,560</td>
<td>22,750</td>
<td>28,000</td>
<td>49,000</td>
<td>(151,560)</td>
<td>-</td>
<td>-</td>
<td>13,500</td>
</tr>
<tr>
<td><strong>Total operating revenues</strong></td>
<td><strong>22,555,980</strong></td>
<td><strong>15,490,195</strong></td>
<td><strong>17,410,427</strong></td>
<td><strong>15,847,340</strong></td>
<td><strong>14,978,467</strong></td>
<td><strong>16,217,456</strong></td>
<td><strong>15,239,223</strong></td>
<td><strong>21,274,272</strong></td>
<td><strong>26,948,748</strong></td>
<td><strong>29,450,497</strong></td>
<td><strong>28,420,480</strong></td>
<td><strong>26,115,007</strong></td>
<td><strong>249,948,112</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPERATING EXPENSES</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of electricity</td>
<td>15,195,616</td>
<td>12,859,048</td>
<td>16,034,462</td>
<td>12,228,493</td>
<td>14,232,977</td>
<td>15,707,933</td>
<td>13,126,160</td>
<td>11,533,566</td>
<td>14,999,352</td>
<td>23,162,721</td>
<td>18,834,278</td>
<td>19,575,028</td>
<td>187,489,634</td>
</tr>
<tr>
<td>Staff compensation and benefits</td>
<td>196,743</td>
<td>168,026</td>
<td>197,149</td>
<td>161,974</td>
<td>209,855</td>
<td>228,403</td>
<td>200,838</td>
<td>242,800</td>
<td>264,448</td>
<td>220,741</td>
<td>259,054</td>
<td>294,621</td>
<td>2,644,652</td>
</tr>
<tr>
<td>Data manager</td>
<td>276,838</td>
<td>277,564</td>
<td>277,114</td>
<td>281,602</td>
<td>275,000</td>
<td>287,603</td>
<td>281,378</td>
<td>269,300</td>
<td>300,547</td>
<td>301,380</td>
<td>301,727</td>
<td>301,425</td>
<td>3,431,478</td>
</tr>
<tr>
<td>Service fees - PG&amp;E</td>
<td>920</td>
<td>200,000</td>
<td>104,290</td>
<td>120,027</td>
<td>101,645</td>
<td>81,816</td>
<td>84,000</td>
<td>88,886</td>
<td>84,000</td>
<td>96,650</td>
<td>99,412</td>
<td>99,483</td>
<td>1,161,129</td>
</tr>
<tr>
<td>Consultants and other professional fees</td>
<td>78,816</td>
<td>90,373</td>
<td>106,105</td>
<td>141,733</td>
<td>1,900</td>
<td>159,302</td>
<td>334,755</td>
<td>196,776</td>
<td>202,407</td>
<td>224,582</td>
<td>137,431</td>
<td>176,719</td>
<td>1,850,899</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td><strong>15,806,980</strong></td>
<td><strong>13,664,344</strong></td>
<td><strong>16,832,357</strong></td>
<td><strong>12,999,844</strong></td>
<td><strong>14,884,179</strong></td>
<td><strong>16,636,617</strong></td>
<td><strong>14,105,361</strong></td>
<td><strong>12,388,925</strong></td>
<td><strong>15,904,606</strong></td>
<td><strong>24,082,379</strong></td>
<td><strong>19,714,570</strong></td>
<td><strong>20,528,738</strong></td>
<td><strong>197,548,900</strong></td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>6,749,000</td>
<td>1,825,851</td>
<td>578,070</td>
<td>2,847,496</td>
<td>94,308</td>
<td>(419,161)</td>
<td>1,133,862</td>
<td>8,885,347</td>
<td>11,044,142</td>
<td>5,368,118</td>
<td>8,705,910</td>
<td>5,586,269</td>
<td>52,399,212</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NONOPERATING REVENUES (EXPENSES)</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest income</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3,452</td>
<td>20,727</td>
<td>22,840</td>
<td>23,960</td>
<td>26,500</td>
<td>27,924</td>
<td>28,437</td>
</tr>
<tr>
<td>Interest and related expense</td>
<td>(7,442)</td>
<td>(8,224)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(15,666)</td>
</tr>
<tr>
<td><strong>Total nonoperating revenues (expenses)</strong></td>
<td>(7,442)</td>
<td>(8,224)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3,452</td>
<td>20,727</td>
<td>22,840</td>
<td>23,960</td>
<td>26,500</td>
<td>27,924</td>
<td>28,437</td>
</tr>
</tbody>
</table>

| 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 | $8,733,834 | $5,614,706 | $52,537,386 |
## PERSONNEL REPORT FOR SEPTEMBER 2018

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

*Note: There are 21 total positions approved. 2 positions await job descriptions.*
## Return on Investments

<table>
<thead>
<tr>
<th>Return on Investments</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money Market</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$3,452</td>
<td>$20,727</td>
<td>$22,840</td>
<td>$23,960</td>
<td>$26,500</td>
<td>$27,924</td>
<td>$28,437</td>
<td>$153,840</td>
</tr>
</tbody>
</table>

### Portfolio Invested

- **Average daily portfolio available to invest**: $36,750,070, 37,850,501, 34,800,713, 32,162,513, 31,511,318, 28,254,100, 40,813,113
- **Average daily portfolio invested**: $20,003,452, 20,004,143, 20,024,915, 20,048,616, 20,071,834, 20,098,379, 20,128,246
- **% of average daily portfolio invested**: 54.4%, 52.9%, 57.5%, 62.3%, 63.7%, 71.1%, 49.3%

### Detail of Portfolio

<table>
<thead>
<tr>
<th>Detail of Portfolio</th>
<th>Opening Rate %</th>
<th>Current Rate %</th>
<th>Carrying Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money Market - River City Bank</td>
<td>1.26%</td>
<td>1.41%</td>
<td>$20,153,840</td>
</tr>
</tbody>
</table>

*Note: Balance available to invest does not include funds in the lockbox or deposits for power supply.*
CUSTOMER ACCOUNTS

RESIDENTIAL ACCOUNTS

COMMERCIAL & INDUSTRIAL ACCOUNTS
WEATHER STATISTICS

COOLING DEGREE DAYS

HEATING DEGREE DAYS
### SILICON VALLEY CLEAN ENERGY AUTHORITY
### ACCOUNTS RECEIVABLE AGING REPORT

<table>
<thead>
<tr>
<th>Days</th>
<th>Total 0-30</th>
<th>31-60</th>
<th>61-90</th>
<th>90-120</th>
<th>Over 120*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts Receivable</td>
<td>$25,389,161</td>
<td>$23,469,253</td>
<td>$991,614</td>
<td>$281,379</td>
<td>$165,319</td>
</tr>
</tbody>
</table>

| Period % | 100% | 92.4% | 3.9% | 1.1% | 0.7% | 1.9% |

*Note: A portion of accounts that are 120 days old have been sent back to PG&E, however the receivable remains outstanding until PG&E writes the account off.*
Staff Report – Item 1c

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1c: Adopt Resolution Amending the Operating Rules and Regulations to Change the Annual Appointment of Committee Assignments, With the Exception of the Executive Committee, to February

Date: 11/14/2018

RECOMMENDATION
Adopt Resolution 2018-14 amending the SVCE Operating Rules and Regulations (ORR) to change the date of the appointment of committee members, with the exception of the Executive Committee, to February.

BACKGROUND
At the October 24, 2018 Adjourned Regular Meeting of the Board of Directors, the Board approved to appoint SVCE’s Chair, Vice Chair and Executive Committee members in January, with the remaining committees assigned at the February Board of Directors meeting with a selection process similar to 2018.

ANALYSIS & DISCUSSION
The Operating Rules and Regulations Article VI “Amendments” state that a proposed amendment shall not be finally acted upon unless each member of the Board has received written notice of the amendment at least 10 days prior to the date of the meeting at which final action on the amendment is to be taken; this notice was provided at the October 24, 2018 meeting.

Adopting the proposed resolution will procedurally finalize the approval of the amendment to the ORR to reflect previous discussions of the Board.

STRATEGIC PLAN
N/A

ALTERNATIVE
Should the Board choose not to approve the resolution to change SVCE’s Operating Rules and Regulations, staff will revisit an alternative option at the request of the Board.

FISCAL IMPACT
N/A

ATTACHMENTS
1. Resolution 2018-14 Amending the Operating Rules and Regulations to Change the Annual Appointment of Committee Assignments, With the Exception of the Executive Committee, to February
RESOLUTION NO. 2018-14

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE OPERATING RULES AND REGULATIONS TO CHANGE THE ANNUAL APPOINTMENT OF COMMITTEE ASSIGNMENTS, WITH THE EXCEPTION OF THE EXECUTIVE COMMITTEE, TO FEBRUARY

WHEREAS, the Silicon Valley Clean Energy Authority (“Authority”) was formed on March 31, 2016 pursuant to a Joint Powers Agreement to study, promote, develop, conduct, operate, and manage energy programs in Santa Clara County; and

WHEREAS, Section 2.5.11 of the Joint Powers Agreement provides for adoption by the Board of Directors of Operating Rules and Regulations; and

WHEREAS, the Board of Directors adopted Resolution No. 2016-04 on June 8, 2016 approving the initial Operating Rules and Regulations for the Authority; and

WHEREAS, the Board at its October 24, 2018 meeting directed that the Operating Rules and Regulations be amended to change the annual appointment of committee assignments, with the exception of the Executive Committee, to February;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Section 1 of Article IV (Establishment of Committees) of the Operating Rules and Regulations is hereby amended to read:

Section 1. Establishment of Committees. The Executive Committee and all other Committees of the Board shall be selected as provided by Sections 4.6 and 4.7 of the Agreement. Each duly established Committee may establish any Standing or Ad Hoc Committees determined to be appropriate or necessary. The duties and authority of all Committees shall be subject to the approval and direction of the Board. The term of office for each Committee established by the Board shall be one year. The Executive Committee members shall be appointed at the annual meeting in January with all other Committee members appointed in February. There are no limits on the number of terms that a Director may serve on a Committee. If for any reason, the appointment of Committee members is not made at either the January or February meeting of the Board in any year as provided above, such Committee members shall continue to serve in their positions until an appointment is made at a meeting of the Board.
ADOPTED AND APPROVED this 14th day of November, 2018.

Chair

ATTEST:

Clerk
Staff Report – Item 1d

To: Silicon Valley Clean Energy Board of Directors

From: Greg Stepanicich, General Counsel

Item 1d: Approve Amendment No. 1 to Employment Agreement for Chief Executive Officer

Date: 11/14/2018

RECOMMENDATION
The CEO Employment Agreement Ad Hoc Committee recommends approving Amendment No. 1 to the Employment Agreement for Chief Executive Officer ("CEO Contract") which amends the amount of Paid Time Off (PTO), changes the time of the annual performance evaluation to the Fall and grants an annual salary increase from $275,000 to $290,000 effective February 19, 2019.

BACKGROUND
Girish Balachandran was hired as the Chief Executive Officer ("CEO") on February 19, 2018 pursuant to the CEO Contract. This contract provided for an annual salary of $275,000, PTO of 200 hours per year, and a performance evaluation to be conducted each year on or about the anniversary date of the contract. The CEO Contract also provided for a six month review of the CEO's performance. This six month review has been completed and a salary increase and other amendments to the CEO Contract are being proposed.

ANALYSIS & DISCUSSION
Amendment No. 1 to the CEO Contract makes the following changes to the original contract:

1. Provides for an annual salary increase from $275,000 to $290,000.

2. Increases PTO from 200 to 280 per year, effective February 19, 2019. The PTO accrues during the course of the year and is credited each pay period.

3. Grants a one-time PTO credit of 80 hours to the CEO's current leave bank that Mr. Balachandran has committed to use before February 19, 2019.

4. Changes the time of the annual performance evaluation from the anniversary date of the contract (February) to the Fall, beginning the Fall of 2019. Fall is described in the amendment to be between Labor Day and before Thanksgiving.

ATTACHMENT
1. Amendment No. 1 to Employment Agreement for Chief Executive Officer
The Employment Agreement, dated December 13, 2017, between the Silicon Valley Clean Energy Authority (SVCEA or Employer) and Girish Balachandran, an individual, (Employee) is amended by this Amendment No. 1 (Amendment) as of November 14, 2018.

A. SVCEA and Employee entered into an Employment Agreement, as identified above, (Agreement) providing for the employment of Employee as Chief Executive Officer of SVCEA, commencing on February 19, 2018.

B. The SVCEA Board of Directors has completed its initial evaluation of performance, as provided in Section 6 of the Agreement, and the Board is granting a salary increase, as provided in this Amendment.

C. The parties also desire to amend the Agreement to revise the process for evaluation of Employee’s performance and to make certain changes in the paid time off benefit.

NOW, THEREFORE, the parties desire to amend the Agreement as follows:

1. Section 5, titled “Salary” is amended effective February 19, 2019, to read in full as follows:

   5. **Salary.** Effective February 19, 2019, SVCEA shall pay Employee a base salary of $290,000 per year, prorated and paid on SVCEA’s normal paydays, subject to legally permissible or required deductions. Employee’s salary is compensation for all hours worked and for all services under this Agreement. Employee shall be exempt from overtime pay provisions of California law (if any) and federal law. Employee’s salary may be adjusted periodically to reflect cost of living increases and merit increases.

2. Section 6, titled “Evaluation of Performance” is amended to read in full as follows:

   6. **Evaluation of Performance.** The Board shall evaluate the performance of Employee in the fall of each year, beginning fall of 2019. Typically, the evaluation will commence after Labor Day and be completed before Thanksgiving. The Board will consider granting an increase in the base salary after the completion of the annual performance evaluation. The granting of a salary increase at such time will be at the discretion of the Board. Evaluations may be conducted or salary increases may be granted more often at the Board’s discretion. Employee will request and schedule the minimum required evaluations as appropriate under the SVCEA’s agenda procedures or as otherwise directed by the Board. At the election of Employee or SVCEA, the evaluation shall be professionally facilitated by a facilitator approved and paid for by SVCEA.

3. Section 7 (Benefits), sub-section (a) (Paid Time Off) is amended effective February 19, 2019, the start of Employee’s second year of service, to read in full as follows:
a. Paid Time Off. Employee will accrue paid time off (PTO) in the amount of 280 hours per year, prorated and credited each pay period. Except as otherwise provided in this Agreement, PTO shall be subject to any SVCEA PTO policy applicable to employees generally.

4. Effective upon approval of this Amendment, Employee is granted a one-time credit of 80 hours to his PTO leave bank. Employee has committed to the SVCEA Board that he will use such time for leave before February 19, 2019.

5. Except as expressly amended by this Amendment, all other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

Silicon Valley Clean Energy Authority

__________________________________
Chair, Board of Directors
DATE: __________________________

Employee

__________________________________
Girish Balachandran
DATE: __________________________

APPROVED AS TO FORM:

__________________________________
Gregory W. Stepanicich
General Counsel

ATTEST:

__________________________________
Secretary/Clerk
Staff Report – Item 1e

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1e: Authorize CEO to Execute Agreement with Aaron Read & Associates, LLC. for 2019 Lobbying Services

Date: 11/14/2018

RECOMMENDATION
Staff recommends that the Board approve the attached contract with Aaron Read & Associates, LLC. ("ARA") for lobbying services in 2019, for an amount not to exceed $96,000.

BACKGROUND
Of the policymaking bodies whose decisions affect SVCE, the California state legislature is one of the most difficult yet critical for a young institution to have a voice in. Compared to regulatory proceedings, where opportunities for stakeholder input are clearly labeled and the submissions systematically and publicly considered, legislating is a complex, variable, and relatively opaque process where efficacy is highly dependent on each stakeholder’s network and relationships. Young institutions must work proactively to establish a presence for themselves, often squaring off against opposition that is better established and resourced.

Despite this high break-in cost, a voice in Sacramento is critical to SVCE and the CCA community’s long-term health. The legislature sets California’s overall policy direction, and while critical details may be left to the discretion of regulatory agencies like the California Public Utilities Commission (CPUC), the legislature may also override those decisions at any time. Legislative actions are very difficult to reverse, and a single bill (such as AB 117) can have a transformational impact on the energy landscape for decades to come.

2019 will be the third legislative session since SVCE launched in April 2017. Each year SVCE staff have worked to strengthen SVCE’s voice in Sacramento, and name recognition and support for SVCE and CCAs in general has greatly improved. However, as last session’s passage of SB 237 demonstrates, we still have a long way to go. Some of this growth can be accomplished in-house, but in the long term SVCE’s legislative advocacy will hit a ceiling if we do not have “boots on the ground” in Sacramento to maintain our relationships, spread our message, and gather information. Hiring a professional lobbyist is the most effective way to meet this need, and at this point in SVCE’s development staff now have the bandwidth to manage and support a lobbyist’s activities.

ANALYSIS & DISCUSSION
After considering a range of highly qualified firms, SVCE staff recommend Aaron Read & Associates, LLC. ("ARA") to represent SVCE in the 2019 legislative session. Founded in 1978, ARA is one of the most experienced and highly regarded lobbying firms in Sacramento. ARA staff have decades of experience representing utilities, renewable energy companies, and other energy stakeholders, so they are well versed in energy policy and equipped to represent SVCE competently from day one. SVCE staff do not anticipate any conflicts of interest with their existing client portfolio, but their work with stakeholders outside the CCA community’s current base of support provides opportunities to expand and strengthen the CCA coalition.
SVCE staff did not conduct a formal RFP for lobbying services. Staff identified ARA as the preferred firm after seeking recommendations from various energy stakeholders and evaluating the firms through interviews and written proposals.

**STRATEGIC PLAN**
By facilitating SVCE participation in the state legislative process, this contract directly upholds Goal 8 of the Strategic Plan: “Engage regulators and legislators in developing policy that protects CCA rights and facilitates CCA contributions to decarbonization, grid reliability, affordability, and social equity.”

**ALTERNATIVE**
If the Board does not approve this contract, SVCE staff will need to either amend the contract to remove the Board’s objections or, if the objection is more fundamental, approach a different firm.

**FISCAL IMPACT**
This contract authorizes SVCE to spend:

1) $96,000 split into twelve monthly retainer payments on services provided by Aaron Read & Associates, LLC. (“ARA”)
2) Reimbursement for travel by ARA staff which SVCE deems appropriate and necessary for fulfilling the functions specified in the contract

between November 29, 2018 and November 28, 2019.

**ATTACHMENTS**
1. SVCE contract with Aaron Read & Associates, LLC.
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
AARON READ & ASSOCIATES, LLC FOR
LOBBYIST SERVICES

This Agreement, is entered into this 14th day of November, 2018, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and AARON READ & ASSOCIATES, a California Limited Liability Corporation whose address is 1415 L Street, Suite 1100, Sacramento, CA 95814 (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 representing the Authority’s interests with the California State Legislature and the executive branch of California State Government upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
The term of this Agreement shall commence on November 29, 2018, and shall terminate on November 28, 2019, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED
Consultant shall perform each and every service set forth in Exhibit "A".

3. COMPENSATION TO CONSULTANT
Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed Ninety-Six Thousand and 00/100 dollars ($96,000.00) 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
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 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 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.

F. Consultant will prepare appropriate registration and lobbyist employer forms required by law. Authority agrees to be responsible for reviewing, signing, and returning such forms to Consultant for timely filing with the Secretary of State.

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. Steve Baker, Legislative Advocate 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:
Jennifer Tannehill, Legislative Advocate
Steve Baker, Legislative Advocate
AARON READ & ASSOCIATES, LLC
1415 L Street, Suite 1100
Sacramento, CA 95814

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**

_____________________________________
Hilary Staver
Manager of Regulatory & Legislative Affairs
CONSULTANT NAME
AARON READ & ASSOCIATES, LLC
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

Consultant will use its best efforts to represent the Authority’s interests with the California State Legislature and the Executive Branch of California State Government. These services will include but are not limited to:

1. **Planning, goal-setting, and strategy development.** Consultant will assist the Authority in identifying and adjusting legislative goals and priorities based on ongoing events in the legislature and the executive branch. Consultant will assist the Authority in developing plans and strategies for how to achieve those goals most effectively with the resources at the Authority’s disposal.

2. **Advocacy in the legislature and executive branch.** Consultant will represent the Authority and advance the Authority’s interests through advocacy activities that include but are not limited to:
   a. Directly lobbying legislators, legislative and executive staff, and the Governor’s office to obtain votes for or against a bill or negotiate amendments to bill language
   b. Testifying in hearings in support of the Authority’s interests
   c. Drafting and distributing committee and floor letters and other written advocacy materials as needed
   d. Building coalitions and conducting negotiations with other stakeholders as needed in order to support the Authority’s legislative goals

3. **Bill monitoring and analysis.** At the beginning of the session, Consultant will provide detailed analysis of the landscape of introduced bills and assist the Authority in identifying and prioritizing bills relevant to the Authority’s interests. Consultant will continue monitoring activities throughout the session and inform the Authority of amendments relevant to the Authority’s interests.

4. **Collaboration with CalCCA.** Where the Authority’s interests align with those of the California Community Choice Association (“CalCCA”), Consultant will collaborate and coordinate with CalCCA lobbyists to maximize the effectiveness of CalCCA’s and the Authority’s collective efforts. This may include direct communication with CalCCA lobbyists, participation in CalCCA planning and strategy discussions, attendance at CalCCA events in Sacramento, and distribution of CalCCA materials if said materials are approved by the Authority.

5. **Supporting sponsored bills.** Should the Authority decide to sponsor a bill, Consultant will provide and support the additional effort and resources this entails by:
   a. Helping to recruit authors/coauthors
   b. Developing a plan for how to obtain the required number of votes
   c. Building coalitions in support of the bill with key stakeholders and allies
d. Negotiating with stakeholders opposed to the bill in order to minimize or neutralize opposition where possible

6. **General coalition development with other stakeholders.** Consultant will help the Authority build its baseline coalition of support in Sacramento by solidifying and maintaining the Authority’s existing alliances with other stakeholders and building new ones through reaching out to stakeholders the Authority has not yet communicated with or overcoming differences with stakeholders who have previously opposed the Authority’s interests.

7. **Monthly reporting.** Though more frequent communication is expected to be taking place on specific issues, Consultant will provide the Authority with a monthly summary of activities undertaken, results, and priorities and next steps for the upcoming month.

Consultant will seek policy guidance from the Authority, and will act in accordance with that policy direction.
**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.

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 Ninety-Six Thousand and 00/100 dollars ($96,000.00), in monthly installments of $8,000.00, payable in advance. 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.

**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 and personnel who performed the services.

**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, courier, and other expenses not covered above 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 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.

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 2

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 2: CEO Report

Date: 11/14/2018

REPORT

SVCE Staff Update
Julia Dagum has been selected as SVCE’s Communications Specialist. Julia has been working with SVCE in a temporary role since March, where she played an instrumental role in outreach for our Milpitas enrollment. Julia first started assisting with SVCE in 2017 as a Climate Corps Fellow at the City of Sunnyvale; while there, she assisted in communications for SVCE during the first enrollment phase. Julia graduated from Cornell University in 2016 with a Bachelor of Science degree in Agricultural Sciences and a minor in English.

Paige Wenzel was promoted into the role of Community Outreach Specialist where she coordinates with member communities and organizations to find opportunities for the agency to engage with events, meetings, sponsorships and presentations. Paige first joined the SVCE Community Relations team in October 2016 as a Community Outreach Fellow in the Climate Corps Bay Area Program and continued her work at SVCE after the fellowship ended as a Community Outreach Coordinator (temp position). Paige graduated from San Francisco State University with a B.A. in Environmental Studies and a concentration in Sustainability and Social Justice in 2016.

Interviews are underway for the positions of Power Resources Manager, Power Resources Planner, Manager of Decarbonization and Grid Innovation Programs, and Data Analyst. We are hoping to have these positions filled by the end of the year.

2019 Resource Adequacy Procurement and Compliance Update
SVCE submitted its 2019 Resource Adequacy Compliance filing to the CPUC demonstrating full compliance in meeting year-ahead system, local and flexible capacity obligations.

CEO Agreements Executed
The following agreements have been executed by the CEO, consistent with the authority delegated by the Board:

1) Flynn Resource Consultants, Inc.: Consulting services, not to exceed $25,000
2) Keyes & Fox: Amendment to engagement letter for legal services, not to exceed $14,000

CEO Power Supply Agreements Executed
The following power supply agreements have been executed by the CEO, consistent with the authority delegated by the Board;
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<thead>
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<th>Counterparty Name</th>
<th>Execution Date</th>
<th>Transaction Type</th>
<th>Product</th>
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These agreements are attached.

**ATTACHMENTS**
1. Regulatory/Legislative Update, November 2018
2. Community Outreach Update, November 2018
3. Agenda Planning Document, November 2018 – March 2019
4. Power Supply Agreements Executed
SVCE Regulatory and Legislative Update
November 2018
Hilary Staver, Manager of Regulatory and Legislative Affairs

Regulatory Summary

The regulatory scene this month is a little bit of everything. The passage of the Phase 1 PCIA Decision last month has shifted the immediate focus of the PCIA conversation to the Energy Resource Recovery Account (ERRA) proceeding, which on November 7 produced the best estimate we’ve seen yet of the 2019 PCIA numbers using the new methodology. However, there are now multiple fronts to the PCIA work, as analysis of the ERRA numbers commences alongside ongoing efforts to prepare for Phase 2 of the PCIA proceeding and challenge aspects of the Phase 1 Decision.

Elsewhere, the Integrated Resource Planning proceeding finally gave us our first look at the aggregated impacts of the 43 IRPs submitted by load-serving entities across the state in August. No decisions about approval or rejection of individual IRPs have yet been released, but this is expected later in the fall after the aggregation results are formally adopted. The Resource Adequacy proceeding continues to go off-road after suspending the official schedule in August. We don’t know what the Commission is planning for next steps, but given the timeline needed for implementation next year they may skip straight to a Proposed Decision in the next month. The Green Book received a successor referred to as the Gap Analysis, and an en banc was held on Halloween but didn’t produce any radically new additions to the customer choice conversation.

Regulatory Update

PCIA Reform Rulemaking (R. 17-06-026)

➢ **Recall:** On 7/10/17 the California Public Utilities Commission (CPUC) released an Order Instituting Rulemaking (OIR) “to Review, Revise, and Consider Alternatives to the Power Charge Indifference Adjustment.” The OIR dismisses the investor owned utilities’ (IOUs’) PAM application, and opens a new proceeding to consider reforms to the PCIA more broadly. On 4/2/18, CalCCA submitted Opening Testimony that lays out a portfolio of suggested improvements to the PCIA. These range from incremental improvements to the market price benchmark to longer-term structural changes, such as securitization of utility-owned generation and an auction of IOU RPS and GHG-free resources to more accurately assess their market value. Rebuttal testimony and briefs followed. Administrative Law Judge released a Proposed Decision on 8/1/18, and Commissioner Carla Peterman released an Alternate Proposed Decision on 8/14/18. After pushing the vote back twice from its original scheduled date, on 10/11/18 the Commission voted unanimously to accept Commissioner Carla Peterman’s Alternate Proposed Decision (APD).

➢ **With the passage of the Phase 1 Decision on 10/11, the immediate focus of the PCIA conversation has shifted to the Energy Resource Recovery Account (ERRA) proceeding (A.18-06-001; see below). The ERRA proceeding is where cost and market value data are fed into the PCIA methodology to determine the actual PCIA values for the upcoming year. This is where the impacts of the Phase 1 Decision and its changes to the PCIA methodology are fully revealed.**
Phase 2 of the PCIA proceeding, in which the Commission and stakeholders will address longer-term solutions such as IOU portfolio optimization and auctioning of excess IOU resources, expected to begin by mid-December and run through October 2019.

Development of a remedial response to the Phase 1 Decision continues.

### Integrated Resource Planning (IRP) (R. 16-02-007)

- **Recall:** This rulemaking was opened for the purpose of implementing the electricity sector’s share of CA’s GHG emissions mitigation goals as put forth in SB 350. The IRP process requires load serving entities (LSEs) to develop long-term procurement roadmaps and share them with the CPUC to facilitate sector-wide planning.
- On 9/19/17, the CPUC released the Proposed Reference System Plan (RSP). The RSP is a statewide study that serves as a benchmark for what the Integrated Resource Plans (IRPs) of all the LSEs need to achieve in aggregate in order to meet CA’s GHG emission reduction goals.
- On 12/28/17, the CPUC released a Proposed Decision (PD) containing further requirements for IRP content and compliance protocol. This PD significantly expanded CPUC authority over CCA IRPs, allowing the CPUC to review and approve them despite the language in SB 350 specifying certification only. Despite strong advocacy from the CCA community, the PD was passed unanimously at the 2/28/18 Commission meeting.
- On 4/3/18, the CPUC released a Ruling on the GHG accounting methodology to be used in the IRP process. The ruling adopts the Clean Net Short (“CNS”) methodology, which was originally proposed by PG&E and struck from the 2/8 IRP Decision after opposition from CalCCA and other stakeholders. CNS is based on hourly comparison between supply and demand curves for each load serving entity. On 8/1/18, SVCE and CCAs around the state submitted Integrated Resource Plans to the CPUC.
- On 10/31/18, CPUC staff held a workshop to reveal the preliminary results of aggregating all the individual LSE IRPs into a single statewide scenario. The workshop did not deal with approval or rejection of any individual IRP, but rather with system-wide questions raised by the results, such as whether available transmission capacity would be sufficient to accommodate all the projected new renewable construction between now and 2030.
- The CPUC is expected to release a Ruling within the next week formally adopting the aggregation results under name “Preferred System Plan,” with decisions on the approval of individual IRPs and any remedial procurement needed to follow.

### CCA Rulemaking (R. 03-10-003)

- **Recall:** On 7/7/17, SVCE and other CCAs filed testimony through CalCCA proposing an updated methodology for calculating the Financial Security Requirement (FSR, aka bond) that new CCAs must pay as insurance against failure and dissolution. In contrast to the IOUs’ argument for including an estimated cost of emergency procurement for involuntarily returning customers, CalCCA proposed that the FSR should cover only the administrative costs of re-incorporation. Evidentiary hearings and briefs were held and filed, respectively, in fall 2017.
- On 4/6/18, the Commission released a Proposed Decision (“PD”) in this proceeding with a methodology for the new CCA bond requirement. The Financial Security Requirement (“FSR, aka “CCA bond”) was to include both the administrative costs of customer transition back to the IOU as well as an estimate of six months of incremental procurement costs.
Incremental procurement costs were estimated as the difference between market energy rate and the IOU generation retail rate, so in low-price market conditions the net incremental procurement cost could be negative. Negative procurement costs were allowed to offset administrative costs down to a total FSR of $0. On 5/29 the CPUC released an updated Proposed Decision that, among other small changes, raised the minimum FSR to $147k. This is the same minimum used in the bond methodology for Energy Service Providers ("ESPs," aka direct access energy providers). The updated PD was approved by the Commission on 5/31.

- Although this proceeding is officially closed, informal collaboration between CCAs, IOUs, and Commission staff continues in order to clarify implementation details of the new FSR amounts. However, SVCE’s new, customized FSR has been confirmed at $147k, the minimum amount required by the new methodology.
- No New Updates: CCA staff continue to work with the IOUs and the CPUC on FSR implementation.

| Resource Adequacy | Recall: On 9/28/17, the CPUC issued an Order Instituting Rulemaking (OIR) opening a new Resource Adequacy (RA) proceeding. This proceeding is the successor to R.14-10-010, and is implementing the RA program for RA compliance years 2019 and 2020. However, in addition to conducting routine program administration, the OIR for R.17-09-020 calls for making structural improvements to the RA program and asks stakeholders to suggest such improvements.
| | The CPUC released a Scoping Memo on 1/18/18. The Scoping Memo divides the proceeding into three tracks in order of decreasing urgency. The most urgent issues, including questions about compliance and cost allocation related to load migration (ie, CCA launches and expansions) are included in Track 1. In February and March 2018, a group of Joint CCA Parties including SVCE submitted Track 1 Proposals with changes to the RA program, followed by comments and reply comments on the proposals of other parties.
| | On 5/22, the CPUC released a Proposed Decision ("PD") in Track 1 of this proceeding. The PD addressed system, local, and flexible RA obligations for 2019 (ie, how much RA is needed system-wide in each of these three categories), and then delved into the structure of the RA program itself. The PD found that for local RA, which is used to prevent capacity shortages in transmission-constrained areas, the status quo of an annual compliance requirement was insufficient. The PD determined that there should be a multi-year local RA requirement, extending the length of local RA contracts to three to five years. It also found that local RA procurement should be done by a central buyer rather than individual LSEs, a measure designed to prevent the occurrence of sublocal RA deficiencies despite all LSEs having fulfilled their RA obligations. The PD set up the opportunity for stakeholders to propose program structures in Track 2 that meet the requirements of a three- to five-year local RA obligation procured by a central buyer.
| | The Commission approved the Track 1 PD on 6/21/18. Given the potential impacts of this proceeding on all CCAs, CalCCA took over from the Joint CCA Parties in Track 2. CalCCA has assembled an RA Working Group tasked with participating in this proceeding on behalf of CalCCA’s entire membership. SVCE is an active contributor to the working group.
| | CalCCA submitted Track 2 opening testimony on 7/10/18. As in the PCIA proceeding, CalCCA proposed a two-part solution divided into short- and long-term solutions. In the short term, CalCCA proposed a 3-year local RA requirement with CAISO playing the role of central buyer. However, CalCCA’s solution allows load serving entities (LSEs) to maintain most of their RA procurement autonomy. Rather than procuring all local RA, the central buyer would contract only with a)L plants |
identified at the beginning of the local RA procurement process as critical to reliability regardless of the status of other plants in the region, and b) plants identified at the end of the local RA procurement process as critical to reliability given what other local RA resources LSEs have already procured in the region. In between, LSEs would continue their local RA procurement as before, with a slightly lower capacity requirement reflective of the initial round of critical procurement conducted by the central buyer. In the longer term, CalCCA’s proposes a process for identifying and developing non-wires alternatives aimed at eliminating local RA requirements altogether.

➢ The original schedule for this proceeding had rebuttal testimony due 8/8/18. However, after opening testimony was submitted, it quickly became apparent to both stakeholders and the Commission that the breadth of ideas represented and the extent of the changes they would make to existing market structures was too great to be adequately addressed in the original schedule for the proceeding. At a prehearing conference held on 8/1/18, the Commission suspended the existing schedule and asked that rather than producing rebuttal testimony on 8/8/18, stakeholders submit procedural comments suggesting a more appropriate scope and schedule for the proceeding.

➢ After submission of the procedural comments, the proceeding was functionally suspended until, on 10/5/18, the Commission issued an atypical Ruling requesting comments specifically on proposals submitted by Southern California Edison (SCE).

➢ After submitting the requested comments on Southern California Edison’s proposal, stakeholders await further direction on the structure and schedule of the rest of the proceeding. The process of this proceeding has become highly atypical, but time is running short if the Commission still hopes to achieve its original goal of implementing the agreed-upon changes to the RA program in 2019. For this reason, the Commission may choose to skip straight to releasing a Proposed Decision in the coming weeks.

AB 1110 Implementation

➢ Recall: AB 1110 (Ting, Chapter 656, Statutes of 2016) was passed in 2016 for the purpose of augmenting the information available to electricity consumers in the annually-distributed Power Content Label (PCL). AB 1110 requires that, starting in 2020, the PCL will include the greenhouse gas emissions intensity (in lbs CO₂e/MWh) of each LSE’s portfolio (or, if it offers multiple electricity products, of each individual product) in addition to portfolio resource composition. AB 1110 also directs the California Energy Commission (CEC) to develop guidelines on how to treat unbundled RECs when calculating the power mix and GHG intensity metrics.

➢ On 6/27/17, the CEC released its proposed implementation plan for AB 1110. The proposal contained several provisions that would guarantee a non-zero emissions intensity for SVCE. Most importantly, the CEC proposed that for the purposes of calculating carbon intensity, PCC2 (aka “bucket 2”) RECs would have the emissions profile of the substitute energy that firms and shapes the energy product (usually gas) rather than that of the zero-carbon resource that generates the RECs. Secondly, PCC3 (unbundled) RECs would be reported in a footnote but not included in power mix or GHG intensity calculations. MWh for which SVCE has purchased unbundled RECs would thus no longer be carbon-free either.

➢ On 1/17/18, the CEC issued an updated version of the AB 1110 Implementation Proposal. However, the updates did not change the treatment of PCC2 (ie “bucket 2”) renewables.
On 10/9/18, the California Energy Commission (CEC) released an updated AB 1110 implementation plan. The new proposal assigns PCC2 resources the emissions factor of their substitute firming-and-shaping energy, so PCC2 still isn’t carbon-free unless it’s firmed and shaped with carbon-free energy such as hydro.

CalCCA submitted comments on the 10/9/18 updated implementation proposal.

### Tree Mortality NBC (A. 16-11-005)

- **Recall:** In 2016, an emergency proclamation by Governor Brown and a bill passed by the legislature (SB 692) separately ordered the IOUs to procure extra energy from biomass in order to dispose of trees killed by the drought. SB 692 explicitly authorized the IOUs to recover the above-market cost of this procurement through a new non-bypassable charge (NBC), while Governor Brown’s proclamation did not. The IOUs advocated for combining the procurement costs of these two mandates and recovering both through a single new NBC. On 7/14/17, CalCCA submitted a Motion challenging a pre-hearing conference ruling in which the Administrative Law Judge (ALJ) erroneously determined the IOUs’ proposed combined NBC to be legal and acceptable.

- A workshop was held on 12/12/17, in which CCA and IOU representatives discussed the methodology for valuing the biomass resources that would form the basis of the new tree mortality NBC. The conversation revealed some common ground, particularly regarding the importance of consistency with the outcome of the ongoing PCIA reform proceeding. However, the workshop agenda explicitly excluded discussion of whether procurement mandated by Governor Brown’s emergency proclamation, which was not explicitly authorized for cost recovery via NBC, could be lumped in with the SB 692 procurement in the new NBC.

- On 3/14/18, the Commission responded to and denied CalCCA’s July 2017 Motion on the treatment of procurement costs associated with Governor Brown’s 2016 emergency proclamation.

- On 4/17/18, the CPUC released a ruling laying out the methodology for calculating the tree mortality NBC. The methodology was straightforward, calculating the above-market costs of the biomass procurement by subtracting energy and ancillary services revenue plus the average 2016 per-MWh RPS contract cost from the per-MWh cost of the biomass contracts.

- On 5/30/18 the CPUC released a (very late) Scoping Memo for this proceeding, including a proceeding schedule that added testimony, hearings, and briefing.

- On 6/28/18, CalCCA submitted brief testimony reiterating our position from the December workshop. CalCCA maintained that the CPUC should avoid litigating the value of similar types of resources in multiple proceedings at the same time. The biomass contracts at the center of this proceeding should be valued according to the PCIA methodology, or whatever alternative comes out of the current PCIA proceeding.

- CalCCA submitted rebuttal testimony, a closing brief, and a reply brief on 7/18/18, 8/13/18, and 8/31/18 respectively. The materials maintain CalCCA’s position that the valuation methodology adopted in the PCIA proceeding should be used to value the biomass contracts at issue in this one, including after reviewing the PCIA PD released on August 1st.

- PG&E has submitted a Motion to Reopen the Record in this proceeding in order to add information about SB 901, the fire liability and resiliency bill passed in the 2018 legislative session. SB 901 contains language about the renewal terms for the biomass contracts dealt with in this proceeding that PG&E finds relevant to this proceeding’s questions.

- Recall: The ERRA is the annual proceeding in which (among other features) the PCIA methodology is combined with PG&E’s cost and contract inputs to calculate the PCIA for the following year. The ERRA is generally treated as a “number crunching” proceeding, in that Commissioners seldom permit substantive policy or methodological changes to be made there. However, it’s an important proceeding because it provides the actual PCIA rates using PG&E’s confidential inputs.
- SVCE is participating in this proceeding as part of the Joint CCAs, which includes seven CCAs from PG&E’s service territory. CalCCA generally does not participate in proceedings covering only one IOU’s service territory.
- On 11/7/18, PG&E released the final major estimate of 2019 PCIA values before the final rates are set in December.

### California Customer Choice Project (CCCP)

- Recall: Starting in spring 2017, the California Public Utilities Commission (CPUC) has hosted a series of stakeholder engagement events devoted to re-opening broader retail competition in the electricity sector. This started with an En Banc Hearing on consumer and retail choice in May 2017. On 10/31/17, the CPUC held an all-day workshop in Sacramento featuring presentations from several state and countries (Texas, the UK, New York, Illinois, etc) that have at least partial competition in their retail electricity markets.
- On 5/3/18, the CPUC released a white paper (the “Green Book”) on the future of customer choice in California. The paper reviewed several case studies from other states and countries that have implemented versions of retail choice in their electricity markets, and characterized California’s situation as a precarious one at risk for another energy crisis. CalCCA submitted comments on the Green Book on 6/11/18, and an en banc hearing to take public stakeholder comment was held on 6/22/18.
- The final, revised version of the Green Book was released on 8/7/18. The final version did not contain significant changes and did not generate the level of media or public attention that the original did.
- On 10/23/18, the CPUC released a “Gap Analysis” designed to be a follow-up to the Green Book. The Gap Analysis identifies perceived weak spots where remedial action could better protect the fundamental principles of affordability, reliability, and decarbonization. The Gap Analysis was the subject of an en banc hearing in Sacramento on 10/29/18, where the familiar major theme was the amount of centralized oversight needed to ensure achievement of state policy goals. Given that the Gap Analysis is not part of an official proceeding, there is no required action associated with this conversation. Any desired changes will need to be deliberated, approved, and implemented through the relevant proceedings.

### Petition for Modification of D. 12-12-036

- Recall: On January 30, the three investor-owned utilities (IOUs: PG&E, SCE, and SDG&E) filed a Petition for Modification of D.12-12-036. This Decision, passed in 2012, established a Code of Conduct and accompanying enforcement mechanisms related to IOU interactions with CCAs. D 12-12-036 was passed as part of the implementation process for SB 790, a 2011 law requiring limitations on IOU activities that was motivated by PG&E’s misuse of ratepayer resources and information while attempting to stymie the formation of MCE in 2010. The Petition for Modification (PfM) argues for removal of the limitations on both public marketing and lobbying of elected officials about CCAs, grounding the request in 1st Amendment arguments about free speech combined with the increasing popularity of the CCA model across the state. The IOUs can already do both of these things if they establish Independent Marketing Divisions (IMDs) that meet certain criteria for independence set by the CPUC (SDG&E is the only one of the three that has done this so far). However, this
PfM would abolish the IMD requirement and allow the IOUs to engage directly in marketing and lobbying activities with no firewall. CalCCA submitted a response to the Petition for Modification (PfM) on 3/1/18.

- **No new updates**: Parties are now awaiting the Commission’s response to the PfM. The rules governing PfMs allow the Commission to respond at its leisure with no timeline restrictions, up to and including never responding at all. We therefore do not know how soon to expect Commission action.

**Legislative Update**

Preparations for the 2019 legislative session continue. Staff request that the Board approve the lobbying contract with Aaron Read & Associates, LLC. that is presented elsewhere on tonight’s agenda. Outreach to city staff and potential legislative partners is ongoing, and the next Legislative Ad Hoc Committee meeting is scheduled for November 30.
1. Events and Presentations

Staff continues to attend community events and provide presentations about SVCE to community groups as requested. We sponsored and attended community events throughout the fall allowing for prominent advertising space as well as opportunities to engage with customers at booths. We also attended commercial companies’ sustainability fairs allowing us to reach employees in the area. Staff continues to present at several BayREN Home Energy Upgrade workshops this fall for both homeowners and multifamily property managers with expected attendance of 50-100 people each.

Completed and Upcoming Events:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Event Description</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 24</td>
<td>11:30 AM – 1:30 PM</td>
<td>Lockheed Business Expo – tabling</td>
<td>Lockheed Martin, Sunnyvale</td>
</tr>
<tr>
<td>October 30</td>
<td>7 – 8 PM</td>
<td>Sunnyvale City Council meeting – presentation</td>
<td>City of Sunnyvale</td>
</tr>
<tr>
<td>November 7</td>
<td>7 – 8 PM</td>
<td>Morgan Hill City Council meeting – presentation</td>
<td>City of Morgan Hill</td>
</tr>
<tr>
<td>November 7</td>
<td>6 – 8 PM</td>
<td>Los Altos and Mountain View Chambers of Commerce fundraiser for Community Services Agency of Mountain View and Los Altos - sponsor</td>
<td>The Foster, Mountain View</td>
</tr>
<tr>
<td>November 8</td>
<td>10 – 11:30 AM</td>
<td>BayREN Multifamily Home Upgrade Workshop – presentation and tabling</td>
<td>San Jose Environmental Innovation Center</td>
</tr>
<tr>
<td>November 9</td>
<td>5 – 9 PM</td>
<td>16th Annual Los Altos Village Association Holiday Stroll - sponsor</td>
<td>Main Street, Los Altos</td>
</tr>
<tr>
<td>November 14</td>
<td>6:30 – 8 PM</td>
<td>BayREN Homeowner Energy Upgrade Workshop – presentation and tabling</td>
<td>Hillview Community Center, Los Altos</td>
</tr>
<tr>
<td>November 29</td>
<td>6:30 – 8 PM</td>
<td>BayREN Homeowner Energy Upgrade Workshop – presentation and tabling</td>
<td>Mountain View City Hall Council Chambers</td>
</tr>
<tr>
<td>December 6</td>
<td>6:30 – 8 PM</td>
<td>BayREN Homeowner Energy Upgrade Workshop – presentation and tabling</td>
<td>Joan Pisani Community Center, Saratoga</td>
</tr>
</tbody>
</table>
2. **Upgrade and Opt Out Update**

Below is the number of GreenPrime Upgrades and Opt Outs as of October 31, as well as the total opt out percentage in overall accounts, and opt out percentage by load.

<table>
<thead>
<tr>
<th></th>
<th>Upgrade</th>
<th>Opt Out</th>
<th>Opt Out by Account Type</th>
<th>Total Opt Out, All Accounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>1,079</td>
<td>8,555</td>
<td>3.43%</td>
<td>3.36%</td>
</tr>
<tr>
<td>Commercial</td>
<td>2,011</td>
<td>831</td>
<td>2.86%</td>
<td></td>
</tr>
</tbody>
</table>

3. **Community Engagement Grant Update**

SVCE has awarded $75,000 in grant funds to local nonprofit organizations to collaborate on outreach in the SVCE service area. Staff held a kick-off meeting with all grant awardees on November 1 to discuss the goals of the grant and opportunities for further collaboration. The grants will provide accurate information to SVCE customers about SVCE’s mission, benefits and upcoming programs.

The following organizations were awarded grants in the amounts listed:

- Acterra: $15,000
- El Concilio: $7,500
- Interfaith Power & Light: $15,000
- Sound of Hope, Chinese Radio Network: $7,500
- Sunnyvale Community Services: $15,000
- Vietnamese Voluntary Foundation: $15,000

4. **Member Agency Working Group Update**

The Member Agency Working Group (MAWG) met on October 25 to discuss the following topics:

1. SVCE updates, including PCIA decision
2. Discussion and presentation about model ordinances

5. **Customer Surveys**

The Account Services and Community Relations team conducted the second round of preference surveys via email to approximately 12,000 randomly-selected residential customers from September 28 – October 12. The additional survey response data has been used to support the ongoing development of market segmentation and identification of customer ‘ personas’. The incentive for customers to fill out the survey is entry in a drawing for $100 off the generation portion of their energy bill.
The surveys are also an opportunity to build a customer communication channel via email. This is the first email touch-point for customers whose email addresses we have on file. During the survey period, SVCE had 6,762 opens (56.4%), 762 survey responses (6.4%), 312 monthly newsletter sign-ups (2.6%), and 346 ‘unsubscribes’ (2.9%).

### 6. Media

**Press releases:**
- [SVCE Signs Major Contracts for California’s Largest Solar-Plus-Storage Projects](#), 10-30-2018
- [EDF Renewables North America Signs Power Purchase Agreements with Silicon Valley Clean Energy and Monterey Bay Community Power](#), 11-08-2018 *(Joint release)*

**Articles:**
- [Gilroy Dispatch](#): SV Clean Energy to power area
- [The Morgan Hill Times](#): New solar projects to supply SV Clean Energy
- [San Benito.com/Hollister Free Lance](#): SV Clean Energy to power area
- [San Benito Live](#): Monterey Bay Community Power announces solar deals
- [Los Altos Town Crier](#): New LED lights illuminate trees in downtown Los Altos

Coverage from joint press release with Recurrent Energy and Monterey Bay Community Power as of 11/6/2018:
- [Bloomberg](#): Canadian Solar Farm to Help Light Up Silicon Valley, Monterey
- [BNN Bloomberg](#): Canadian solar farm to help light up Silicon Valley, Monterey
- [CPX Clean Power Exchange](#): Joint Solar+Storage Project Planned for Silicon Valley, Monterey Bay
- [Energy Central](#): Largest California Solar-Plus-Storage Project Agreement Signed [press release]
- [Energy Storage Networks](#): California getting its largest solar-plus-storage project to date
- [Energy Storage News](#): California community groups sign PPAs for Canadian Solar’s 150MW / 180MWh PV-plus-storage project
- [Energy Storage News](#): Big Solar-Plus-Storage Deal Signed In California
- [Energy Vortex](#): Largest California Solar-Plus-Storage Project Agreement Signed
- [IJ Global](#): Recurrent Energy signs PPA agreements [press release]
- [Institute for Energy Economics and Financial Analysis](#): Canadian Solar subsidiary signs major California PV-plus-storage deal
- [JD Supra](#): California community groups sign PPAs for Canadian Solar’s 150-MW solar-plus-storage project
- [MarketScreener](#): California community groups sign PPAs for Canadian Solars 150MW / 180MWh PV-plus-storage project
• **Photon**: Recurrent Energy will build 150 MW solar power system with 180 MWh battery storage
• **Power World Analysis**: Recurrent Energy To Build 150 MW Solar Power System In California
• **PV Buzz**: Canadian Solar Farm to Help Light Up Silicon Valley, Monterey
• **PV Magazine**: Community solar+storage is still rock and roll to me
• **PV Tech**: California community groups sign PPAs for Canadian Solar's 150MW / 180MWh PV-plus-storage project
• **ReNews.biz**: Canadians ink California PV-storage deal
• **Renewable Energy World**: 180 MWh of Lithium-ion Storage Plus 150-MW of Solar Contracted for California CCA
• **Renewables Now**: Recurrent Energy inks PPAs for 150-MW solar-plus-storage plant
• **Renewables Now**: Round-up of renewable energy PPA news
• **S&P Global Platts**: California community choice aggregators sign PPAs for 150 MW of solar, 180 MWh of storage
• **Solar Business Intelligence**: Largest California Solar-Plus-Storage Project Agreement Signed between Canadian Solar Subsidiary Recurrent Energy, Silicon Valley Clean Energy and Monterey Bay Community Power [press release]
• **Solar Industry Mag**: Big Solar-Plus-Storage Deal Signed In California
• **Solar Power World**: Joint solar+storage project planned for Silicon Valley, Monterey Bay
• **Sys-con**: Largest California Solar-Plus-Storage Project Agreement Signed between Canadian Solar Subsidiary Recurrent Energy, Silicon Valley Clean Energy and Monterey Bay Community Power [press release]
• **Techapeek**: 180 MWh of Lithium-ion Storage Plus 150-MW of Solar Contracted for California CCA
• **The Fly**: Canadian Solar subsidiary signs 15-year PPA in Silicon Valley and Monterey Bay
• **The Street**: Largest California Solar-Plus-Storage Project Agreement Signed Between Canadian Solar Subsidiary Recurrent Energy, Silicon Valley Clean Energy And Monterey Bay Community Power [press release]
• **Thomas News**: Largest California Solar-Plus-Storage Project Agreement Signed Between Canadian Solar Subsidiary Recurrent Energy, Silicon Valley Clean Energy and Monterey Bay Community Power [press release]
• **TXF**: Recurrent Energy signs largest Californian solar plus storage PPAs

Select coverage from joint press release with EDF Renewables North America and Monterey Bay Community Power as of 11/8/2018:

• **Solar Power World**: EDF Renewables signs PPAs with Silicon Valley Clean Energy and Monterey Bay Community Power
• **Global Energy Media**: EDF Renewables North America Signs Power Purchase Agreements with Silicon Valley Clean Energy and Monterey Bay Community Power [press release]
• **Electric Light & Power**: EDF Renewables North America Signs Power Purchase Agreements with Silicon Valley Clean Energy and Monterey Bay Community Power [press release]
• **Renewable Energy World**: EDF Renewables North America Signs Power Purchase Agreements with Silicon Valley Clean Energy and Monterey Bay Community Power [press release]
<table>
<thead>
<tr>
<th>NOVEMBER</th>
<th>DECEMBER</th>
<th>JANUARY 2019</th>
<th>FEBRUARY 2019</th>
<th>March 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Board of Directors, Nov. 14:</strong>&lt;br&gt;Consent&lt;br&gt;Minutes&lt;br&gt;September 2018 Treasurer Report&lt;br&gt;Lobbyist Contract&lt;br&gt;Regular Calendar&lt;br&gt;Reach Code Presentation&lt;br&gt;Master Agreement</td>
<td><strong>Board of Directors, Dec. 12:</strong>&lt;br&gt;Consent&lt;br&gt;Minutes&lt;br&gt;October 2018 Treasurer Report&lt;br&gt;Risk Management Policy Update&lt;br&gt;Legislative Ad Hoc Renewal&lt;br&gt;Troumdan Sanders Engagement Letter&lt;br&gt;Regular Calendar&lt;br&gt;SVCE Rates Discussion&lt;br&gt;SVCE Programs Roadmap</td>
<td><strong>Board of Directors, Jan. 9:</strong>&lt;br&gt;Consent&lt;br&gt;Minutes&lt;br&gt;November 2018 Treasurer Report&lt;br&gt;Treasurer/Auditor Appointment&lt;br&gt;Board Secretary Appointment&lt;br&gt;Regular Calendar&lt;br&gt;SVCE 2019 Rates&lt;br&gt;Chair/Vice Chair Selection&lt;br&gt;Executive Committee Selection&lt;br&gt;BAAQMD Grant *tentative</td>
<td><strong>Board of Directors, Feb. 13:</strong>&lt;br&gt;Consent&lt;br&gt;Minutes&lt;br&gt;December 2018 Treasurer Report&lt;br&gt;Regular Calendar&lt;br&gt;SVCE Mid Year Budget&lt;br&gt;Additional Committee Selections&lt;br&gt;IT/Financial Audit Results</td>
<td><strong>Board of Directors, March 13:</strong>&lt;br&gt;Consent&lt;br&gt;Minutes&lt;br&gt;January 2019 Treasurer Report&lt;br&gt;Regular Calendar&lt;br&gt;Strategic Plan</td>
</tr>
<tr>
<td><strong>Executive Committee, Dec. 4:</strong>&lt;br&gt;Programs Roadmap</td>
<td><strong>Executive Committee - TBD:</strong>&lt;br&gt;Executive Committee Regular Meeting Schedule</td>
<td><strong>Executive Committee - TBD:</strong></td>
<td><strong>Executive Committee - TBD:</strong></td>
<td><strong>Executive Committee - TBD:</strong></td>
</tr>
<tr>
<td><strong>Customer Program Advisory Group, Nov. 14:</strong>&lt;br&gt;Draft Programs Roadmap</td>
<td><strong>Customer Program Advisory Group, Dec. 12:</strong>&lt;br&gt;Future of CPAG</td>
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<tr>
<td><strong>Finance &amp; Admin Committee, Dec. 5:</strong>&lt;br&gt;Year End Financial Results&lt;br&gt;Bank of America Investment Strategy Discussion</td>
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REVISED
Import Resource Adequacy Capacity Product
Confirmation Agreement Between
Calpine Energy Services, L.P. and Silicon Valley Clean Energy Authority
Resource Contract Capacity Number: TBD

This confirmation agreement ("Confirmation") dated October 1, 2018 (the "Confirmation Effective Date"), shall document the negotiated transaction (the "Transaction") between Calpine Energy Services, L.P. ("Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), together the "Parties", in which Seller agrees to provide to Buyer the right to Import Resource Adequacy ("RA") Capacity as specified herein. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties dated as of August 7, 2017 and any and all annexes or schedules incorporated therein by reference pursuant to the terms thereof, as amended and supplemented by this Confirmation (collectively, the "Master Agreement") under the following terms and conditions. The definitions and provisions contained in the Master Agreement, in the decision of the California Public Utilities Commission ("CPUC") as contained in Decision ("D.") 04-10-035, D.05-10-042 and D.06-07-031, and in any subsequent or modifying rulings or decisions related to RA ("RA Rules"), and in the tariffs and protocols of the California Independent System Operator ("CAISO"), as amended from time to time ("Tariff"), shall apply to this Confirmation and are incorporated by reference; provided that, to the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder.

1. Definitions:

1.1 "Contract Quantity" means the amount of Import RA Capacity stated in megawatts ("MW"), made available twenty-four hours per day, seven days per week, to the RA Capacity Delivery Point through transmission service that is not recallable for economic reasons, and which is backed by operating reserves in the originating control area, delivered to the RA Capacity Delivery Point as set forth in this Confirmation.

1.2 "Import RA Capacity Product" or "Import RA Capacity" means the qualified and deliverable capacity from the System Resource that can be counted toward Buyer's System Resource Adequacy Requirements ("RAR") as described in the CPUC's RA Rules, and all other resource adequacy requirements established by any other regional entity responsible for RAR including but not limited to the CAISO. Import RA Capacity does not confer to Buyer any right to the Contract Quantity of Seller's System Resource other than the right to count such Contract Quantity toward Buyer's RAR during the Delivery Term. Specifically, no energy associated with Seller's System Resource is required to be made available to Buyer as part of this RA Capacity obligation, and Buyer shall in no way be responsible to compensate Seller for any commitments to CAISO as set forth in this Transaction.

1.3 "RA Capacity Delivery Point" means the CAISO Scheduling Point on the California Oregon Border (COB) which maps to the CAISO Branch Group Malin500 where Buyer holds intertie import capability.
1.4 "System Resource" means a group of resources located outside of the CAISO Control Area capable of providing Energy and/or Ancillary Services to the RA Capacity Delivery Point.

2. Representations and Warranties:

2.1 Seller and Buyer represent and warrant that throughout the Delivery Term they shall take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's RAR, consistent with the Tariff and RA Rules. Such commercially reasonable actions may include but are not limited to the following:

a) Meeting requirements established by the Tariff and RA Rules, including (1) demonstrating the ability to deliver the Contract Quantity over all hours of the Delivery Term required for full RAR eligibility, (2) demonstrating that the Contract Quantity can be delivered to the CAISO controlled grid pursuant to "deliverability" standards established by the CPUC or other regional entity or entities responsible for RA administration, and (3) provision of a Supply Plan to the CAISO by Seller's Scheduling Coordinator and sufficient information to allow for the submission of a complete Resource Plan by Buyer's Scheduling Coordinator (as such terms are defined in the Tariff); and

b) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Confirmation to subsequent clarifications, revisions or decisions rendered by the CPUC, CAISO or other regional entity or entities responsible for RA administration, so as to maintain the benefits of the bargain struck by the Parties; and

c) At all times using "Good Utility Practice" as defined in the Tariff.

2.2 Seller represents and warrants that throughout the Delivery Term:

a) Buyer has the exclusive right to count the Contract Quantity of Import RA Capacity Product from Seller's System Resource toward Buyer's RAR;

b) No portion of the Contract Quantity of Import RA Capacity Product has been committed by Seller to any third party in order to satisfy RAR or analogous capacity obligations in other markets; and

c) Seller shall abide by all applicable CAISO Tariff provisions and procedures approved by the Federal Energy Regulatory Commission ("FERC"), and RA Rules approved by the CPUC as they apply to the Import RA Capacity Product.

3. CAISO Dispatch Requirements:

During the Delivery Term, unless the System Resource is affected by an event of force majeure that results in a partial or full transmission outage reducing the amount of Contract Quantity, Seller shall commit the full Contract Quantity to the CAISO in compliance with the applicable section of the Tariff implementing the RA Rules.
In compliance with section 40.6 of the Tariff, Seller shall submit a bid or self-schedule or have a bid submitted on the Seller’s behalf by the CAISO into the CAISO Day Ahead Integrated Forward Market ("IFM") at the RA Capacity Delivery Point of the Import RA Capacity in all hours of the Delivery Term for an amount of the Contract Quantity, adjusted for any outages or reductions in Contract Quantity reported to the CAISO in accordance with the Tariff, except for any hours in which the Seller was prohibited by Section 30.8 of the Tariff from bidding across an out-of-service transmission path at the RA Capacity Delivery Point.

In compliance with section 40.6 of the Tariff, Seller shall submit a bid into the CAISO Day Ahead Residual Unit Commitment ("RUC") Procedure at the RA Capacity Delivery Point of the Import RA Capacity for the amount of the Contract Quantity.

Seller shall have no further offer requirements in the CAISO Real Time Market or under the Hour Ahead Scheduling Procedure for the portion of the Contract Quantity that is not committed or self-scheduled in the IFM and not committed in RUC.

4. **Contract Quantity and Delivery Term:**

   **Delivery Term:**
   
   **Contract Quantity:**
   
   **5. Contract Price:** Buyer shall pay the following Contract Price to Seller in accordance with the Master Agreement:

   **Contract Price:**

6. **CAISO Revenues:** Seller shall retain any and all revenues received from the CAISO in relation to this Transaction.

7. **Indemnity Against Penalties and Replacement:** Seller agrees to indemnify Buyer for:

   a) any monetary penalties assessed by the CPUC and/or the CAISO against Buyer for Buyer’s failure to meet the requirements of the RA Rules or Tariff as a result of Seller not fulfilling any of its obligations under this Confirmation and to the extent Seller has not provided Buyer with sufficient notice to take action necessary to avoid such monetary penalties being assessed; and

   b) costs incurred, using reasonable efforts, by Buyer to replace, if required, any RA Capacity to bring the total volume back to Contract Quantity and Delivery Term specified in Section 4.

   Notwithstanding the foregoing, if approved by the CPUC and/or the CAISO, Seller may replace any Import RA Capacity Product necessary for Buyer to make its equivalent RA
demonstration. For purposes of this Section 7, the term “Buyer” shall include any third party entity to which Buyer resells any of the Contract Quantity

8. **Confidentiality:** Notwithstanding the Master Agreement, the Parties agree that Buyer may disclose the Import RA Capacity under this Confirmation to the CPUC, the CAISO or any other governmental body having jurisdiction in order to support its RAR showings, if applicable, and Seller may disclose the transfer of the Import RA Capacity under this Confirmation to the Scheduling Coordinator in order for such Scheduling Coordinator to timely submit accurate Supply Plans (as such terms are defined in the Tariff).

**ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE:**

**Seller:** Calpine Energy Services, L.P.

By: ____________________________

Name: Andrew Novotny

Title: Vice President

Date: October 4, 2018

**Buyer:** Silicon Valley Clean Energy Authority, a California joint powers authority

By: ____________________________

Name: ____________________________

Title: ____________________________

Date: 10-8-18
REVISED
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY
This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware company ("Buyer") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller"), each individually a "Party" and together the "Parties", dated as of October 4, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" shall mean as set forth in the Tariff.

1.4 "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.

1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.

1.14 "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the CPUC’s resource adequacy program.

1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.

1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.

1.17 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.

1.18 "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE’s FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.

1.19 "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE’s FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.20 "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.

1.21 "Firm RA Product" has the meaning specified in the Section 3.3 hereof.

1.22 "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.23 "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.

1.24 "GADS" means the Generating Availability Data System or its successor.

1.25 "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.

1.26 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or
entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.27 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

1.28 "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.29 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.

1.30 "LRA" has the meaning set forth in the Tariff.

1.31 "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).

1.32 "Master Agreement" has the meaning specified in the introductory paragraph hereof.

1.33 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.34 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.

1.35 "NERC" means the North American Electric Reliability Council, or its successor.

1.36 "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.

1.37 "Net Qualifying Capacity" has the meaning set forth in the Tariff.

1.38 "Non-Availability Charges" has the meaning set forth in the Tariff.

1.39 "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).

1.40 "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for
the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

1.41 "Product" has the meaning specified in Article 3 hereof.

1.42 "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit's RA Availability shall not exceed 1.00.

1.43 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.

1.44 "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.

1.45 "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.46 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.

1.47 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.

1.48 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.

1.49 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.

1.50 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.51 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.52 "Seller" has the meaning specified in the introductory paragraph hereof.

1.53 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.54 "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.

1.55 "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.56 "Transaction" has the meaning specified in the introductory paragraph hereof.
"Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.

"Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.

"Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO’s setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO’s methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2.
UNIT INFORMATION

Name: Delta Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: DELTA_2_PLIX4

Resource Type: l_PhyRes

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV substation

Path 26 (North, South or None): North

 Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None

Run Hour Restrictions: None

LAR Attributes (Yes/No): No

 If yes: Local Capacity Area (as of Confirmation Effective Date): N/A

Product Type (Flexible/Generic): Generic

 If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month

 If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): N/A

3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the "Product"). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit's Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Month</th>
<th>Contract Quantity (MWs)</th>
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</thead>
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4.4 Adjustments to Contract Quantity

(a) Planned Outages: Seller’s obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller’s option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer’s RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to
provide Product for such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

(b) **Reductions in Unit NQC:** If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

(c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

4.5 **Alternate Capacity and Replacement Units**

(a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternate Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month’s applicable deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.
(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:

(a) Seller shall, on a timely basis, submit, or cause the Unit’s SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.
(b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller’s failure to provide any portion of the Designated RA Capacity;

(b) Seller’s failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;

(c) A Unit Scheduling Coordinator’s failure to timely submit Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder; or

(d) A Unit Scheduling Coordinator’s failure to submit accurate Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit’s Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).
4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller’s account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller’s account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit’s SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit’s SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.
5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit’s Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit’s Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit’s Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit’s Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit’s Scheduling Coordinator, owner, or operator for such noncompliance.

6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

(a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity for the sole benefit of Buyer’s RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than $10,000 in total under the Agreement in support of such actions) shall include, without limitation:

(b) Cooperating with and providing, and in the case of Seller causing each Unit’s Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and

(c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

(a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;
(b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit’s owner or operator;

(c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;

(d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

(f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;

(g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit’s RA Capacity;

(h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit’s SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;

(i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit’s SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

(k) Seller has notified each Unit’s SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.
9. BUYER'S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder.

10. MARKET BASED RATE AUTHORITY

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer “ownership or control of generation capacity” from Seller to Buyer as the term “ownership or control of generation capacity” is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

11. COLLATERAL REQUIREMENTS

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: [Signature]
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: [Signature]
Name: [Signatures]
Title: [Title]
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware company ("Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 4, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" shall mean as set forth in the Tariff.

1.4 "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.

1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.

1.14 "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the CPUC’s resource adequacy program.

1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.

1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.

1.17 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.

1.18 "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE’s FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.

1.19 "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE’s FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.20 "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.

1.21 "Firm RA Product" has the meaning specified in the Section 3.3 hereof.

1.22 "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.23 "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.

1.24 "GADS" means the Generating Availability Data System or its successor.

1.25 "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.

1.26 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or
entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.27 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

1.28 "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.29 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.

1.30 "LRA" has the meaning set forth in the Tariff.

1.31 "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).

1.32 "Master Agreement" has the meaning specified in the introductory paragraph hereof.

1.33 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.34 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.

1.35 "NERC" means the North American Electric Reliability Council, or its successor.

1.36 "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.

1.37 "Net Qualifying Capacity" has the meaning set forth in the Tariff.

1.38 "Non-Availability Charges" has the meaning set forth in the Tariff.

1.39 "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).

1.40 "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for
the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

1.41 "Product" has the meaning specified in Article 3 hereof.

1.42 "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit’s Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit’s RA Availability shall not exceed 1.00.

1.43 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.

1.44 "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.

1.45 "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.46 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and/or consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.

1.47 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.

1.48 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.

1.49 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.

1.50 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.51 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.52 "Seller" has the meaning specified in the introductory paragraph hereof.

1.53 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.54 "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.

1.55 "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.56 "Transaction" has the meaning specified in the introductory paragraph hereof.
1.57 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.

1.58 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.

1.59 "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO’s setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO’s methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2. UNIT INFORMATION

Name: Delta Energy Center Aggregate
Location: Pittsburg, CA
CAISO Resource ID: DELTA_2_PL1X4
Resource Type: L_Phy_Res
Resource Category (1, 2, 3 or 4): 4
Point of Interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV substation
Path 26 (North, South or None): North
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None
Run Hour Restrictions: None
LAR Attributes (Yes/No): Yes
If yes: Local Capacity Area (as of Confirmation Effective Date): Greater Bay Area
Product Type (Flexible/Generic): Generic
If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month
If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): N/A

3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the “Product”). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller’s commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit’s Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

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4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

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<tr>
<th>Month</th>
<th>Contract Quantity (MWs)</th>
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4.4 Adjustments to Contract Quantity

(a) Planned Outages: Seller’s obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller’s option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer’s RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to
provide Product for such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

(b) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

4.5 Alternate Capacity and Replacement Units

(a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month’s applicable deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.
(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month's relevant deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:

(a) Seller shall, on a timely basis, submit, or cause the Unit’s SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.
(b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller’s failure to provide any portion of the Designated RA Capacity;

(b) Seller’s failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;

(c) A Unit Scheduling Coordinator’s failure to timely submit Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder; or

(d) A Unit Scheduling Coordinator’s failure to submit accurate Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit’s Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).
4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller’s account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller’s account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit’s SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit’s SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.
5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

(a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than $10,000 in total under the Agreement in support of such actions) shall include, without limitation:

(b) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and

(c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

(a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;
(b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit’s owner or operator;

(c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;

(d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

(f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;

(g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit’s RA Capacity;

(h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit’s SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;

(i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit’s SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

(k) Seller has notified each Unit’s SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.
9. BUYER'S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder.

10. MARKET BASED RATE AUTHORITY

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer “ownership or control of generation capacity” from Seller to Buyer as the term “ownership or control of generation capacity” is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

11. COLLATERAL REQUIREMENTS

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: 
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: 
Name: Donald Lefers Jr.
Title: Director of Finance & Administration
REVISED
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware company ("Buyer") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller"), each individually a "Party" and together the "Parties", dated as of October 4, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" shall mean as set forth in the Tariff.

1.4 "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.

1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.

1.14 “CPUC Filing Guide” means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the CPUC’s resource adequacy program.

1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.

1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.

1.17 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.

1.18 “Effective Flexible Capacity” means the flexible capacity of a resource that can be counted towards an LSE’s FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.

1.19 "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE’s FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.20 "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.

1.21 "Firm RA Product" has the meaning specified in the Section 3.3 hereof.

1.22 "Flexible Capacity Requirements" or “FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.23 “Flexible RA Product” has the meaning specified in the Section 3.2 hereof.

1.24 "GADS" means the Generating Availability Data System or its successor.

1.25 “Generic RA Product” means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.

1.26 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or
entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.27 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

1.28 "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.29 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.

1.30 "LRA" has the meaning set forth in the Tariff.

1.31 "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).

1.32 "Master Agreement" has the meaning specified in the introductory paragraph hereof.

1.33 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.34 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.

1.35 "NERC" means the North American Electric Reliability Council, or its successor.

1.36 "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.

1.37 "Net Qualifying Capacity" has the meaning set forth in the Tariff.

1.38 "Non-Availability Charges" has the meaning set forth in the Tariff.

1.39 "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).

1.40 "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for
the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

1.41 "Product" has the meaning specified in Article 3 hereof.

1.42 "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit’s RA Availability shall not exceed 1.00.

1.43 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.

1.44 "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.

1.45 "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.46 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.

1.47 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.

1.48 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.

1.49 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.

1.50 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.51 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.52 "Seller" has the meaning specified in the introductory paragraph hereof.

1.53 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.54 "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.

1.55 "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.56 "Transaction" has the meaning specified in the introductory paragraph hereof.
1.57 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.

1.58 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.

1.59 "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO’s setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO’s methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2. UNIT INFORMATION

Name: Delta Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: DELTA_2.PL1X4

Resource Type: I.Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of Interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV substation

Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None

Run Hour Restrictions: None

LAR Attributes (Yes/No): No

If yes: Local Capacity Area (as of Confirmation Effective Date): N/A

Product Type (Flexible/Generic): Flexible

If Generic: Unit NQC (as of the Confirmation Effective Date): N/A

If Flexible: Unit EFC (as of the Confirmation Effective Date): Varies by Month
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): Base

3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the “Product”). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller’s commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit’s Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4.
DEMAND AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Month</th>
<th>Contract Quantity (MWs)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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4.4 Adjustments to Contract Quantity

(a) Planned Outages: Seller’s obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller’s option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer’s RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

(b) Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable
Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

(c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5

4.5 Alternate Capacity and Replacement Units

(a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month’s applicable deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:
(a) Seller shall, on a timely basis, submit, or cause the Unit’s SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller’s failure to provide any portion of the Designated RA Capacity;
(b) Seller’s failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;

(c) A Unit Scheduling Coordinator’s failure to timely submit Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder; or

(d) A Unit Scheduling Coordinator’s failure to submit accurate Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit’s Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).
4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.
6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

(a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than $10,000 in total under the Agreement in support of such actions) shall include, without limitation:

(b) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and

(c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

(a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

(b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit's owner or operator;

(c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;

(d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in
the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

(f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;

(g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;

(h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit's SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;

(i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

(k) Seller has notified each Unit’s SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.

9. BUYER'S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder.

10. MARKET BASED RATE AUTHORITY

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller also agrees that it will not, in
filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

11. COLLATERAL REQUIREMENTS

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: 
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: 
Name: Donald E. Keane, Jr.
Title: Director of Finance/ Administration
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware company ("Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 4, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" shall mean as set forth in the Tariff.

1.4 "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.

1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.

1.14 "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.

1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.

1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.

1.17 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.

1.18 "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE's FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.

1.19 "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE's FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.20 "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.

1.21 "Firm RA Product" has the meaning specified in the Section 3.3 hereof.

1.22 "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.23 "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.

1.24 "GADS" means the Generating Availability Data System or its successor.

1.25 "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.

1.26 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or
entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.27 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

1.28 "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.29 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.

1.30 "LRA" has the meaning set forth in the Tariff.

1.31 "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).

1.32 "Master Agreement" has the meaning specified in the introductory paragraph hereof.

1.33 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.34 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.

1.35 "NERC" means the North American Electric Reliability Council, or its successor.

1.36 "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.

1.37 "Net Qualifying Capacity" has the meaning set forth in the Tariff.

1.38 "Non-Availability Charges" has the meaning set forth in the Tariff.

1.39 "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).

1.40 "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for
the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

1.41 "Product" has the meaning specified in Article 3 hereof.

1.42 "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit's RA Availability shall not exceed 1.00.

1.43 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.

1.44 "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.

1.45 "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.46 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.

1.47 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.

1.48 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.

1.49 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.

1.50 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.51 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.52 "Seller" has the meaning specified in the introductory paragraph hereof.

1.53 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.54 "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.

1.55 "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.56 "Transaction" has the meaning specified in the introductory paragraph hereof.
1.57 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.

1.58 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.

1.59 "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO's setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO's methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2. UNIT INFORMATION

Name: Delta Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: DELTA_2_PL1X4

Resource Type: l_Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV substation

Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None

Run Hour Restrictions: None

LAR Attributes (Yes/No): Yes

  If yes: Local Capacity Area (as of Confirmation Effective Date): Greater Bay Area

Product Type (Flexible/Generic): Flexible

  If Generic: Unit NQC (as of the Confirmation Effective Date): N/A

  If Flexible: Unit EFC (as of the Confirmation Effective Date): Varies by Month
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): Base

3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the “Product”). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller’s commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit’s Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Month</th>
<th>Contract Quantity (MWs)</th>
</tr>
</thead>
<tbody>
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<td></td>
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4.4 Adjustments to Contract Quantity

(a) Planned Outages: Seller’s obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller’s option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer’s RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

(b) Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable...
Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

(c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5

4.5 Alternate Capacity and Replacement Units

(a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month’s applicable deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:
Seller shall, on a timely basis, submit, or cause the Unit’s SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) (“Replacement Capacity”). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller’s failure to provide any portion of the Designated RA Capacity;
(b) Seller’s failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;

(c) A Unit Scheduling Coordinator’s failure to timely submit Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder; or

(d) A Unit Scheduling Coordinator’s failure to submit accurate Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit’s Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).
4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller’s account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller’s account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit’s SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit’s SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit’s Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit’s Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit’s Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit’s Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit’s Scheduling Coordinator, owner, or operator for such noncompliance.
6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

(a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity for the sole benefit of Buyer’s RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than $10,000 in total under the Agreement in support of such actions) shall include, without limitation:

(b) Cooperating with and providing, and in the case of Seller causing each Unit’s Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to “deliverability” standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and

(c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

(a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

(b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit’s owner or operator;

(c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;

(d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in
the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

(f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;

(g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit’s RA Capacity;

(h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit’s SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;

(i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit’s SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

(k) Seller has notified each Unit’s SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.

9. BUYER’S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder.

10. MARKET BASED RATE AUTHORITY

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller also agrees that it will not, in
filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

11. COLLATERAL REQUIREMENTS

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: ____________________________
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: ____________________________
Name: [Signature]
Title: Director of Finance
WESTERN SYSTEM POWER POOL AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
CITY OF SANTA CLARA
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This Confirmation Letter ("Confirmation") confirms the Transaction between City of Santa Clara, a chartered California municipal corporation, dba Silicon Valley Power ("Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), and each individually a "Party" and together the "Parties", dated as of October 17th, 2018 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation.

This Transaction is governed by the Western System Power Pool Agreement effective June 21, 2018 (the "WSPP Agreement") between the Parties. The WSPP Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the WSPP Agreement or the Tariff (defined herein below).

ARTICLE 1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer from a Replacement Unit in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body of competent jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" has the meaning set forth in the Tariff.

1.4 "Availability Standards" shall mean the availability standards set forth in Section 40.9 of the Tariff.

1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator Corporation or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner.

1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.2 hereof.

1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified for such Monthly Delivery Period in the "RA Capacity Price Table" set forth in Section 4.9.

1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means, to the extent still applicable, CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050 and subsequent decisions related to resource adequacy, as may be amended from time to time by the CPUC.

1.14 "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.
1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.
1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.
1.17 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product (including any Alternate Capacity) for such Showing Month, minus (i) any reductions to Contract Quantity made by Seller pursuant to Section 4.4 and for which Seller has not elected to provide Alternate Capacity; and (ii) any reductions resulting from an event other than a Non-Excusable Event.
1.18 "Flexible RA Attributes" means any and all flexible resource adequacy attributes, as may be identified at any time during the Delivery Period by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and LAR Attributes.
1.19 "Flexible RAR" means the flexible resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.
1.20 "Flexible RAR Showing" means the Flexible RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.
1.21 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.
1.22 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA of competent jurisdiction over the LSE. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.
1.23 "LAR Attributes" means, with respect to a Unit, any and all local resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC, CAISO, LRA, or other Governmental Body of competent jurisdiction, associated with the physical location or point of electrical interconnection of such Unit within the CAISO Control Area, that can be counted toward LAR, exclusive of any RA Attributes and Flexible RA Attributes. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in payments made pursuant to this Transaction.
1.24 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.
1.25 "Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.
1.26 "LRA" means Local Regulatory Authority as defined in the Tariff.
1.27 "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).
1.28 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.
1.29 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.
1.30 "Net Qualifying Capacity" has the meaning set forth in the Tariff.
1.31 "Non-Excusable Event" means any event, other than a Planned Outage and those events described under the definition of "Service Schedule B Commitment Service" in the WSPP Agreement that excuse Seller’s performance, that causes Seller to fail to perform its obligations under this Confirmation, including, without
limitation, any such event resulting from (a) the negligence of the owner, operator or Scheduling Coordinator of a Unit, or (b) Seller's failure to comply, or failure to cause the other owner, operator or Scheduling Coordinator of the Units to comply, with the terms of the Tariff with respect to the Units providing RA Attributes, Flexible RA Attributes or LAR Attributes, as applicable.

1.32 "Notification Deadline" has the meaning specified in Section 4.5 hereof.

1.33 "Outage" means any CAISO approved disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the other obligations of the Unit consistent with the Tariff.

1.34 "Planned Outage" means, subject to and as further described in the CPUC Decisions, a CAISO-approved, planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

1.35 "Product" has the meaning specified in Article 3 hereof.

1.36 "RA Attributes" means, with respect to a Unit, any all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes and Flexible RA Attributes.

1.37 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR and, if applicable, LAR and Flexible RAR purposes for the Delivery Period, as determined by the CAISO or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RA Attributes, and if applicable, LAR Attributes and Flexible RA Attributes of the capacity provided by a Unit.

1.38 "RAR" means the resource adequacy requirements (other than Local RAR or Flexible RAR) established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.

1.39 "RAR Showings" means the RAR compliance showings (or similar or successive showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction.

1.40 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.

1.41 "Replacement Unit" has the meaning specified in Section 4.5.

1.42 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.43 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.44 "Seller" has the meaning specified in the introductory paragraph hereof.

1.45 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.46 "Supply Plan" means the supply plan, or similar or successor filing, that a Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other applicable Governmental Body pursuant to Applicable Laws in order for the RA Attributes or LAR Attributes of such RA Capacity to count.

1.47 "Tariff" means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time. For purposes of Article 5, the Tariff refers to the tariff and protocol provisions of the CAISO as they exist on the Confirmation Effective Date.

1.48 "Transaction" for purposes of this Agreement means the Transaction that is evidenced by this Agreement.

1.49 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.

1.50 "Unit EFC" means the effective flexible capacity that is or will be set by the CAISO for the applicable Unit.
1.51 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. The Parties agree that if the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, that for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Net Qualifying Capacity.

1.52 "WSPP Agreement" has the meaning specified in the introductory paragraph hereof.

ARTICLE 2. UNIT INFORMATION

For January 2019 through March 2019, June 2019 through August 2019, October 2019, and December 2019, inclusive:

<table>
<thead>
<tr>
<th>Name</th>
<th>NCPA Geo Plant 2 Unit 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Sonoma County, CA</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>NCPA_7_GP2UN4</td>
</tr>
<tr>
<td>Unit SCID</td>
<td>NCPA</td>
</tr>
<tr>
<td>Unit NQC</td>
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</tr>
<tr>
<td>Unit EFC</td>
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<tr>
<td>Resource Type</td>
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<tr>
<td>Resource Category (1, 2, 3 or 4)</td>
<td>4</td>
</tr>
<tr>
<td>Flexible RAR Category (1, 2 or 3)</td>
<td>N/A</td>
</tr>
<tr>
<td>Path 26 (North or South)</td>
<td>North</td>
</tr>
<tr>
<td>Local Capacity Area (if any, as of</td>
<td>PG&amp;E Other</td>
</tr>
<tr>
<td>Confirmation Effective Date)</td>
<td></td>
</tr>
<tr>
<td>Deliverability restrictions, if any,</td>
<td>None</td>
</tr>
<tr>
<td>as described in most recent</td>
<td></td>
</tr>
<tr>
<td>CAISO deliverability assessment</td>
<td></td>
</tr>
<tr>
<td>Run Hour Restrictions</td>
<td>None</td>
</tr>
</tbody>
</table>

ARTICLE 3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Agreement, RA Attributes and, if applicable, LAR Attributes and Flexible RA Attributes for a Contingent Firm RA Product, as specified in Sections 3.1 and 3.2 below (the "Product"). The Product does not confer to Buyer any right to the electrical output from the Units. Rather, the Product confers the right to include the Designated RA Capacity in RAR Showings, LAR Showings, Flexible RAR Showings, if applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction, and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell any RA Capacity from a Unit in excess of that Unit's Contract Quantity and any RA Attributes, LAR Attributes or Flexible RA Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RA Attributes, LAR Attributes and Flexible RA Attributes

Seller shall provide Buyer with the Designated RA Capacity of RA Attributes and, if applicable, LAR Attributes and Flexible RA Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.
3.2 **Contingent Firm RA Product**

Seller shall provide Buyer with Designated RA Capacity from the Units. If those Units are not available to provide the full amount of the Contract Quantity as a result of a Non-Excusable Event, then, subject to Section 4.4, Seller shall have the option to notify Buyer in writing by the Notification Deadline that either (a) Seller will not provide the full Contract Quantity during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Buyer with the Contract Quantity as a result of a Non-Excusable Event and has failed to notify Buyer in writing by the Notification Deadline that it will not provide the full Contract Quantity during the period of such non-availability as provided in Section 4.4, then Seller shall be liable for damages and/or required to indemnify Buyer for any resulting penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof. Notwithstanding anything herein to the contrary, if Seller provides less than the full amount of the Contract Quantity for any reason other than a Non-Excusable Event or in accordance with Section 4.4, Seller is not obligated to provide Buyer with Alternate Capacity or to indemnify Buyer for any resulting penalties or fines.

**ARTICLE 4. DELIVERY AND PAYMENT**

4.1 **Delivery Period**

The Delivery Period shall be: inclusive.

4.2 **Delivery Point.**

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 **Contract Quantity**

The Contract Quantity for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Contract Quantity (MWs)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Month/Year</strong></td>
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<tr>
<td></td>
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</tbody>
</table>

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4.4 Adjustments to Contract Quantity

(a) **Planned Outages:** If Seller is unable to provide the applicable Contract Quantity for all or a portion of a Showing Month due to a Planned Outage of a Unit, then Seller shall have the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to either (a) reduce the Contract Quantity in accordance with the Planned Outage for such portion of the Showing Month; or (b) provide Alternate Capacity up to the Contract Quantity for the applicable portion of such Showing Month.

(b) **Invoice Adjustment:** In the event that the Contract Quantity is reduced due to a Planned Outage as set forth in Section 4.4(a) above, then the invoice for such month(s) shall be adjusted to reflect a daily pro rata amount for the duration of such reduction.

(c) **Reductions in Unit NQC and/or Unit EFC:** Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced by Seller if the Unit experiences a reduction in Unit NQC and/or Unit EFC as determined by the CAISO. If the Unit experiences such a reduction in Unit NQC and/or Unit EFC, then Seller has the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product, and/or (ii) Alternate Capacity up to the Contract Quantity.

4.5 Notification Deadline and Replacement Units

(a) The "Notification Deadline" in respect of a Showing Month shall be ten (10) Business Days before the earlier of the relevant deadlines for (a) the corresponding RAR Showings, Flexible RAR Showings and/or LAR Showings for such Showing Month, and (b) the CAISO Supply Plan filings applicable to that Showing Month.

(b) If Seller desires to provide the Contract Quantity of Product for any Showing Month from a generating unit other than the Unit (a "Replacement Unit"), then Seller may, at no cost to Buyer, provide Buyer with Product from one or more Replacement Units, up to the Contract Quantity, for the applicable Showing Month; provided that in each case, Seller shall notify Buyer in writing of such Replacement Units no later than the Notification Deadline. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for the remaining portion of that Showing Month.

(c) If Seller fails to provide Buyer the Contract Quantity of Product or Alternate Capacity for a given Showing Month during the Delivery Period, then (i) Buyer may, but shall not be required to, purchase Product from a third party; and (ii) Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if such failure is the result of (A) a reduction in the Contract Quantity for such Showing Month in accordance with Section 4.4, or (B) an event other than a Non-Excusable Event.

4.6 Delivery of Product

(a) Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month.

(b) Seller shall submit, or cause the Unit’s Scheduling Coordinator to submit, by the Notification Deadline (i) Supply Plans to the CAISO, LRA, or other applicable Governmental Body identifying and confirming the Designated RA Capacity to be provided to Buyer for the applicable Showing Month, unless Buyer specifically requests in writing that Seller not do so; and (ii) written confirmation to Buyer that Buyer will be credited with the Designated RA Capacity for such Showing Month per the Unit’s Scheduling Coordinator Supply Plan.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month, and such failure is not excused under the terms of the Agreement, then the following shall apply:
(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RA Attributes, and, if applicable, LAR Attributes and Flexible RA Attributes as the Designated RA Capacity not provided by Seller; provided, however, that if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having solely RA Attributes and no LAR Attributes or Flexible RA Attributes, and no such RA Capacity is available, then Buyer may replace such portion of the Designated RA Capacity with capacity having any applicable Flexible RA Attributes and/or LAR Attributes ("Replacement Capacity") by entering into purchase transactions with one or more third parties, including, without limitation, third parties who have purchased capacity from Buyer so long as such transactions are done at prevailing market prices. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, and (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a); and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to the WSPP Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Subject to any adjustments made pursuant to Section 4.4, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller’s failure to provide any portion of the Designated RA Capacity due to a Non-Excusable Event;

(b) Seller’s failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Sections 3.2, 4.4 and 4.5; or

(c) A Unit Scheduling Coordinator’s failure to timely submit accurate Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of this Confirmation, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, pursuant to Article 6. Each Unit’s Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month.

<table>
<thead>
<tr>
<th>RA CAPACITY PRICE TABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Month/Year</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

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4.10 Allocation of Other Payments and Costs

Seller shall be entitled to receive and retain all revenues that Buyer is not expressly entitled to receive pursuant to this Agreement, including all revenues that Seller may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) revenue for ancillary services, (c) energy sales, (d) revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, Flexible RAR Showing, as may be applicable, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller’s account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. Any Non-Availability Charges are the responsibility of Seller, and for Seller’s account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (e) above). In accordance with Section 4.9 of this Confirmation, all such Buyer revenues received by Seller, or a Unit’s Scheduling Coordinator, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Seller does not remit to Buyer, and Seller shall pay such revenues received by it to Buyer if the Unit’s Scheduling Coordinator, owner, or operator fails to remit those revenues to Buyer. If Seller or the Unit’s Scheduling Coordinator, owner, or operator (as applicable) fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for resale in such market, and retain and receive any and all related revenues.

ARTICLE 5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event other than a Non-Excusable Event, that results in a partial or full outage of that Unit, Seller shall either schedule or cause the Unit’s Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit’s Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit’s Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit’s Scheduling
Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit’s Scheduling Coordinator, owner, or operator for such noncompliance.

ARTICLE 6. COLLATERAL REQUIREMENTS

No later than October 26, 2018, Buyer shall provide Seller with performance assurance in the amount of $311,200 in the form of cash prepay

ARTICLE 7. OTHER BUYER AND SELLER COVENANTS

7.1 Further Assurances

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity for the sole benefit of Buyer’s applicable RAR, LAR and Flexible RAR. Such commercially reasonable actions shall include, without limitation:

(a) Cooperating with and providing, and in the case of Seller causing each Unit’s Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable RAR, LAR, and Flexible RAR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CPUC, the CAISO, a LRA of competent jurisdiction, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

(b) Negotiating in good faith to make necessary amendments, if any, to this Confirmation, which are subject to agreement of such Parties, in each Party’s sole discretion, to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, so as to maintain the purpose and intent of the Transaction agreed to by the Parties on the Confirmation Effective Date. The above notwithstanding, the Parties are aware that the CPUC and CAISO are considering changes to RAR and/or LAR in CPUC Rulemaking 11-10-023 and potentially other proceedings.

7.2 Seller Representations and Warranties

Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

(a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, the CAISO, the CPUC, a LRA of competent jurisdiction, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

(b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy such third party’s applicable RAR, LAR or Flexible RAR or analogous obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit’s owner or operator;

(c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR or Flexible RAR, or analogous obligations in any non-CAISO market;

(d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;
(e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, in accordance with General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

(f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR and Flexible RAR;

(g) If Seller is the owner of any Unit, the aggregation of all amounts of applicable LAR Attributes, RA Attributes and Flexible RA Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit’s RA Capacity;

(h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit’s Scheduling Coordinator is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR and Flexible RAR;

(i) Seller has notified the Scheduling Coordinator of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the Scheduling Coordinator is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the Scheduling Coordinator of each Unit that Seller is obligated to cause each Unit’s Scheduling Coordinator to provide to the Buyer, by the Notification Deadline, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

(k) Seller has notified each Unit’s Scheduling Coordinator that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such Scheduling Coordinator is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

**ARTICLE 8. CONFIDENTIALITY**

In addition to the rights and obligations in the WSPP Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA of competent jurisdiction in order to support its applicable LAR, RAR or Flexible RAR Showings, if applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the Scheduling Coordinator of each Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans.

The Parties acknowledges that each Party is a public agency subject to the requirements of the California Public Records Act Cal. Gov. Code section 6250 et seq. Each Party (the “Receiving Party”) acknowledges that the other party (the “Disclosing Party”) may submit information to the Receiving Party that the Disclosing Party considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3425 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Contract ("Requestor") for production, inspection and/or copying of information designated by a Disclosing Party as Confidential Information, the Receiving Party as soon practical but within three (3) business days of receipt of the request, shall notify the Disclosing Party that such request has been made, by telephone call, letter sent via facsimile and/or by US Mail to the address and facsimile number listed on the cover page of the Contract. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action, after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor’s demand and is not required to defend against it.

**ARTICLE 9. BUYER’S RE-SALE OF PRODUCT**

Buyer may re-sell all or a portion of the Product hereunder.
ARTICLE 10. MARKET BASED RATE AUTHORITY

Upon Buyer's written request, Seller shall, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller shall not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

ARTICLE 11. ADDITIONAL TERMS AND CONDITIONS

11.1 Governing Law

This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

11.2 No Recourse to Members of Buyer

Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and is a public entity separate from its constituent members. Buyer will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Seller will have no rights and will not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Buyer or Buyer's constituent members, in connection with this Confirmation.

11.3 Credit Requirements

Notwithstanding any other provision of the Agreement, Section 27 of the Master Agreement is not applicable to, and credit support is not required for either Party under this Confirmation.

11.4 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

11.5 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may only be entered into by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

City of Santa Clara, dba Silicon Valley Power
By: Ann Hatcher
Name: Ann Hatcher
Title: Assistant Director
Date: 10/19/18

Silicon Valley Clean Energy Authority, a California joint powers authority
By: Donald Ely
Name: Donald Ely
Title: Director, Finance
Date: 10-18-2018
MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY ("PARTY A")
AND
PACIFIC GAS AND ELECTRIC COMPANY ("PARTY B")

This confirmation letter ("Confirmation") confirms the Transaction between Party A and Party B, which becomes effective on the date fully executed by both Parties (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation. This Transaction is governed by the Master Power Purchase and Sale Agreement between the Parties, effective as of October 25, 2017, together with the Cover Sheet, the Collateral Annex and Paragraph 10 to the Collateral Annex, and any other annexes thereto (collectively, as amended, restated, supplemented, or otherwise modified from time to time, the "Master Agreement"). The Master Agreement and this Confirmation are collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation, have the meanings specified for such terms in the Master Agreement or the Tariff (defined below), as applicable. Section references herein are to this Confirmation unless otherwise noted.

ARTICLE 1
TRANSACTION TERMS

Buyer: Party A

Seller: Party B

Product: The Product, including the Capacity Attributes of the Unit(s), Alternate Unit(s) or Shown Unit(s), is as defined in Appendix B; provided that if Buyer is purchasing Local RAR, but a particular local area or subarea is not identified in Appendix B, then Seller may provide Local RAR from any local area or subarea in the Seller’s local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: ___________ inclusive.

Contract Quantity and Price: The Contract Quantity and Price for each day of each Showing Month during the Delivery Period shall be set forth in Appendix B.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

Seller’s obligation to deliver the Contract Quantity of Product for each day included in the Delivery Period is firm and will not be excused for any reason.

2.2 Seller To Identify Shown Unit

PG&E Resource Adequacy (Log No. 33B230R02)
2019 RA E-Solicitation
(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information listed in Appendix C no later than fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month. The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC. Seller’s notice under this Section 2.2(a) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) calendar days of receipt of Seller’s notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days.

(b) Once the Shown Unit designated by Seller is approved or deemed approved in accordance with Section 2.2, then any such Shown Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

2.3 Seller To Provide Alternate Capacity

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is not more or less than the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics specified in Appendix B no later than fifteen (15) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller’s notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller’s notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within five (5) Business Days.

(c) Once the Buyer provides its approval of any proposed Alternate Unit designated by Seller in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

2.4 Delivery of Product

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:
(i) Seller shall, on a timely basis with respect to each applicable Showing Month, submit, or cause the Unit’s SC to submit, Supply Plans in accordance with the Tariff to identify and confirm the Product provided to Buyer for each day of such Showing Month that is included in the Delivery Period so that the total amount of Product identified and confirmed for each such day of such Showing Month equals the Contract Quantity for such day of such Showing Month.

(ii) Seller will be deemed to have delivered the Product on each day to the extent that Buyer receives credit from CAISO for such day for Product identified and confirmed in the Supply Plan submitted for the Unit.

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 8, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix C to be completed and included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix C, the Parties agree to communicate such changes to each other promptly.

2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller shall pay to Buyer at the time set forth in Article Six of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement:

for each applicable day during the Showing Month included in the Delivery Period, in which the Buyer’s Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price, or in the event that more than one Contract Price is specified for the same Showing Month, the weighted average of all applicable prices and Contract Quantities for that Showing Month, divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW/MW.

2.6 Indemnities for Failure to Deliver Contract Quantity

(a) Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or CAISO resulting from any of the following:

(i) Seller’s failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer; or
(ii) A Unit’s SC’s failure to timely or accurately submit Supply Plans that identify Buyer’s right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

(b) With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines, and costs.

2.7 **Buyer’s Re-Sale of Product**

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the CSP. If Buyer re-sells Resold Product, Seller agrees, and agrees to cause the Unit’s SC, to follow Buyer’s instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit’s SC, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer’s rights under this Confirmation. If Buyer incurs any liability to any purchaser of such Resold Product due to the failure of Seller or the Unit’s SC to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Resold Product, Buyer shall notify Seller in writing that such sale has occurred and such notice shall include the information described in Appendix D no later than two (2) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix D in accordance with the deadlines described in this Section 2.7(b).

**ARTICLE 3**

**PAYMENT**

3.1 **Monthly Payment**

Buyer shall make a payment (a "Monthly Payment") to Seller, for the applicable Showing Month, as follows:

\[
\text{Monthly Payment} = Q \times P \times CF
\]

where:

\[
Q = \text{The quantity of Product to be delivered by Seller to Buyer pursuant to and consistent with Section 2.4 for the Showing Month}
\]
\[ P = \text{The Contract Price for the Showing Month, expressed in dollars per kW-month} \]
\[ CF = \text{The conversion factor equal to 1,000 kW per MW} \]

The Monthly Payment calculation shall be rounded to two decimal places. Payment shall be paid by Buyer and received by Seller no later than sixty (60) calendar days prior to the applicable Showing Month. If the Confirmation Effective Date is entered into within sixty (60) calendar days of the applicable Showing Month, the Monthly Payment shall be made by Buyer and received by Seller within five (5) Business days of the relevant Confirmation effective date.

### 3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a purchaser of Resold Product fails to remit those revenues to Seller. If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer pursuant to Article Six of the Master Agreement. Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys' fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit's SC to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.

### ARTICLE 4
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit’s SC to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit’s SC, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit’s SC, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the Unit’s SC (unless Seller is the SC), owner, or operator for such noncompliance.

ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller’s and Buyer’s Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall agree upon reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit’s SC, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the SC of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer.
(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c) is true and correct; and

(ii) Seller shall not, and shall cause the Unit’s SC to not, offer any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall, and shall cause the Unit’s SC to promptly (and in any event within one (1) Business Day of the time Seller receives notification from CAISO) notify Buyer if CAISO designates any portion of the Contract Quantity for any day during the Delivery Period as CPM Capacity and, if CAISO makes such a designation, shall, and shall cause the Unit’s SC to not accept any such designation by CAISO unless and until Buyer has agreed to accept such designation.

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

ARTICLE 6
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties may disclose all terms and conditions of this Transaction to any Governmental Body, the CPUC, CAISO and the Procurement Review Group, and Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the SC of the Unit in order for such SC to timely submit accurate Supply Plans. Each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or SC to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

ARTICLE 7
HOLDBACK CAPACITY

No later than five (5) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit’s SC not to list, in the Unit’s Supply Plan a portion or all of the Contract Quantity for any portion of such Showing Month included in the Delivery Period (“Hold-Back Capacity”). The amount of Contract Quantity that is the subject of Buyer’s request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of
calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5 or 2.6. Seller shall, or shall cause the Unit's SC to, comply with Buyer's request under this Article 7.

ARTICLE 8
COLLATERAL REQUIREMENTS

8.1 Buyer Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Buyer shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Seller a Fixed Independent Amount as long as Buyer or its Guarantor, if any, does not maintain Credit Ratings of at least BBB- from S&P and Baa3 from Moody's. The "Fixed Independent Amount" shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period. For the purposes of calculating the Collateral Requirement pursuant to Section 8.2 of the Master Agreement, entitled "Party B Credit Protection", and all corresponding provisions to Section 8.2 of the Master Agreement, such Fixed Independent Amount for Buyer shall be added to the Exposure Amount for Seller and subtracted from the Exposure Amount for Buyer.

8.2 Seller Collateral Requirements

Section 8.1 of the Master Agreement, entitled "Party A Credit Protection", and all corresponding provisions to Section 8.1 of the Master Agreement do not apply to this Confirmation.

8.3 Current Mark-to-Market Value

For the purposes of calculating Exposure pursuant to the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction, consequently affecting each Party's Exposure.

ARTICLE 9
ADDITIONAL MASTER AGREEMENT AMENDMENTS

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the Master Agreement:
"If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller’s Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer’s estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority.

PACIFIC GAS AND ELECTRIC COMPANY, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions.

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO
Date: 10/24/2018 2:53:47 PM PDT

By: Kimberly Chang
Name: Kimberly Chang
Title: Manager
Date: 10/24/2018
APPENDIX A
DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

“Advice Letter” means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility’s tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

“Alternate Unit” means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

“CAISO” means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

“Capacity Attributes” means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

“Capacity Procurement Mechanism” has the meaning set forth in the Tariff.

“Competitive Solicitation Process” or “CSP” has the meaning set forth in the Tariff.

“Compliance Obligations” means the RAR and Local RAR, and if applicable FCR.

“Compliance Showings” means the (a) Local RAR compliance or advisory showings (or similar or successor showings). (b) RAR compliance or advisory showings (or similar or successor
showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

“Confirmation” is defined in the introductory paragraph of this Confirmation.

“Confirmation Effective Date” is defined in the introductory paragraph of this Confirmation.

“Contract Price” means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

“Contract Quantity” means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

“CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

“CPUC Filing Guide” means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the CPUC’s resource adequacy program.

“Delivery Period” is defined in Article 1.

“Emission Reduction Credits” or “ERC(s)” means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

“Environmental Costs” means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product’s compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.
“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

“FCR Attributes” means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE’s FCR.

“FCR Contract Quantity” means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include “market participants” as defined in the CAISO’s Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

“Hold-Back Capacity” is defined in Article 7.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

“LSE” means “Load Serving Entity” as such term is defined in the Tariff.

“Marketable Emission Trading Credits” means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (i)).

“Master Agreement” is defined in the introductory paragraph of this Confirmation.

“Monthly Payment” is defined in Section 3.1.

“MW” means megawatt.

“Procurement Review Group” has the meaning set forth in CPUC Decision D. 02-08-071.

“Product” is defined in Article 1.

“RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.
“Resold Product” is defined in Section 2.7.

“Resource Adequacy Capacity” has the meaning set forth in the Tariff.

“RMR Contract” means a Reliability Must-Run Contract as forth in the Tariff.

“Showing Month” means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

“Shown Unit” means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

“Supply Plan” has the meaning set forth in the Tariff.

“System RAR” means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

“Tariff” means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B and any Alternate Unit or Shown Unit.

“Unit EFC” means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

“Unit NQC” means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.
APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

<table>
<thead>
<tr>
<th>System or Local:</th>
<th>☐ System RAR</th>
<th>☑ Local RAR</th>
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</thead>
<tbody>
<tr>
<td>Product Attributes:</td>
<td>☐ RAR only (default)</td>
<td>☑ Local RAR and RAR only (default)</td>
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<tr>
<td>CAISO Zone:</td>
<td>☐ North System</td>
<td>☑ Greater Bay Area</td>
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<td>(as defined by the CPUC Filing Guide)</td>
<td>☐ South System</td>
<td>☐ Big Creek/Ventura</td>
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<td>☐ Other PG&amp;E Local Areas</td>
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<td>☐ San Diego-IV</td>
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<td>MCC Bucket:</td>
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<td>(as described in the CPUC Filing Guide)</td>
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<tr>
<td>Flexible Category (if Applicable):</td>
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<td>(as described in the CPUC Filing Guide)</td>
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<td>☐ San Diego-IV</td>
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**Contract Quantity and Contract Price:**

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<tr>
<th>Showing Month and Year</th>
<th>Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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## APPENDIX C
**SUPPLY PLAN INFORMATION**

<table>
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<tr>
<th>Resource Capacity Contract Number</th>
<th>Resource ID in CAISO Master File</th>
<th>RA Capacity (MW 00.00 No Rounding)</th>
<th>RA Capacity Effective Start Date</th>
<th>RA Capacity Effective End Date</th>
<th>SCID of Load Serving Entity</th>
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<td>[mm/dd/yyyy hh:mm:ss]</td>
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Seller will provide the Unit Information in accordance with Section 2.2.
## APPENDIX D
### SUBSEQUENT SALE INFORMATION

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<tr>
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<td>Term:</td>
<td></td>
</tr>
</tbody>
</table>

PG&E Resource Adequacy (Log No. 33B230R02)
2019 RA E-Solicitation
APPENDIX E
NOTICE INFORMATION

Name: Silicon Valley Clean Energy Authority, a California joint powers authority

("[Buyer]" or "[Party A]"
All Notices:
Delivery Address:
Street: 333 W. El Camino Real, Suite 290
City: Sunnyvale State: CA Zip: 94087
Mail Address: (if different from above)
Attn: Monica Padilla
(email) monica.padilla@svcleanenergy.org
Phone: 408-721-5301 x 1009

Invoices and Payments:
Attn: Silicon Valley Clean Energy Authority
(email) svcepowersettlements@svcleanenergy.org
Phone: 408-721-5301

Scheduling:
Attn: Z Global
(email) eric@zglobal.biz
Phone: 916-221-4327

Credit and Collections:
Attn: Silicon Valley Clean Energy Authority Finance
(email)
Phone: 408-721-5301

Contract Management
Attn: (email)
Phone:

With additional Notices of an Event of Default to Contract Manager:
Attn: (email)
Phone:

Supply Plan Contact: brian@pacificenergy.com
svcepowersettlements@svcleanenergy.org

PG&E Resource Adequacy (Log No. 33B230R02)
2019 RA E-Solicitation

Name: Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions

("[Seller]" or "[Party B]"
All Notices:
Delivery Address:
Street: 77 Beale Street, Mail Code N12E
San Francisco, CA 94105-1702
Mail Address:
P.O. Box 770000, Mail Code N12E
San Francisco, CA 94177
Attn: Candice Chan (CWW9@pge.com)
Director, Contract Mgmt & Settlements
Phone: (415) 973-7780

Invoices and Payments:
Attn: Tom Girlich (TAGG@pge.com)
Manager, Electric Settlements
Phone: (415) 973-9381

Outages:
Attn: Outage Coordinator
(ESMOOutageCoordinator@pge.com;
RATransactionNotificationList@pge.com)
Phone: (415) 973-1721

Credit and Collections:
Attn: Credit Risk Management (PGERiskCredit@pge.com)
Phone: (415) 972-5188

Contract Management
Attn: Elizabeth Motley (EMMG@pge.com)
Contract Management
Phone: (415) 973-2368

With additional Notices of an Event of Default to Contract Manager:
Attn: Ted Yura (THY1@pge.com)
Senior Manager, Contract Management
Phone: (415) 973-8660

Supply Plan and Replacement Request:
EPP-RAFilingsMailbox@pge.com

18
APPENDIX F
FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXXX

Date: [Insert issue date]

Beneficiary: [Insert Beneficiary name] 
[Insert Beneficiary address]  
Applicant: [Insert Applicant name] 
[Insert Applicant address]

Letter of Credit Amount: [Insert amount]

Expiry Date: [Insert date that is one (1) year from offer date]

Ladies and Gentlemen:

By order of [Insert name of Applicant] (“Applicant”), we hereby issue in favor of [Insert name of Beneficiary] (the “Beneficiary”) our irrevocable standby letter of credit No. [Insert number of letter of credit] (“Letter of Credit”), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ [Insert amount in figures followed by (amount in words)] (“Letter of Credit Amount”). This Letter of Credit is available with [Insert name of issuing or paying bank, and the city and state in which it is located] by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on [Insert expiry date] (the “expiry Date”).

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents:

1. Beneficiary’s signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. [Insert number] and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

A. “The amount of the accompanying sight draft under Letter of Credit [Insert number of letter of credit] (the “Draft Amount”) is owed to [Insert name of Beneficiary] by [Insert name of Beneficiary’s counterparty under the RA Confirmation] (“Counterparty”) under Confirmation for Resource Adequacy Capacity Product for CAISO Resources dated [insert date of the Confirmation] between [Insert name of Beneficiary] and Counterparty, which entitles [Insert name of Beneficiary] to draw the Draft Amount under Letter of Credit No. [Insert number];” or
B. "Letter of Credit No. [Insert number] will expire in thirty (30) days or less and [Insert name of Beneficiary’s counterparty under the RA Confirmation] has not provided replacement security acceptable to [Insert name of Beneficiary]."

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable;
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount; and
5. The Expiry Date of this Letter of Credit shall be automatically extended without amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to renew this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at [Insert bank’s address for drawings].

All demands for payment shall be made either by presentation of originals or copies of documents, or by facsimile transmission of documents to [Insert fax number], Attention: [Insert name of bank’s receiving department]. You may contact us at [Insert phone number] to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a facsimile presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the third (3rd) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce (ICC) Publication No. 600 (the “UCP 600”); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at [Insert number and any other necessary details].
Very truly yours,

[INSERT NAME OF ISSUING BANK]

By:
Name: [Print or type name]
Title: [Print or type title]
EXHIBIT A
SIGHT DRAFT

TO:
[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: $________________________ DATE: __________________

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF PACIFIC GAS AND ELECTRIC COMPANY THE AMOUNT OF U.S. $____(_____________ U.S. DOLLARS)

DRAWN UNDER [INSERT NAME OF ISSUING BANK] LETTER OF CREDIT NO. [XXXXXX].

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER:

By:
Name: [Print or type name]
Title: [Print or type title]
**WSPP**  
**California Resource Adequacy Product**  
**Form Confirmation**  

Version 1.0  
10/2/2018  

This document was developed by the WSPP Contract Subcommittee for use with the WSPP Agreement (see § 32.8). This document is not filed with the Federal Energy Regulatory Commission and is not part of the WSPP Agreement.
WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation under the WSPP Agreement confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority and Alameda Municipal Power dated as of October 26, 2018 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Purchaser: Silicon Valley Clean Energy Authority, a California joint powers authority

Seller: Alameda Municipal Power

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B and C are incorporated into this Confirmation

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller will sell and deliver to Purchaser, and Purchaser will purchase and receive from Seller, the Contract Quantity of the Product from the Shown Unit(s).

(b) Seller will deliver the Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit and the characteristics of the Shown Unit and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller will cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller will submit, or cause the Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for each day of such Showing Month will equal the Contract Quantity, less any excused deductions to the Contract Quantity in the case of Flexible RA Capacity for excused reductions in Unit EFC.

(d) Seller may sell and deliver from a Shown Unit that meets requirements set forth in Appendix B. Seller will identify the Shown Unit(s) and Contract Quantity by
providing Purchaser with the specific Unit information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Contract Quantity for the Shown Unit in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Shown Unit by CAISO or Seller complies with Purchaser’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Purchaser will have received the Contract Quantity if (i) Seller’s Supply Plan is accepted by the CAISO for the applicable Showing Month or (ii) Seller complies with Purchaser’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.1

(h) **Excused Reductions in Unit EFC:**

   Unless the Parties have designated this Section 2.1(h) as “Not applicable”, if the Product includes FCR Attributes, then Seller’s failure to deliver any of the Contract Quantity of FCR Attributes during the Delivery Period will be excused if the Unit experiences a reduction in Unit EFC after the Effective Date as determined by CAISO and Seller has provided notice of such reduction to Purchaser by the Notification Deadline for the applicable Showing Month. The extent to which Seller’s failure is excused will equal (i) the Contract Quantity of FCR Attributes for such day multiplied by (ii) the total amount (in MW) by which the Unit EFC was reduced since the Effective Date, divided by (iii) the Unit EFC as of the Effective Date. If the Unit experiences such a reduction in Unit EFC,

---

1 For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046.
then Seller may, but is not obligated to, provide the applicable part of the Contract Quantity of FCR Attributes for such day from the Shown Unit.

2.2 **Purchaser’s Remedies for Seller’s Failure to Deliver Contract Quantity**

(a) If Seller fails to deliver any part of the Contract Quantity as required herein for any Showing Month, Seller is liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word “hourly” therein.

(b) Seller agrees to indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, including Environmental Costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.3 **Purchaser’s Re-Sale of Product**

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.3(a). For any such a resale, Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller will, or will cause the Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the same amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser will notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two Business Days before the Notification Deadline for the Showing Month. Purchaser will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.
ARTICLE 3
PAYMENTS

3.1 Payment

After Seller has delivered the Contract Quantity in accordance with Section 2.1 and issued its invoice, Purchaser must pay for the Product as provided in Article 9 of the WSPP Agreement. The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places).

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller must promptly report receipt of any such revenues to Purchaser. Seller must pay to Purchaser any such amounts received by Seller, or a Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller will, or will cause the Unit’s SC to, within one Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.
ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller must schedule or cause the Unit’s SC to schedule or make available to CAISO the Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller will indemnify and hold Purchaser harmless from, the failure of Seller or the Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Purchaser’s rights to the Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser. If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

(a) no part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) the Unit qualifies under the Tariff for the Product, and the Unit and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Unit during the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;

(d) if applicable, Seller has notified either the Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.
ARTICLE 5
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

5.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

“If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”

5.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement, (i) Purchaser may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit’s SC or as necessary for Supply Plans; (iii) each Party may disclose information to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser.

5.3 Dodd-Frank Act


5.4 Governing Law
For this Transaction, Section 13.1 of the WSPP Agreement is amended to change “FERC” to “FERC or the CPUC”, and Section 24 of the WSPP Agreement is amended to replace “Utah” with “California”.

AGREED AS OF THE EFFECTIVE DATE:

Silicon Valley Clean Energy Authority, 
a California joint powers authority
By: Giri Balachandran
Name: Giri Balachandran
Title: CEO

Alameda Municipal Power
By: Nico Procos
Name: Nico Procos
Title: General Manager

Approved As to Form

Alan M. Cohen
Assistant City Attorney has
APPENDIX A
DEFINED TERMS

“CAISO” means the California ISO.

“Capacity Attributes” means attributes of the Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“Environmental Costs” means (i) costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, (ii) the Product’s compliance with all applicable environmental laws, rules, and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, (iii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iv) costs of permit maintenance fees and emission fees as applicable, (v) the costs of all emission reductions that have been authorized by a local air pollution control district or emissions trading credits or units pursuant to the California Health & Safety Code, market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, authorizations to emit sulfur dioxide and oxides of nitrogen by the Environmental Protection Agency, and any costs related to greenhouse gas emissions required by any applicable environmental laws, rules, regulations, or permits to operate, and (vi) costs associated with the disposal, clean-up, decontamination or remediation, on or off site, of hazardous substances.

“FCR” means the Flexible Capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Unit, any and all resource adequacy attributes of the Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.
“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Notification Deadline” is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“Product” means RAR, Local RAR and FCR, for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B and any Shown Unit.
“Unit EFC” means Unit Effective Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means Unit Net Qualifying Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☐ RAR  ☒ Local RAR  ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: Other PG&E Local Areas
MCC Bucket: 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

Delivery period: [ ]

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

<table>
<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Flexible Capacity, if applicable

<table>
<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
</tr>
</thead>
<tbody>
<tr>
<td>[MM] [YY]</td>
<td>[XX]</td>
<td></td>
</tr>
</tbody>
</table>
### Unit 1

#### Unit Specific Information

<table>
<thead>
<tr>
<th>Resource Name</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical Location</td>
<td>Sonoma County</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>NCPA_7_GP2UN4</td>
</tr>
<tr>
<td>SCID of Resource</td>
<td>NCPA</td>
</tr>
<tr>
<td>Unit NQC by month (e.g., Jan=50, Feb=65):</td>
<td>52.73</td>
</tr>
<tr>
<td>Unit EFC by month (e.g., Jan=30, Feb=50):</td>
<td>N/A</td>
</tr>
<tr>
<td>Resource Type (e.g., gas, hydro, solar, etc.):</td>
<td>Geothermal</td>
</tr>
<tr>
<td>Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3):</td>
<td>N/A</td>
</tr>
<tr>
<td>TAC Area (e.g., PG&amp;E, SCE):</td>
<td>PG&amp;E</td>
</tr>
<tr>
<td>Prorated Percentage of Unit Factor:</td>
<td>N/A</td>
</tr>
<tr>
<td>Prorated Percentage of Unit Flexible Factor Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt):</td>
<td>NCNB</td>
</tr>
<tr>
<td>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4):</td>
<td>4</td>
</tr>
</tbody>
</table>

*(Repeat for additional Units)*

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]
# APPENDIX C
## NOTICE INFORMATION

<table>
<thead>
<tr>
<th>Seller: Alameda Municipal Power</th>
<th>Purchaser: Silicon Valley Clean Energy Authority</th>
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<td><strong>All Notices:</strong></td>
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<td>(email) <a href="mailto:brian@pacificc.com">brian@pacificc.com</a></td>
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WSPP
California Resource Adequacy Product
Form Confirmation

Version 1.0
10/2/2018

This document was developed by the WSPP Contract Subcommittee for use with the WSPP Agreement (see § 32.8). This document is not filed with the Federal Energy Regulatory Commission and is not part of the WSPP Agreement.
WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation under the WSPP Agreement confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority and Alameda Municipal Power dated as of October 26, 2018 (the “Effective Date”), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the “Transaction”). Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Purchaser: Alameda Municipal Power

Seller: Silicon Valley Clean Energy Authority, a California joint powers authority

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B and C are incorporated into this Confirmation

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller will sell and deliver to Purchaser, and Purchaser will purchase and receive from Seller, the Contract Quantity of the Product from the Shown Unit(s).

(b) Seller will deliver the Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit and the characteristics of the Shown Unit and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller will cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller will submit, or cause the Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for each day of such Showing Month will equal the Contract Quantity, less any excused deductions to the Contract Quantity in the case of Flexible RA Capacity for excused reductions in Unit EFC.

(d) Seller may sell and deliver from a Shown Unit that meets requirements set forth in Appendix B. Seller will identify the Shown Unit(s) and Contract Quantity by
providing Purchaser with the specific Unit information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Contract Quantity for the Shown Unit in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Shown Unit by CAISO or Seller complies with Purchaser’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Purchaser will have received the Contract Quantity if (i) Seller’s Supply Plan is accepted by the CAISO for the applicable Showing Month or (ii) Seller complies with Purchaser’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.1

(h) **Excused Reductions in Unit EFC:** Unless the Parties have designated this Section 2.1(h) as “Not applicable”, if the Product includes FCR Attributes, then Seller’s failure to deliver any of the Contract Quantity of FCR Attributes during the Delivery Period will be excused if the Unit experiences a reduction in Unit EFC after the Effective Date as determined by CAISO and Seller has provided notice of such reduction to Purchaser by the Notification Deadline for the applicable Showing Month. The extent to which Seller’s failure is excused will equal (i) the Contract Quantity of FCR Attributes for such day multiplied by (ii) the total amount (in MW) by which the Unit EFC was reduced since the Effective Date, divided by (iii) the Unit EFC as of the Effective Date. If the Unit experiences such a reduction in Unit EFC,

---

1 For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046
then Seller may, but is not obligated to, provide the applicable part of the Contract Quantity of FCR Attributes for such day from the Shown Unit.

2.2 **Purchaser’s Remedies for Seller’s Failure to Deliver Contract Quantity**

(a) If Seller fails to deliver any part of the Contract Quantity as required herein for any Showing Month, Seller is liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word “hourly” therein.

(b) Seller agrees to indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, including Environmental Costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.3 **Purchaser’s Re-Sale of Product**

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.3(a). For any such a resale, Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller will, or will cause the Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the same amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser will notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two Business Days before the Notification Deadline for the Showing Month. Purchaser will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.
ARTICLE 3
PAYMENTS

3.1 Payment

After Seller has delivered the Contract Quantity in accordance with Section 2.1 and issued its invoice, Purchaser must pay for the Product as provided in Article 9 of the WSPP Agreement. The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places).

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller must promptly report receipt of any such revenues to Purchaser. Seller must pay to Purchaser any such amounts received by Seller, or a Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller will, or will cause the Unit’s SC to, within one Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.
ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller must schedule or cause the Unit’s SC to schedule or make available to CAISO the Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller will indemnify and hold Purchaser harmless from, the failure of Seller or the Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Purchaser’s rights to the Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser. If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

(a) no part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) the Unit qualifies under the Tariff for the Product, and the Unit and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Unit during the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;

(d) if applicable, Seller has notified either the Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.
ARTICLE 5
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

5.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

“If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”

5.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement, (i) Purchaser may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit’s SC or as necessary for Supply Plans; (iii) each Party may disclose information to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser.

5.3 Dodd-Frank Act


5.4 Governing Law
For this Transaction, Section 13.1 of the WSPP Agreement is amended to change “FERC” to “FERC or the CPUC”, and Section 24 of the WSPP Agreement is amended to replace “Utah” with “California”.

AGREED AS OF THE EFFECTIVE DATE:

Silicon Valley Clean Energy Authority,
A California joint powers authority

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO

Alameda Municipal Power

By: Nico Procos
Name: Nico Procos
Title: General Manager

Approved As to Form

Assistant City Attorney has
APPENDIX A
DEFINED TERMS

“CAISO” means the California ISO.

“Capacity Attributes” means attributes of the Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“Environmental Costs” means (i) costs incurred in connection with acquiring and maintaining all applicable environmental permits and licenses for the Product, (ii) the Product’s compliance with all applicable environmental laws, rules, and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, (iii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iv) costs of permit maintenance fees and emission fees as applicable, (v) the costs of all emission reductions that have been authorized by a local air pollution control district or emissions trading credits or units pursuant to the California Health & Safety Code, market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, authorizations to emit sulfur dioxide and oxides of nitrogen by the Environmental Protection Agency, and any costs related to greenhouse gas emissions required by any applicable environmental laws, rules, regulations, or permits to operate, and (vi) costs associated with the disposal, clean-up, decontamination or remediation, on or off site, of hazardous substances.

“FCR” means the Flexible Capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Unit, any and all resource adequacy attributes of the Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.
“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Notification Deadline” is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“Product” means RAR, Local RAR and FCR, for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B and any Shown Unit.
“Unit EFC” means Unit Effective Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NOC” means Unit Net Qualifying Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.
**APPENDIX B**

**PRODUCT AND UNIT INFORMATION**

**Product:**

- ☒ RAR
- □ Local RAR
- □ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
- CAISO Zone: North System
- MCC Bucket: 4
- CPUC Local Area (if applicable): N/A
- Flexible Capacity Category (if applicable): N/A

**Delivery period:**

**Contract Quantity and Contract Price:**

RAR and Local RAR, as applicable

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Flexible Capacity, if applicable

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(Repeat for additional Units)

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]
APPENDIX C
NOTICE INFORMATION

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MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
PIONEER COMMUNITY ENERGY

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and Pioneer Community Energy, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 17, 2018 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation.

This Transaction is governed by the Western System Power Pool Agreement, effective as of June 21, 2018, as amended from time to time (the "WSPP Agreement"). The WSPP Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the WSPP Agreement or the Tariff (defined herein below).

ARTICLE 1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer from a Replacement Unit in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body of competent jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" has the meaning set forth in the Tariff.

1.4 "Availability Standards" shall mean the availability standards set forth in Section 40.9 of the Tariff.

1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator Corporation or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of Section 4 of the WSPP Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.2 hereof.

1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified for such Monthly Delivery Period in the "RA Capacity Price Table" set forth in Section 4.9.

1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in Table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means, to the extent still applicable, CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050 and subsequent decisions related to resource adequacy, as may be amended from time to time by the CPUC.
1.15 “Delivery Period” has the meaning specified in Section 4.1 hereof.

1.16 “Delivery Point” has the meaning specified in Section 4.2 hereof.

1.17 “Designated RA Capacity” shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product (including any Alternate Capacity) for such Showing Month, minus (i) any reductions to Contract Quantity made by Seller pursuant to Section 4.4 and for which Seller has not elected to provide Alternate Capacity; and (ii) any reductions resulting from an event other than a Non-Excusable Event.

1.18 “Flexible RA Attributes” means any and all flexible resource adequacy attributes, as may be identified at any time during the Delivery Period by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and LAR Attributes.

1.19 “Flexible RAR” means the flexible resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.

1.20 “Flexible RAR Showing” means the Flexible RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.

1.21 “Governmental Body” means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.22 “LAR” means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA of competent jurisdiction over the LSE. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

1.23 “LAR Attributes” means, with respect to a Unit, any and all local resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC, CAISO, LRA, or other Governmental Body of competent jurisdiction, associated with the physical location or point of electrical interconnection of such Unit within the CAISO Control Area, that can be counted toward LAR, exclusive of any RA Attributes and Flexible RA Attributes. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in payments made pursuant to this Transaction.

1.24 “LAR Showings” means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.

1.25 “Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

1.26 “LRA” means Local Regulatory Authority as defined in the Tariff.

1.27 “LSE” means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).
1.28 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.29 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.

1.30 "Net Qualifying Capacity" has the meaning set forth in the Tariff.

1.31 "Non-Excusable Event" means any event, other than a Planned Outage and those events described under the definition of "Service Schedule B Commitment Service" in the WSPP Agreement that excuse Seller's performance, that causes Seller to fail to perform its obligations under this Confirmation, including, without limitation, any such event resulting from (a) the negligence of the owner, operator or Scheduling Coordinator of a Unit, or (b) Seller's failure to comply, or failure to cause the owner, operator or Scheduling Coordinator of the Units to comply, with the terms of the Tariff with respect to the Units providing RA Attributes, Flexible RA Attributes or LAR Attributes, as applicable.

1.32 "Notification Deadline" has the meaning specified in Section 4.5 hereof.

1.33 "Outage" means any CAISO approved disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff.

1.34 "Planned Outage" means, subject to and as further described in the CPUC Decisions, a CAISO-approved, planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

1.35 "Product" has the meaning specified in Article 3 hereof.

1.36 "RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes and Flexible RA Attributes.

1.37 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR and, if applicable, LAR and Flexible RAR purposes for the Delivery Period, as determined by the CAISO or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RA Attributes, and if applicable, LAR Attributes and Flexible RA Attributes of the capacity provided by a Unit.

1.38 "RAR" means the resource adequacy requirements (other than Local RAR or Flexible RAR) established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.

1.39 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction.

1.40 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.

1.41 "Replacement Unit" has the meaning specified in Section 4.5.

1.42 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.43 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.44 "Seller" has the meaning specified in the introductory paragraph hereof.

1.45 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.
1.46 "Supply Plan" means the supply plan, or similar or successor filing, that a Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other applicable Governmental Body pursuant to Applicable Laws in order for the RA Attributes or LAR Attributes of such RA Capacity to count.

1.47 "Tariff" means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time. For purposes of Article 5, the Tariff refers to the tariff and protocol provisions of the CAISO as they exist on the Confirmation Effective Date.

1.48 "Transaction" for purposes of this Agreement means the Transaction that is evidenced by this Agreement.

1.49 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.

1.50 "Unit EFC" means the effective flexible capacity that is or will be set by the CAISO for the applicable Unit.

1.51 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. The Parties agree that if the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, that for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Net Qualifying Capacity.

1.52 "WSPP Agreement" has the meaning specified in the introductory paragraph hereof.

ARTICLE 2. UNIT INFORMATION

<table>
<thead>
<tr>
<th>Name</th>
<th>Sunrise Power Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Fellows, CA</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>SUNRIS_2_PL1X3</td>
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<tr>
<td>Unit SCID</td>
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<td>Unit NQC</td>
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<td>Unit EFC</td>
<td>461</td>
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<td>Resource Type</td>
<td>Natural Gas</td>
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<td>Resource Category (1, 2, 3 or 4)</td>
<td>4</td>
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<tr>
<td>Flexible RAR Category (1, 2 or 3)</td>
<td>1</td>
</tr>
<tr>
<td>Path 26 (North or South)</td>
<td>North</td>
</tr>
<tr>
<td>Local Capacity Area (if any, as of Confirmation Effective Date)</td>
<td>N/A</td>
</tr>
<tr>
<td>Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment</td>
<td>N/A</td>
</tr>
<tr>
<td>Run Hour Restrictions</td>
<td>None</td>
</tr>
</tbody>
</table>

ARTICLE 3. RESOURCE ADEQUACY CAPACITY PRODUCT

3.1 Resource Adequacy Capacity Product

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Agreement, the Designated RA Capacity in accordance with the product types selected in Section 3.2 (the "Product") and the Contract Quantity set forth in Section 4.3. The Product does not confer to Buyer any right to the electrical output from the Units. Rather, the Product confers the right to include the Designated RA Capacity in RAR Showings, LAR Showings,
Flexible RAR Showings, if applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction, and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell any RA Capacity from a Unit in excess of that Unit's Contract Quantity and any RA Attributes, LAR Attributes or Flexible RA Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

### 3.2 Product Type

- **Flexible RA Product**
  
  The Designated RA Capacity is a Flexible RA Product. For avoidance of doubt, the Flexible RA Product to be delivered by Seller to Buyer hereunder, shall include the following Product attributes:
  
  - [ ] FCR Attributes with LAR Attributes
  - [X] FCR Attributes with RAR Attributes

- **Generic RA Product**
  
  The Designated RA Capacity is a Generic RA Product. For avoidance of doubt, the Generic RA Product to be delivered by Seller to Buyer hereunder, shall include the following Product attributes:
  
  - [X] RAR Attributes
  - [ ] LAR Attributes

### 3.3 Delivery Obligation

- **Contingent Firm RA Product**
  
  Seller shall provide Buyer with Designated RA Capacity from the Units. If those Units are not available to provide the full amount of the Contract Quantity as a result of any Planned Outage of the Unit(s) and/or reduction in the Unit EFC or Unit NQC of such Unit, then, subject to Section 4.4, Seller shall have the option to notify Buyer in writing by the Notification Deadline that either (a) Seller will not provide the full Contract Quantity during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Buyer with the Contract Quantity as a result of a Non-Excusable Event and has failed to notify Buyer in writing by the Notification Deadline that it will not provide the full Contract Quantity during the period of such non-availability as provided in Section 4.4, then Seller shall be liable for damages and/or required to indemnify Buyer for any resulting penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof. Notwithstanding anything herein to the contrary, if Seller provides less than the full amount of the Contract Quantity (i) for any reason other than a Non-Excusable Event or (ii) in accordance with Section 4.4, Seller is not obligated to provide Buyer with Alternate Capacity or to indemnify Buyer for any resulting penalties or fines.

### ARTICLE 4. DELIVERY AND PAYMENT

#### 4.1 Delivery Period

The Delivery Period shall be: February 1, 2019, through October 31, 2019, inclusive.

#### 4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.
4.3 Contract Quantity. The Contract Quantity for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Contract Month</th>
<th>Total Generic RAR Contract Quantity (MWs)</th>
<th>Total Flexible RAR Contract Quantity (MWs)</th>
<th>Total RAR Contract Quantity (MWs)</th>
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</thead>
<tbody>
<tr>
<td>February</td>
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<td>March</td>
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<td>October</td>
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4.4 Adjustments to Contract Quantity

(a) Planned Outages: If Seller is unable to provide the applicable Contract Quantity for a portion of a Showing Month due to a Planned Outage of a Unit, then Seller shall have the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to either (a) reduce the Contract Quantity in accordance with the Planned Outage for such portion of the Showing Month; or (b) provide Alternate Capacity up to the Contract Quantity for the applicable portion of such Showing Month.

(b) Invoice Adjustment: In the event that the Contract Quantity is reduced due to a Planned Outage as set forth in Section 4.4(a) above, then the invoice for such month(s) shall be adjusted to reflect a daily pro rata amount for the duration of such reduction.

(c) Reductions in Unit NQC and/or Unit EFC: Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced by Seller if the Unit experiences a reduction in Unit NQC and/or Unit EFC as determined by the CAISO. If the Unit experiences such a reduction in Unit NQC and/or Unit EFC, then Seller has the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product; and/or (ii) Alternate Capacity up to the Contract Quantity.

4.5 Notification Deadline and Replacement Units

(a) The "Notification Deadline" in respect of a Showing Month shall be ten (10) Business Days before the earlier of the relevant deadlines for (a) the corresponding RAR Showings, Flexible RAR Showings and/or LAR Showings for such Showing Month, and (b) the CAISO Supply Plan filings applicable to that Showing Month.

(b) If Seller desires to provide the Contract Quantity of Product for any Showing Month from a generating unit other than the Unit (a "Replacement Unit"), then Seller may, at no additional cost to Buyer, provide Buyer with Product from one or more Replacement Units, up to the Contract Quantity, for the applicable Showing Month; provided that in each case, Seller shall notify Buyer in writing of such Replacement Units no later than the Notification Deadline. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for the remaining portion of that Showing Month.
(c) If Seller fails to provide Buyer the Contract Quantity of Product or Alternate Capacity for a given Showing Month during the Delivery Period, then (i) Buyer may, but shall not be required to, purchase Product from a third party; and (ii) Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if such failure is the result of (A) a reduction in the Contract Quantity for such Showing Month in accordance with Section 4.4, or (B) an event other than a Non-Excusable Event.

**4.6 Delivery of Product**

(a) Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month.

(b) Seller shall submit, or cause the Unit's Scheduling Coordinator to submit, by the Notification Deadline (i) Supply Plans to the CAISO, LRA, or other applicable Governmental Body identifying and confirming the Designated RA Capacity to be provided to Buyer for the applicable Showing Month, unless Buyer specifically requests in writing that Seller not do so (it being understood that any Designated RA Capacity subject to such a request from Buyer will be deemed to have been provided to Buyer for all purposes under this Confirmation); and (ii) written confirmation to Buyer that Buyer will be credited with the Designated RA Capacity for such Showing Month per the Unit’s Scheduling Coordinator Supply Plan.

**4.7 Damages for Failure to Provide Designated RA Capacity**

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month, and such failure is not excused under the terms of the Agreement, then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RA Attributes, and, if applicable, LAR Attributes, and Flexible RA Attributes as the Designated RA Capacity not provided by Seller. Provided, however, that if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having solely RA Attributes and no LAR Attributes or Flexible RA Attributes, and no such RA Capacity is available, then Buyer may replace such portion of the Designated RA Capacity with capacity having any applicable Flexible RA Attributes and/or LAR Attributes ("Replacement Capacity") by entering into purchase transactions with one or more third parties, including, without limitation, third parties who have purchased capacity from Buyer so long as such transactions are done at prevailing market prices. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, and (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a); minus (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any CAISO revenues or future amounts it may owe to Seller under this Confirmation pursuant to the WSPP Agreement.

**4.8 Indemnities for Failure to Deliver Contract Quantity**

Subject to any adjustments made pursuant to Section 4.4, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, to the extent not otherwise paid by Seller to Buyer under Section 4.7(b), resulting from any of the following:

(a) Seller's failure to provide any portion of the Designated RA Capacity due to a Non-Excusable Event;

(b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Sections 3.2, 4.4 and 4.5; or

(c) A Unit Scheduling Coordinator's failure to timely submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or
controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

Notwithstanding Section 9 of the WSPP Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month. Each Unit’s Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month.

<table>
<thead>
<tr>
<th>Contract Month</th>
<th>RAR Capacity Price ($/kW-month)</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td></td>
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<td>March</td>
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<td>September</td>
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<tr>
<td>October</td>
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</tr>
</tbody>
</table>

4.10 Allocation of Other Payments and Costs

Seller shall be entitled to receive and retain all revenues that Buyer is not expressly entitled to receive pursuant to this Agreement, including all revenues that Seller may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) revenue for ancillary services, (c) energy sales, (d) revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, Flexible RAR Showing, as may be applicable, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller’s account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. Any Non-Availability Charges are the responsibility of Seller, and for Seller’s account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (e) above). In accordance with Section 4.9 of this Confirmation, all such Buyer revenues received by Seller, or a Unit’s Scheduling Coordinator, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Seller does not remit to Buyer, and Seller shall pay such revenues received by it to Buyer if the Unit’s Scheduling Coordinator, owner, or operator fails to remit those revenues to Buyer. If Seller or the Unit’s Scheduling Coordinator, owner, or operator (as applicable) fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues against any future amounts it may owe to Seller under this Agreement.
Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for resale in such market, and retain and receive any and all related revenues.

ARTICLE 5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event other than a Non-Excusable Event, that results in a partial or full outage of that Unit, Seller shall either schedule or cause the Unit’s Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit’s Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit’s Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit’s Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit’s Scheduling Coordinator, owner, or operator for such noncompliance.

ARTICLE 6. GOVERNING LAW

Section 24 is deleted in its entirety and this Confirmation, including the provisions and requirements of the Tariff and the definition of the Product and its components, and any portion of the WSPP Agreement applicable to this Confirmation shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of laws rules thereof.

ARTICLE 7. OTHER BUYER AND SELLER COVENANTS

7.1 Further Assurances

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity for the sole benefit of Buyer’s applicable RAR, LAR and Flexible RAR. Such commercially reasonable actions shall include, without limitation:

(a) cooperating with and providing, and in the case of Seller causing each Unit’s Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable RAR, LAR, and Flexible RAR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CPUC, the CAISO, a LRA of competent jurisdiction, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction; and

(b) negotiating in good faith to make necessary amendments, if any, to this Confirmation, which are subject to agreement of such Parties, in each Party’s sole discretion, to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, so as to maintain the purpose and intent of the Transaction agreed to by the Parties on the Confirmation Effective Date. The above notwithstanding, the Parties are aware that the CPUC and CAISO are considering changes to RAR and/or LAR in CPUC Rulemaking 11-10-023 and potentially other proceedings;

Provided, however, that “commercially reasonable actions” under this Section 7.1 shall not require the Seller, or the owner or operator of any Unit to undertake any capital improvements, facility enhancements, or the construction of new facilities.
7.2 Seller Representations and Warranties

Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

(a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, the CAISO, the CPUC, a LRA of competent jurisdiction, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

(b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy such third party’s applicable RAR, LAR or Flexible RAR or analogous obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit’s owner or operator;

(c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR or Flexible RAR, or analogous obligations in any non-CAISO market;

(d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, in accordance with General Order 187 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

(f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR and Flexible RAR;

(g) If Seller is the owner of any Unit, the aggregation of all amounts of applicable LAR Attributes, RA Attributes and Flexible RA Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit’s RA Capacity;

(h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit’s Scheduling Coordinator is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR and Flexible RAR;

(i) Seller has notified the Scheduling Coordinator of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the Scheduling Coordinator is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the Scheduling Coordinator of each Unit that Seller is obligated to cause each Unit’s Scheduling Coordinator to provide to the Buyer, by the Notification Deadline, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

(k) Seller has notified each Unit’s Scheduling Coordinator that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such Scheduling Coordinator is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 8. CONFIDENTIALITY

In addition to the rights and obligations in the WSPP Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA of competent jurisdiction in order to support its applicable LAR, RAR or Flexible RAR Showings, if applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the Scheduling Coordinator of each Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans.
ARTICLE 9. BUYER’S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder; provided, however, that any such re-sale does not increase Seller’s obligations or liabilities hereunder.

ARTICLE 10. MARKET BASED RATE AUTHORITY

Upon Buyer’s written request, Seller shall, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer “ownership or control of generation capacity” from Seller to Buyer as the term “ownership or control of generation capacity” is used in 18 CFR Section 35.42. Seller shall not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

ARTICLE 11. COLLATERAL REQUIREMENTS

Notwithstanding any provision in the WSPP Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.

ARTICLE 12. JOINT POWERS AUTHORITY

Each Party hereby acknowledges and agrees that the other Party is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (California Government Code Sections 6500 et seq.) and is a public entity separate and distinct from its members. Each Party shall solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Agreement, and each Party agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of the other Party’s members, any cities or counties participating in Buyer’s community choice aggregation program, or any of Buyer’s retail customers in connection with the Transaction to which this Confirmation applies.

ARTICLE 13. COUNTERPARTS

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by facsimile or electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SILICON VALLEY CLEAN ENERGY AUTHORITY, A CALIFORNIA JOINT POWERS AUTHORITY

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO

PIONEER COMMUNITY ENERGY, A CALIFORNIA JOINT POWERS AUTHORITY

By: Jenine Windeshausen
Name: Jenine Windeshausen
Title: Executive Director
Confirmation for Bilateral Import Capability Transfer

This confirmation letter ("Confirmation") confirms the transaction (the "Transaction") between Sonoma Clean Power Authority ("Buyer") and Silicon Valley Clean Energy Authority ("Seller"), each individually a "Party" and together the "Parties", effective as of October 29, 2018 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Section 3 of this Confirmation. The Confirmation was entered into pursuant to the terms and conditions of the WSPP Agreement, to which both Seller and Buyer are members, in effect as of the Confirmation Effective Date and as may be amended from time to time (the "Master Agreement"). This Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

1. Definitions

1.1 "Bilateral Import Capability Transfer" is the transfer of Remaining Import Capability from one Market Participant to another, as described in the Tariff.

1.2 "Buyer" has the meaning specified in the introductory paragraph and is equivalent to "Purchaser" as defined in the Master Agreement.

1.3 "CAISO" means the California Independent System Operator Corporation, or any successor entity performing the same functions.

1.4 "Capacity Flat Price" means the price specified in the Capacity Flat Price Table in Section 4.1.

1.5 "Confirmation" has the meaning specified in the introductory paragraph.

1.6 "Confirmation Effective Date" has the meaning specified in the introductory paragraph.

1.7 "Contract Period" means the months defined in Section 3.4, inclusive.

1.8 "Contract Price" means, for any Contract Period, the Capacity Flat Price for such period.

1.9 "Contract Quantity" has the meaning set forth in Section 3.4.

1.10 "Contract Term" has the meaning set forth in Section 2.1.

1.11 "CPUC" means the California Public Utilities Commission.

1.12 "Credit Rating" means, with respect to any entity, (i) the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements), or (ii) if such entity does not have a rating for its unsecured, senior long-term debt obligations, then the rating assigned to such entity as an issuer rating by S&P and/or Moody’s. If the entity is rated by both S&P and Moody’s and such ratings are not equivalent, the lower of the two ratings shall
determine the Credit Rating. If the entity is rated by either S&P or Moody's, but not both, then the available rating shall determine the Credit Rating.

1.13 "Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

1.14 "Investment Grade Rating" means a Credit Rating of "BBB- or above" by S&P and "Baa3 or above" by Moody's if rated by both S&P and Moody's or "BBB- or above" by S&P or "Baa3 or above" by Moody's if rated by S&P or Moody's but not both.

1.15 "Master Agreement" has the meaning specified in the introductory paragraph.

1.16 "Moody's" means Moody's Investors Services, Inc. or its successor.

1.17 "Net Qualifying Capacity" has the meaning set forth in the Tariff.

1.18 "One-Time Payment" has the meaning specified in Section 4.1.

1.19 "Product" has the meaning specified in Section 3.1.

1.20 "S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.21 "Seller" has the meaning specified in the introductory paragraph.

1.22 "Tariff" means the tariff and protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," as amended or supplemented from time to time, of the CAISO.

1.23 "Transaction" has the meaning specified in the introductory paragraph.

2. Term

2.1 Contract Term

The "Contract Term" shall mean the period of time commencing upon the Confirmation Effective Date and continuing until the later of (a) the expiration of the Contract Period or (b) the date the Parties' obligations under the Agreement have been fulfilled.

2.2 Binding Nature

This Agreement shall be effective and binding as of the Confirmation Effective Date.
3. **Transaction**

3.1 **Product**

Seller shall transfer in the manner set forth in Section 3.3, to Buyer the Remaining Import Capability, as such term is defined by the Tariff (the "Product") in the Contract Quantity, for the Contract Period, and at the applicable Capacity Flat Price.

3.2 **Delivery Point**

<table>
<thead>
<tr>
<th>Name</th>
<th>Bilateral Import Capability Transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td>CAISO BG/MSL Name</td>
<td>MALIN500</td>
</tr>
</tbody>
</table>

3.3 **Performance**

Within five (2) Business Days of the Confirmation Effective Date, Seller shall transfer to Buyer the Product in the amount of the Contract Quantity by registering the transfer with the CAISO as a Bilateral Import Transfer Capability as such terms is defined by the Tariff, and completing any other action of documentation required by the CAISO to effect such transfer. Upon Seller registering transfer with CAISO, Buyer shall immediately confirm the transfer with CAISO by e-mail and CAISO shall indicate successful transfer to Buyer and Seller by e-mail within eleven (11) Business Days of the transfer request.

3.4 **Contract Quantity:**

For the Contract Period, Seller shall transfer the Product in the total amount ("Contract Quantity"), as follows:

**Contract Quantity Table**

<table>
<thead>
<tr>
<th>Month - Year</th>
<th>Quantity (MW)</th>
</tr>
</thead>
</table>

3.5 **Buyer's Re-Sale of Product**

- Buyer may re-sell all or a portion of the Product.
4. Payment

4.1 One-Time Payment

If Buyer does not maintain an Investment Grade Rating or has no Credit Rating, Buyer shall make a One Time Payment (defined below) in advance to Seller for the Product within two (2) Business Days following the Confirmation Effective Date and before Seller transfers the Product under Section 3.3. If Buyer maintains an Investment Grade Rating and Buyer has established credit with Seller equal to or above the One-Time Payment, then Buyer shall make a One-Time Payment to Seller for the Product within five (5) Business Days after the later of (a) Seller’s performance and CAISO e-mail indicating successful transfer, as described in Section 3.3 or (b) receipt of Seller’s invoice. This payment (“One-Time Payment”) is calculated as follows:

One-Time Payment = (A X B X C)

where:

A = Contract Price (in $/kW-month)
B = Contract Quantity (in MW) transferred by Seller
C = 1000kW/MW

The One-Time Payment shall be rounded to two decimal places. In no case shall the One-Time payment be less than zero.

CAPACITY FLAT PRICE TABLE

<table>
<thead>
<tr>
<th>Month - Year</th>
<th>Capacity Flat Price ($/kW-month)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. Confidentiality

Notwithstanding Section 30 of the Master Agreement, the Parties agree that Buyer and Seller may disclose this Agreement to the CPUC, CAISO and any Governmental Body, as required by Applicable Law; provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or SC to further disclose such information. Notwithstanding the foregoing, the Parties may disclose the terms of this Confirmation to the CAISO to effectuate Seller’s performance and the transfer of the Product and the CAISO may publicly disclose the transfer of the Product from Seller to Buyer as indicated in the Tariff promptly following Seller’s performance. In addition, in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to
the other party to such resale transaction all such information necessary to effect such resale transaction, other than the Contract Price.

BUYER
Sonoma Clean Power Authority

By: [Signature]
Name: Deb Emerson

SELLER
Silicon Valley Clean Energy Authority

By: [Signature] Girish Balachandran
Name: [Signature]

Title: Director of Power Services

Title: CEO

By: [Signature] Rebecca Simonson
Name: [Signature]

Title: Power Services Manager
MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
SONOMA CLEAN POWER AUTHORITY, A CALIFORNIA JOINT POWERS
AUTHORITY ("PARTY A")
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY, A CALIFORNIA JOINT
POWERS AUTHORITY ("PARTY B")

This confirmation letter ("Confirmation") confirms the Transaction between Party A and Party B, which becomes effective on the date fully executed by both Parties (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation.

This Transaction is governed by the Western System Power Pool Agreement, effective as of June 21, 2018, as amended from time to time (the "WSPP Agreement"). The WSPP Agreement and this Confirmation shall be collectively referred to herein as the "Agreement." Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the WSPP Agreement or the Tariff (defined herein below), as applicable. Section references herein are to this Confirmation unless otherwise noted.

ARTICLE 1
TRANSACTION TERMS

Buyer: Party A

Seller: Party B

Product: The Product, including the Capacity Attributes of the Unit(s), Alternate Unit(s) or Shown Unit(s), is as defined in Appendix B; provided that if Buyer is purchasing Local RAR, but a particular local area or subarea is not identified in Appendix B, then Seller may provide Local RAR from any local area or subarea in the Seller’s local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: [Redacted]

Contract Quantity and Price: The Contract Quantity and Price for each day of each Showing Month during the Delivery Period shall be set forth in Appendix B.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

Seller’s obligation to deliver the Contract Quantity of Product for each day included in the Delivery Period is firm and will not be excused for any reason.
2.2 **Seller To Identify Shown Unit**

(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information listed in Appendix C no later than fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month. The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC. Seller’s notice under this Section 2.2(a) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) calendar days of receipt of Seller’s notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days.

(b) Once the Shown Unit designated by Seller is approved or deemed approved in accordance with Section 2.2, then any such Shown Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

2.3 **Seller To Provide Alternate Capacity**

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is not more or less than the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics specified in Appendix B no later than fifteen (15) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller’s notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller’s notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within five (5) Business Days.

(c) Once the Buyer provides its approval of any proposed Alternate Unit designated by Seller in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

2.4 **Delivery of Product**

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:
(i) Seller shall, on a timely basis with respect to each applicable Showing Month, submit, or cause the Unit’s SC to submit, Supply Plans in accordance with the Tariff to identify and confirm the Product provided to Buyer for each day of such Showing Month that is included in the Delivery Period so that the total amount of Product identified and confirmed for each such day of such Showing Month equals the Contract Quantity for such day of such Showing Month.

(ii) Seller will be deemed to have delivered the Product on each day to the extent that Buyer receives credit from CAISO for such day for Product identified and confirmed in the Supply Plan submitted for the Unit.

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 8, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix C to be completed and included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix C, the Parties agree to communicate such changes to each other promptly.

2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller shall pay to Buyer at the time set forth in Article Six of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement:

for each applicable day during the Showing Month included in the Delivery Period, in which the Buyer’s Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price, or in the event that more than one Contract Price is specified for the same Showing Month, the weighted average of all applicable prices and Contract Quantities for that Showing Month, divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW/MW.

2.6 Indemnities for Failure to Deliver Contract Quantity

(a) Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or CAISO resulting from any of the following:

(i) Seller's failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer;
(ii) A Unit's SC's failure to timely or accurately submit Supply Plans that identify Buyer's right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

(b) With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines, and costs.

2.7 Buyer's Re-Sale of Product

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the CSP. If Buyer re-sells Resold Product, Seller agrees, and agrees to cause the Unit's SC, to follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit's SC, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer's rights under this Confirmation. If Buyer incurs any liability to any purchaser of such Resold Product due to the failure of Seller or the Unit's SC to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Resold Product, Buyer shall notify Seller in writing that such sale has occurred and such notice shall include the information described in Appendix D no later than two (2) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix D in accordance with the deadlines described in this Section 2.7(b).

ARTICLE 3
PAYMENT

3.1 Monthly Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a payment (a "Monthly Payment") to Seller, for the applicable Showing Month, as follows:

\[\text{Monthly Payment} = Q \times P \times CF\]

where:

\[Q = \text{The quantity of Product to be delivered by Seller to Buyer pursuant to and consistent with Section 2.4 for the Showing Month}\]
\[ P = \text{The Contract Price for the Showing Month, expressed in dollars per kW-month} \]
\[ CF = \text{The conversion factor equal to 1,000 kW per MW} \]

The Monthly Payment calculation shall be rounded to two decimal places. Payment shall be paid by Buyer and received by Seller no later than sixty (60) calendar days prior to the applicable Showing Month. If the Confirmation Effective Date is entered into within sixty (60) calendar days of the applicable Showing Month, the Monthly Payment shall be made by Buyer and received by Seller within five (5) Business days of the relevant Confirmation effective date.

### 3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a purchaser of Resold Product fails to remit those revenues to Seller. If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer pursuant to Article Six of the Master Agreement. Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys’ fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit’s SC to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.
ARTICLE 4  
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit’s SC to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit’s SC, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit’s SC, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the Unit’s SC (unless Seller is the SC), owner, or operator for such noncompliance.

ARTICLE 5  
OTHER BUYER AND SELLER COVENANTS

5.1 Seller’s and Buyer’s Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall agree upon reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit’s SC, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the SC of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer.
(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c) is true and correct; and

(ii) Seller shall not, and shall cause the Unit’s SC to not, offer any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Quantity as CPM Capacity, then Seller shall, and shall cause the Unit’s SC to promptly (and in any event within one (1) Business Day of the time Seller receives notification from CAISO) notify Buyer if CAISO designates any portion of the Contract Quantity for any day during the Delivery Period as CPM Capacity and, if CAISO makes such a designation, shall, and shall cause the Unit’s SC to not accept any such designation by CAISO unless and until Buyer has agreed to accept such designation.

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

ARTICLE 6
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties may disclose all terms and conditions of this Transaction to any Governmental Body, the CPUC, CAISO and the Procurement Review Group, and Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the SC of the Unit in order for such SC to timely submit accurate Supply Plans. Each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or SC to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

ARTICLE 7
HOLDBACK CAPACITY

No later than five (5) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit’s SC not to list, in the Unit’s Supply Plan a portion or all of the Contract Quantity for any portion of such Showing Month included in the Delivery Period (“Hold-Back Capacity”). The amount of Contract Quantity that is the subject of Buyer’s request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant
to Section 2.5 or 2.6. Seller shall, or shall cause the Unit’s SC to, comply with Buyer’s request under this Article 7.

**ARTICLE 8**
**COLLATERAL REQUIREMENTS**

**8.1 Buyer Collateral Requirements**

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Buyer shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Seller a Fixed Independent Amount as long as Buyer or its Guarantor, if any, does not maintain Credit Ratings of at least BBB-from S&P and Baa3 from Moody’s. The “Fixed Independent Amount” shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period.

**8.2 Seller Collateral Requirements**

Seller does not have any collateral requirements under this Confirmation.

**8.3 Current Mark-to-Market Value**

For the purposes of calculating Termination Payment pursuant to Section 22.3 of the Master Agreement, the mark-to-market value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the mark-to-market value for this Transaction.

**ARTICLE 9**
**ADDITIONAL MASTER AGREEMENT AMENDMENTS**

**9.1 Liquidation Calculation Options**

The Parties shall determine the Termination Payment for this Transaction in accordance with Section 22.3 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 22.3 of the Master Agreement:

“If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller’s Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer’s estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and
obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”

9.2 Governing Law

Section 24 is deleted in its entirety and this Confirmation, including the provisions and requirements of the Tariff and the definition of the Product and its components, and any portion of the WSPP Agreement applicable to this Confirmation shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of laws rules thereof.

9.3 Joint Powers Authority

Each Party hereby acknowledges and agrees that the other Party is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (California Government Code Sections 6500 et seq.) and is a public entity separate and distinct from its members. Each Party shall solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Agreement, and each Party agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of the other Party’s members, any cities or counties participating in Buyer’s community choice aggregation program, or any of Buyer’s retail customers in connection with the Transaction to which this Confirmation applies.

9.4 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by facsimile or electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature.

9.5 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may only be entered into by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority.

SONOMA CLEAN POWER AUTHORITY, a California joint powers authority.

By: 
Name: Girish Balachandran
Title: CEO
Date: 10/30/2018 7:49:36 PM PDT

By: 
Name: Deb Emerson
Title: Director of Power Services
Date: 10/30/2018

By: 
Name: Rebecca Simonson
Title: Power Services Manager
Date: 10/30/2018
APPENDIX A

DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

"Advice Letter" means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility’s tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

"Alternate Unit" means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

"CAISO" means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

"Capacity Attributes" means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

"Capacity Procurement Mechanism" has the meaning set forth in the Tariff.

"Competitive Solicitation Process" or "CSP" has the meaning set forth in the Tariff.

"Compliance Obligations" means the RAR and Local RAR, and if applicable FCR.

"Compliance Showings" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings).
showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

“Confirmation” is defined in the introductory paragraph of this Confirmation.

“Confirmation Effective Date” is defined in the introductory paragraph of this Confirmation.

“Contract Price” means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

“Contract Quantity” means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

“CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

“CPUC Filing Guide” means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the CPUC’s resource adequacy program.

“Delivery Period” is defined in Article 1.

“Emission Reduction Credits” or “ERC(s)” means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

“Environmental Costs” means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product’s compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.
“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

“FCR Attributes” means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE’s FCR.

“FCR Contract Quantity” means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include “market participants” as defined in the CAISO’s Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

“Hold-Back Capacity” is defined in Article 7.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

“LSE” means “Load Serving Entity” as such term is defined in the Tariff.

“Marketable Emission Trading Credits” means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

“Master Agreement” is defined in the introductory paragraph of this Confirmation.

“Monthly Payment” is defined in Section 3.1.

“MW” means megawatt.

“Procurement Review Group” has the meaning set forth in CPUC Decision D. 02-08-071.

“Product” is defined in Article 1.

“RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.
“Resold Product” is defined in Section 2.7.

“Resource Adequacy Capacity” has the meaning set forth in the Tariff.

“RMR Contract” means a Reliability Must-Run Contract as forth in the Tariff.

“Showing Month” means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

“Shown Unit” means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

“Supply Plan” has the meaning set forth in the Tariff.

“System RAR” means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

“Tariff” means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B and any Alternate Unit or Shown Unit.

“Unit EFC” means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

“Unit NQC” means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.
APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

**Product Type and Delivery Obligation:**

<table>
<thead>
<tr>
<th>Product Type:</th>
<th>Flexible RA Product</th>
<th>FCR Attributes with LAR Attributes</th>
<th>FCR Attributes with RAR Attributes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☑ Generic RA Product</td>
<td>☑ RAR Attributes</td>
<td>☑ LAR Attributes</td>
</tr>
</tbody>
</table>

| Delivery Obligation: | ☑ Contingent Firm RA Product |

**Contract Quantity and Contract Price:**

<table>
<thead>
<tr>
<th>Contract Month and Year</th>
<th>Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## APPENDIX C

### UNIT INFORMATION

<table>
<thead>
<tr>
<th>Name</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>TBD</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>TBD</td>
</tr>
<tr>
<td>Unit SCID</td>
<td>TBD</td>
</tr>
<tr>
<td>Unit NQC</td>
<td>TBD</td>
</tr>
<tr>
<td>Unit EFC</td>
<td>TBD</td>
</tr>
<tr>
<td>Resource Type</td>
<td>TBD</td>
</tr>
<tr>
<td>Resource Category (1, 2, 3 or 4)</td>
<td>TBD</td>
</tr>
<tr>
<td>Flexible RAR Category (1, 2 or 3)</td>
<td>TBD</td>
</tr>
<tr>
<td>Path 26 (North or South)</td>
<td>TBD</td>
</tr>
<tr>
<td>Local Capacity Area (if any, as of Confirmation Effective Date)</td>
<td>TBD</td>
</tr>
<tr>
<td>Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment</td>
<td>TBD</td>
</tr>
<tr>
<td>Run Hour Restrictions</td>
<td>TBD</td>
</tr>
</tbody>
</table>
## APPENDIX D
### SUBSEQUENT SALE INFORMATION

| Contract Key ID: | 
| Benefitting LSE SCID: | 
| Generic Volume (in MW): | 
| Local Volume (in MW): | 
| Flexible Volume (in MW): | 
| Term: |
APPENDIX E
NOTICE INFORMATION

Name: [Buyer's Name], a [include place of formation and business type] (["Buyer"] or ["Party A"])

All Notices:

Delivery Address:
Street: 333 W, El Camino Real, Suite 320
City: Sunnyvale State: CA Zip: 94087

Mail Address: (if different from above)
Attn: Monica Padilla (email) monica.padilla@svcleanenergy.org
Phone: 408-721-5301

Invoices and Payments:
Attn: Silicon Valley Clean Energy Authority (email) svpowerssettlements@svcleanenergy.org
Phone: 408-721-5301

Scheduling:
Attn: Z Global (email) eric@zglobal.biz
Phone: 916-221-4327

Wire Transfer:
BNK: River City Bank
ACCT Title:
ACCT:
ABA:
DUNS:
Federal Tax ID Number:

Credit and Collections:
Attn: Silicon Valley Clean Energy Authority Finance (email)
Phone: 408-721-5301

Contract Management
Attn: Monica Padilla (email) monica.padilla@svcleanenergy.org
Phone: 408-721-5301

With additional Notices of an Event of Default to Contract Manager:
Attn: (email)
Phone:

Supply Plan Contact:
Supply Plan Contact: brian@pacificcea.com monica.padilla@svcleanenergy.org

Appendix E - 1
APPENDIX F
FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [Insert issue date]

Beneficiary: [Insert Beneficiary name]  
[Insert Beneficiary address]  
Applicant: [Insert Applicant name]  
[Insert Applicant address]

Letter of Credit Amount: [Insert amount]

Expiry Date: [Insert date that is one (1) year from offer date]

Ladies and Gentlemen:

By order of [Insert name of Applicant] ("Applicant"), we hereby issue in favor of [Insert name of Beneficiary] (the "Beneficiary") our irrevocable standby letter of credit No. [Insert number of letter of credit] ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ [Insert amount in figures followed by (amount in words)] ("Letter of Credit Amount"). This Letter of Credit is available with [Insert name of issuing or paying bank, and the city and state in which it is located] by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on [Insert expiry date] (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents:

1. Beneficiary’s signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. [Insert number] and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

   A. "The amount of the accompanying sight draft under Letter of Credit [Insert number of letter of credit] (the "Draft Amount") is owed to [Insert name of Beneficiary] by [Insert name of Beneficiary’s counterparty under the RA Confirmation] ("Counterparty") under Confirmation for Resource Adequacy Capacity Product for CAISO Resources dated [insert date of the Confirmation] between [Insert name of Beneficiary] and Counterparty, which entitles [Insert name of Beneficiary] to draw the Draft Amount under Letter of Credit No. [Insert number];" or
B. “Letter of Credit No. [Insert number] will expire in thirty (30) days or less and [Insert name of Beneficiary’s counterparty under the RA Confirmation] has not provided replacement security acceptable to [Insert name of Beneficiary].”

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable;
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount; and
5. The Expiry Date of this Letter of Credit shall be automatically extended without amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to renew this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at [Insert bank's address for drawings].

All demands for payment shall be made either by presentation of originals or copies of documents, or by facsimile transmission of documents to [Insert fax number], Attention: [Insert name of bank’s receiving department]. You may contact us at [Insert phone number] to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a facsimile presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the third (3rd) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce (ICC) Publication No. 600 (the “UCP 600”); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at [Insert number and any other necessary details].

Appendix F - 2
Very truly yours,

[INSERT NAME OF ISSUING BANK]

By: ________________________________
Name: [Print or type name]
Title: [Print or type title]
EXHIBIT A
SIGHT DRAFT

TO:
[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: $ _______________ DATE: _______________

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF SILICON VALLEY CLEAN ENERGY AUTHORITY THE AMOUNT OF U.S. $ ______ (_________ U.S. DOLLARS)

DRAWN UNDER [INSERT NAME OF ISSUING BANK] LETTER OF CREDIT NO. [XXXXXX].

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER:

By: ________________________________
Name: [Print or type name]
Title: [Print or type title]
IMPORT CAPABILITY TRANSFER
CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

This confirmation letter including all appendices hereto (“Confirmation”) confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority (“Seller”) and Clean Power Alliance of Southern California, a California joint powers authority (“Buyer”), each individually a “Party” and together the “Parties”, dated as of October 26, 2018 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation, in the amounts described in this Confirmation. This Confirmation is governed by the terms and conditions of the WSPP Agreement effective as of June 21, 2018, along with any schedules and amendments thereto (collectively, the “Master Agreement”). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.” If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

ARTICLE 1
TRANSACTION

1.1 Product

Seller shall sell and transfer to Buyer, and Buyer shall purchase and receive from Seller, the Remaining Import Capability (the “Product”), at the Delivery Point in the amount of the Contract Quantity at the Contract Price for the Delivery Period.

1.2 Delivery Period and Term

(a) Delivery Period. The Delivery Period is inclusive, unless terminated earlier in accordance with the terms of this Agreement.

(b) Term. The Term of this Transaction shall commence upon the Confirmation Effective Date and shall continue until the later of (i) the expiration of the Delivery Period or (ii) the date that the Parties’ obligations under this Confirmation have been satisfied. This Confirmation shall be effective and binding as of the Confirmation Effective Date.

1.3 Contract Quantity

For the Delivery Period, Seller shall transfer the Product to Buyer in the amount as follows (the “Contract Quantity”).
1.4 **Contract Price**

The Contract Price means, for any Contract Month, the price specified in the Contract Price table as set forth below.

**CONTRACT PRICE TABLE**

<table>
<thead>
<tr>
<th>Contract Year</th>
<th>Contract Month</th>
<th>Contract Price ($/kW-month)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1.5 **Delivery Point**

The Delivery Point shall be Malin (COB).

**ARTICLE 2**

**DELIVERY OBLIGATIONS**

2.1 **Delivery**

Within three (3) Business Days from the Confirmation Effective Date, Seller shall transfer the Product to Buyer by registering the transfer with CAISO as a Bilateral Import Transfer Capability in the amount of the Contract Quantity for the applicable Contract Month, and completing any other action or documentation required by the CAISO to effect such transfer (the “Registration”).

2.2 **Buyer’s Re-Sale of Product**

Buyer may re-sell all or a portion of the Product acquired under this Confirmation.

**ARTICLE 3**

**PAYMENT**

3.1 **One-Time Payment**

Buyer shall make a One-Time Payment to Seller for the Product on the twenty-third (23rd) day of the month occurring at least five (5) Business Days after receipt of Seller’s invoice.

The One-Time Payment is calculated as follows:

\[
\text{One-Time Payment} = \sum_{i=1}^{n}(A_i \times B \times 1,000)
\]

where:

\(A_i\), \(B\), and \(1,000\) are specific to the calculation.
A = Contract Price (in $/kW-month) for Contract Month \( i \)

B = Contract Quantity \( i \) (in MW) transferred by Seller for Contract Month \( i \)

\( i \) = Each Contract Month

\( n \) = number of Contract Months

The One-Time Payment calculation shall be rounded to two decimal places.

### 3.2 Offset Rights

Either Party may offset any amounts owing to it for revenues, penalties, fines, costs reimbursement, or other payments pursuant to Section 9 of the Master Agreement against any future amounts it may owe to the other Party.

### ARTICLE 4

**CONFIDENTIALITY**

Notwithstanding Section 30 of the Master Agreement, the Parties agree that:

(a) This Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.);

(b) both Parties may disclose the terms of this Confirmation to the CAISO to effectuate Seller's performance and the transfer of the Product and the Parties acknowledge that the CAISO may publicly disclose the transfer of the Product from Seller to Buyer in accordance with the CAISO Tariff promptly following Seller’s performance; and

(c) in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction, other than the Contract Price;

provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Authority or the CAISO to further disclose such information. In addition, in the event Buyer resells all or any portion of the Contract Quantity to another party, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

### ARTICLE 5

**COLLATERAL REQUIREMENTS**

Notwithstanding any provision in the WSPP Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.
ARTICLE 6
GENERAL PROVISIONS

6.1 Governing Law

This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

6.2 Joint Powers Authority

Each Party hereby acknowledges and agrees that the other Party is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (California Government Code Sections 6500 et seq.) and is a public entity separate and distinct from its members. Each Party shall solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Agreement, and each Party agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of the other Party’s members, any cities or counties participating in Buyer’s community choice aggregation program, or any of Buyer’s retail customers in connection with the Transaction to which this Confirmation applies.

6.3 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

6.4 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.
Acknowledged and agreed to as of the Confirmation Effective Date.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: ____________________________
Name: __________________________
Title: __________________________

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: ____________________________
Name: __________________________
Title: __________________________
APPENDIX A
DEFINED TERMS

“Agreement” has the meaning specified in the introductory paragraph of this Confirmation.

“Applicable Laws” means any constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgements, decrees, injunctions, writs and orders of any Governmental Authority having jurisdiction over one or both Parties, this Transaction, or the terms of this Agreement.

“Bilateral Import Capability Transfer” is the transfer of Remaining Import Capability from one Market Participant (as defined in the CAISO Tariff) to another, as described in the CAISO Tariff.

“Branch Group” means the branch group name used by the CAISO to represent the location of an Intertie with a Maximum Import Capability.

“Buyer” has the meaning specified in the introductory paragraph of this Confirmation.

“CAISO” means the California Independent System Operator Corporation, or any successor entity performing the same functions.

“CAISO Tariff” means the California Independent System Operator Corporation Tariff, Business Practice Manuals (BPMs), Operating Agreements, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by FERC, if applicable.

“CEC” means the California Energy Commission.

“Confirmation” has the meaning specified in the introductory paragraph of this Confirmation.

“Confirmation Effective Date” has the meaning specified in the introductory paragraph of this Confirmation.

“Contract Month” means the month during the Delivery Period as set forth in the Contract Quantity Table specified Section 1.03.

“Contract Price” has the meaning specified in Section 1.04.

“Contract Quantity” has the meaning specified in Section 1.03.

“CPUC” means the California Public Utilities Commission.

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody’s. If no rating is assigned to such entity’s unsecured, senior long-term debt or deposit obligations by any Ratings Agency, then “Credit Rating” means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody’s. If an entity is rated by more than one Ratings Agency and the ratings are at different levels, then “Credit Rating” means the lowest such rating.
“**Delivery Period**” has the meaning specified in Section 1.02(a).

“**Delivery Point**” has the meaning specified in Section 1.05.

“**Good Utility Practice**” has the meaning set forth in the CAISO Tariff.

“**Governmental Authority**” means any: (a) federal, state, local, municipal or other government; (b) governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (c) court or governmental tribunal.

“**Independent Evaluator**” has the meaning set forth in CPUC Decision 04-12-048.

“**Intertie**” has the meaning set forth in the CAISO Tariff.

“**Investment Grade Rating**” means a Credit Rating of “BBB- or above” by S&P and “Baa3 or above” by Moody’s if rated by both S&P and Moody’s or “BBB- or above” by S&P or “Baa3 or above” by Moody’s if rated by S&P or Moody’s but not both.

“**Master Agreement**” has the meaning specified in the introductory paragraph of this Confirmation.

“**Maximum Import Capability**” has the meaning set forth in the CAISO Tariff.

“**Moody’s**” means Moody’s Investor Services, Inc.

“**MW**” means megawatt (or 1,000 kilowatts) of alternating current electric energy generating capacity.

“**One-Time Payment**” has the meaning specified in Section 3.01.

“**Pre-Pay Buyer**” means a Buyer who fails to maintain an Investment Grade Rating or has no Credit Rating, or whose guarantor fails to maintain an Investment Grade Rating or has no Credit Rating.

“**Product**” has the meaning specified in Section 1.01.

“**Ratings Agency**” means any of S&P and Moody’s (collectively the “**Ratings Agencies**”).

“**Registration**” has the meaning specified in Section 2.01.

“**Remaining Import Capability**” has the meaning set forth in the CAISO Tariff.

“**Scheduling Point**” has the meaning set forth in the CAISO Tariff.

“**SC**” has the meaning set forth in the CAISO Tariff.

“**Seller**” has the meaning specified in the introductory paragraph of this Confirmation.

“**S&P**” means Standard & Poor’s Financial Services LLC.

“**Tariff**” means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time.
“*Term*” has the meaning specified in Section 1.02(b).

“*WSPP Agreement*” is defined in the introductory paragraph hereof.
IMPORT CAPABILITY TRANSFER
CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

This confirmation letter including all appendices hereto (“Confirmation”) confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority (“Seller”) and Clean Power Alliance of Southern California, a California joint powers authority (“Buyer”), each individually a “Party” and together the “Parties”, dated as of October 26, 2018 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation, in the amounts described in this Confirmation. This Confirmation is governed by the terms and conditions of the WSPP Agreement effective as of June 21, 2018, along with any schedules and amendments thereto (collectively, the “Master Agreement”). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.” If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

ARTICLE 1
TRANSACTION

1.1 Product

Seller shall sell and transfer to Buyer, and Buyer shall purchase and receive from Seller, the Remaining Import Capability (the “Product”), at the Delivery Point in the amount of the Contract Quantity at the Contract Price for the Delivery Period.

1.2 Delivery Period and Term

(a) Delivery Period. The Delivery Period is [redacted] through [redacted] inclusive, unless terminated earlier in accordance with the terms of this Agreement.

(b) Term. The Term of this Transaction shall commence upon the Confirmation Effective Date and shall continue until the later of (i) the expiration of the Delivery Period or (ii) the date that the Parties’ obligations under this Confirmation have been satisfied. This Confirmation shall be effective and binding as of the Confirmation Effective Date.

1.3 Contract Quantity

For the Delivery Period, Seller shall transfer the Product to Buyer in the amount as follows (the “Contract Quantity”).
1.4 **Contract Price**

The Contract Price means, for any Contract Month, the price specified in the Contract Price table as set forth below.

**CONTRACT PRICE TABLE**

<table>
<thead>
<tr>
<th>Contract Year</th>
<th>Contract Month</th>
<th>Contract Price ($/kW-month)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1.5 **Delivery Point**

The Delivery Point shall be NOB.

**ARTICLE 2**

**DELIVERY OBLIGATIONS**

2.1 **Delivery**

Within three (3) Business Days from the Confirmation Effective Date, Seller shall transfer the Product to Buyer by registering the transfer with CAISO as a Bilateral Import Transfer Capability in the amount of the Contract Quantity for the applicable Contract Month, and completing any other action or documentation required by the CAISO to effect such transfer (the “Registration”).

2.2 **Buyer's Re-Sale of Product**

Buyer may re-sell all or a portion of the Product acquired under this Confirmation.
ARTICLE 3
PAYMENT

3.1 One-Time Payment

Buyer shall make a One-Time Payment to Seller for the Product on the twenty-third (23rd) day of the month occurring at least five (5) Business Days after receipt of Seller’s invoice.

The One-Time Payment is calculated as follows:

\[
\text{One-Time Payment} = \sum_{i}^{n} (A \times B \times 1,000)
\]

where:

\[
A = \text{Contract Price (in $/kW-month) for Contract Month } i
\]

\[
B = \text{Contract Quantity } i \text{ (in MW) transferred by Seller for Contract Month } i
\]

\[
i = \text{Each Contract Month}
\]

\[
n = \text{number of Contract Months}
\]

The One-Time Payment calculation shall be rounded to two decimal places.

3.2 Offset Rights

Either Party may offset any amounts owing to it for revenues, penalties, fines, costs reimbursement, or other payments pursuant to Section 9 of the Master Agreement against any future amounts it may owe to the other Party.

ARTICLE 4
CONFIDENTIALITY

Notwithstanding Section 30 of the Master Agreement, the Parties agree that:

(a) This Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.);

(b) both Parties may disclose the terms of this Confirmation to the CAISO to effectuate Seller’s performance and the transfer of the Product and the Parties acknowledge that the CAISO may publicly disclose the transfer of the Product from Seller to Buyer in accordance with the CAISO Tariff promptly following Seller's performance; and

(c) in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction, other than the Contract Price;

provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the
ability of any such applicable Governmental Authority or the CAISO to further disclose such
information. In addition, in the event Buyer resells all or any portion of the Contract Quantity to another party, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

ARTICLE 5
COLLATERAL REQUIREMENTS

Notwithstanding any provision in the WSPP Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.

ARTICLE 6
GENERAL PROVISIONS

6.1 Governing Law

This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

6.2 Joint Powers Authority

Each Party hereby acknowledges and agrees that the other Party is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (California Government Code Sections 6500 et seq.) and is a public entity separate and distinct from its members. Each Party shall solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Agreement, and each Party agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of the other Party’s members, any cities or counties participating in Buyer’s community choice aggregation program, or any of Buyer’s retail customers in connection with the Transaction to which this Confirmation applies.

6.3 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

6.4 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.
Acknowledged and agreed to as of the Confirmation Effective Date.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: [Signature]
Name: Ted Bardacke
Title: Executive Director
APPENDIX A
DEFINED TERMS

“Agreement” has the meaning specified in the introductory paragraph of this Confirmation.

“Applicable Laws” means any constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgements, decrees, injunctions, writs and orders of any Governmental Authority having jurisdiction over one or both Parties, this Transaction, or the terms of this Agreement.

“Bilateral Import Capability Transfer” is the transfer of Remaining Import Capability from one Market Participant (as defined in the CAISO Tariff) to another, as described in the CAISO Tariff.

“Branch Group” means the branch group name used by the CAISO to represent the location of an Intertie with a Maximum Import Capability.

“Buyer” has the meaning specified in the introductory paragraph of this Confirmation.

“CAISO” means the California Independent System Operator Corporation, or any successor entity performing the same functions.

“CAISO Tariff” means the California Independent System Operator Corporation Tariff, Business Practice Manuals (BPMs), Operating Agreements, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by FERC, if applicable.

“CEC” means the California Energy Commission.

“Confirmation” has the meaning specified in the introductory paragraph of this Confirmation.

“Confirmation Effective Date” has the meaning specified in the introductory paragraph of this Confirmation.

“Contract Month” means the month during the Delivery Period as set forth in the Contract Quantity Table specified Section 1.03.

“Contract Price” has the meaning specified in Section 1.04.

“Contract Quantity” has the meaning specified in Section 1.03.

“CPUC” means the California Public Utilities Commission.

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody’s. If no rating is assigned to such entity’s unsecured, senior long-term debt or deposit obligations by any Ratings Agency, then “Credit Rating” means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody’s. If an entity is rated by more than one Ratings Agency and the ratings are at different levels, then “Credit Rating” means the lowest such rating.

Appendix A - 1
“Delivery Period” has the meaning specified in Section 1.02(a).

“Delivery Point” has the meaning specified in Section 1.05.

“Good Utility Practice” has the meaning set forth in the CAISO Tariff.

“Governmental Authority” means any: (a) federal, state, local, municipal or other government; (b) governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (c) court or governmental tribunal.

“Independent Evaluator” has the meaning set forth in CPUC Decision 04-12-048.

“Intertie” has the meaning set forth in the CAISO Tariff.

“Investment Grade Rating” means a Credit Rating of “BBB- or above” by S&P and “Baa3 or above” by Moody’s if rated by both S&P and Moody’s or “BBB- or above” by S&P or “Baa3 or above” by Moody’s if rated by S&P or Moody’s but not both.

“Master Agreement” has the meaning specified in the introductory paragraph of this Confirmation.

“Maximum Import Capability” has the meaning set forth in the CAISO Tariff.

“Moody’s” means Moody’s Investor Services, Inc.

“MW” means megawatt (or 1,000 kilowatts) of alternating current electric energy generating capacity.

“One-Time Payment” has the meaning specified in Section 3.01.

“Pre-Pay Buyer” means a Buyer who fails to maintain an Investment Grade Rating or has no Credit Rating, or whose guarantor fails to maintain an Investment Grade Rating or has no Credit Rating.

“Product” has the meaning specified in Section 1.01.

“Ratings Agency” means any of S&P and Moody’s (collectively the “Ratings Agencies”).

“Registration” has the meaning specified in Section 2.01.

“Remaining Import Capability” has the meaning set forth in the CAISO Tariff.

“Scheduling Point” has the meaning set forth in the CAISO Tariff.

“SC” has the meaning set forth in the CAISO Tariff.

“Seller” has the meaning specified in the introductory paragraph of this Confirmation.

“S&P” means Standard & Poor’s Financial Services LLC.

“Tariff” means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time.
“Term” has the meaning specified in Section 1.02(b).

“WSPP Agreement” is defined in the introductory paragraph hereof.
REVISED
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware company ("Buyer") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller"), each individually a "Party" and together the "Parties", dated as of October 12, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" shall mean as set forth in the Tariff.

1.4 "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

1.5 "Buyer" has the meaning specified in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" has the meaning specified in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.
1.11 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.

1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWS) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.

1.14 "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the CPUC’s resource adequacy program.

1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.

1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.

1.17 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.

1.18 "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE’s FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.

1.19 "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE’s FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.20 "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.

1.21 "Firm RA Product" has the meaning specified in the Section 3.3 hereof.

1.22 "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.23 "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.

1.24 "GADS" means the Generating Availability Data System or its successor.

1.25 "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.
1.26 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.27 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.

1.28 "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.

1.29 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.

1.30 "LRA" has the meaning set forth in the Tariff.

1.31 "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).

1.32 "Master Agreement" has the meaning specified in the introductory paragraph hereof.

1.33 "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.34 "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.

1.35 "NERC" means the North American Electric Reliability Council, or its successor.

1.36 "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.

1.37 "Net Qualifying Capacity" has the meaning set forth in the Tariff.

1.38 "Non-Availability Charges" has the meaning set forth in the Tariff.

1.39 "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).

1.40 "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved
planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

1.41 "Product" has the meaning specified in Article 3 hereof.

1.42 "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit's RA Availability shall not exceed 1.00.

1.43 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.

1.44 "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.

1.45 "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.46 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.

1.47 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.

1.48 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.

1.49 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.

1.50 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.51 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.52 "Seller" has the meaning specified in the introductory paragraph hereof.

1.53 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.54 "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.

1.55 "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.
1.56 "Transaction" has the meaning specified in the introductory paragraph hereof.

1.57 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.

1.58 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.

1.59 "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO's setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO's methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2. UNIT INFORMATION

Name: Delta Energy Center Aggregate
Location: Pittsburg, CA
CAISO Resource ID: DELTA_2_PL1X4
Resource Type: I_Phys_Res
Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV substation
Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None
Run Hour Restrictions: None

LAR Attributes (Yes/No): No
If yes: Local Capacity Area (as of Confirmation Effective Date): N/A

Product Type (Flexible/Generic): Generic
If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month
If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): N/A

3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the “Product”). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller’s commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit’s Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be [Redacted].

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Month</th>
<th>Contract Quantity (MWs)</th>
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4.4 Adjustments to Contract Quantity

(a) Planned Outages: Seller’s obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller’s option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer’s RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

(b) Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in
Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

(c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller's potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

4.5 Alternate Capacity and Replacement Units

(a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternate Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month’s applicable deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:
Seller shall, on a timely basis, submit, or cause the Unit’s SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller’s failure to provide any portion of the Designated RA Capacity;
Item 2
Attachment 4

(b) Seller’s failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;

(c) A Unit Scheduling Coordinator’s failure to timely submit Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder; or

(d) A Unit Scheduling Coordinator’s failure to submit accurate Supply Plans that identify Buyer’s right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit’s Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).

<table>
<thead>
<tr>
<th>Contract Year/Month</th>
<th>RA Capacity Price ($/kW-month)</th>
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4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller’s account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller’s account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit’s SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit’s SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay
such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit’s Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit’s Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit’s Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit’s Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit’s Scheduling Coordinator, owner, or operator for such noncompliance.

6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

(a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer’s right to the use of the Contract Quantity for the sole benefit of Buyer’s RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than $10,000 in total under the Agreement in support of such actions) shall include, without limitation:

(b) Cooperating with and providing, and in the case of Seller causing each Unit’s Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and

(c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.
7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

(a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

(b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit’s owner or operator;

(c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;

(d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

(f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;

(g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit’s RA Capacity;

(h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit’s SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;

(i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit’s SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

(k) Seller has notified each Unit’s SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.
8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.

9. BUYER’S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder.

10. MARKET BASED RATE AUTHORITY

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer “ownership or control of generation capacity” from Seller to Buyer as the term “ownership or control of generation capacity” is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

11. COLLATERAL REQUIREMENTS

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: __________________________
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: __________________________
Name: __________________________
Title: Director of Finance and Administration
To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 3: Adopt Resolution to Authorize the Chief Executive Officer to Execute Service Agreements with 1) Hanover Strategy Advisors; 2) Flynn Resources Consulting Inc.; and 3) Ascend Analytics, Inc. and Delegate Authority to CEO to Spend up to $1,000,000 in Aggregate through September 30, 2021 under Master Consultant Agreements

Date: 11/14/2018

RECOMMENDATION
Adopt Resolution No. 2018-15 authorizing the Chief Executive Officer (CEO) to execute service agreements, with non-substantive changes, with Hanover Strategy Advisors ("Hanover"), Flynn Resource Consulting Inc. ("Flynn"), and Ascend Analytics Inc. ("Ascend"), collectively referred to as ("Master Consultant Agreements"), for general strategic consulting and support related to: legislative and regulatory, supply portfolio management, energy risk management and retail rate and product offerings; and delegating authority to the CEO to spend in aggregate amount not to exceed one-million dollars through September 30, 2021.

Subject to Board-appropriation of funds, projects may be assigned under the Master Consultant Agreements to one or more consultants on a task order basis. In the future, additional consultants may be submitted to the Board for approval under this Master Consultant Agreement/task order approach.

BACKGROUND
Silicon Valley Clean Energy Authority (SVCE) has a need to rapidly advance its portfolio management and retail pricing capabilities with the goals of reducing costs, managing risk and enhancing value for its customers through various rate offerings in order to meet the Board-adopted mission and policies. This challenge has become more complex with recent legislative and regulatory actions. The passage of Senate Bill 237 ("SB237") to increase the cap for large commercial and industrial customers to participate in the wholesale energy market through Direct Access (DA) and its directive to evaluate full retail competition put added pressure on SVCE to compete for its existing retail load. The California Public Utility Commission’s (CPUC) adoption of modifications to the methodology for how the Power Charge Indifference Adjustment (PCIA) charge is calculated and Pacific Gas and Electric’s (PG&E) proposal to reduce generation rates for its customers in 2019 and restructuring of future rates puts pressure on SVCE’s ability to meet its current rate value proposition. And, SVCE’s recent execution of three power purchase agreements (PPA) including two with battery storage, while moving SVCE closer to its goals, significantly increases the complexity of its electricity portfolio.

Staff’s ability to effectively monitor, digest and respond to this huge influx of legislative and regulatory changes along with increasing demands to improve internal processes and efficiencies, reduce costs and enhance the customer’s value proposition is limited by existing bandwidth and tools. As such, under the CEO’s existing spending authority, interim agreements were put in place to help with an immediate need for analysis around several initiatives. These consultants included Hanover, Flynn and Ascend Analytics.

ANALYSIS & DISCUSSION

Page 1 of 3
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 functions are well suited to be served through additional consultant resources.

Each consultant brings a unique set of tools, experience and resources to effectively meet SVCE’s needs. Work under the Master Consultant Agreements will be assigned to one or more consultants under a task order system and compensated via a time-and-material arrangement with a cost not to exceed amount established for each task. The services to be provided by each consultant will vary and require flexibility as SVCE’s needs are expected to evolve in response to market conditions, external opportunities and internal initiatives. In some cases, consultants may be asked to work together on a specific task and/or project.

**Hanover Strategy Advisors**

Hanover possesses certain specialized capabilities and experience in the areas around DA and CPUC regulatory proceedings and PG&E rates. Most recently, CalCCA has retained the services of Hanover to provide an in-depth analysis of the impacts of the PCIA and PG&E’s proposed rates. Hanover also has deep experience in providing strategic support to many Energy Service Providers (ESPs) offering DA to customers throughout California and the United States.

Specific areas in which Hanover may provide services include, but are not limited to, the following:

- Product Development, Marketing and Pricing/Deal Structuring
- Active Portfolio Risk Management, Procurement and Hedging Practices
- Market Assessment and Regulatory Strategy
- Organizational Capabilities/Strategic Alliances

Funds under the interim agreement with Hanover have been fully expended.

**Flynn Resources Consulting Inc.**

Flynn has deep knowledge and expertise related to California’s wholesale market structure and specializes in advocating for public power in the areas of transmission planning, rates and regulatory monitoring and intervention at the CPUC and the California Independent System Operator (CAISO). Flynn has worked with various municipal utilities throughout Northern California and provides support services to other CCAs.

Specific areas in which Flynn may provide services include, but are not limited to, the following:

- Product Development, Marketing and Pricing/Deal Structuring
- Active Portfolio Risk Management, Procurement and Hedging Practices
- Market Assessment and Regulatory Strategy
- Organizational Capabilities/Strategic Alliances
- Transmission planning
- Congestion management strategies

Funds remain under the existing interim agreement with Flynn, which will be superseded by approval of the attached Flynn agreement.

**Ascend Analytics**

Ascend is a premier provider of software solutions to enable optimal management of power portfolio resources and management of energy risk on both the wholesale and retail side. Ascend also has extensive experience working with municipal electricity providers and purveyors of retail services providing DA throughout the United States. Their unique combination of experience and software tools will be used to support SVCE’s efforts to optimize the value of its long-term resources including the two solar plus storage power purchase agreements, monitor, report and manage risk, and assist in the development of competitive retail price and product offerings.

Ascend proposes to deploy core market and system data infrastructure for SVCE through software and support services including, but not limited to, the following:
• Ascend Curve Developer;
• PowerSimm;
• BatterySimm;
• Retail Pricing Analytics;
• Power Portfolio Management Analytics;
• Portfolio/Risk Management Business Processes; and
• Other technical support.

In addition to consulting services, Ascend may include software license costs of up to $144,000 per year along with technical support services.

Funds under the existing interim agreement with Ascend have been fully expended.

STRATEGIC PLAN
Approval of the attached Resolution and Master Consultant Agreements is in direct support of the Board-approved Strategic Plan as follows:
• Goal 2: Maintain competitive rates to acquire and retain customers
  o Strategy 2.1: Provide carbon-free electricity to additional customers in the SVCE service area and increase market share;
• Goal 11: Manage power supply resources and risks to financial and rate objectives
  o Strategy 11.1: Optimize existing resources to increase value to SVCE customers and evaluate opportunities to minimize cost of procuring and scheduling electricity and related products; and
  o Strategy 11.2: Manage market price, credit, load and supplier volume risk to meet rate and financial objectives

ALTERNATIVE
A request for proposals (RFP) for consulting services was not issued to select the consultants proposed under the Master Consultant Agreements. Instead, staff determined that recent experience under the interim arrangements and need to expeditiously put in place support services could best be achieved by expanding the scope and term with Hanover, Flynn and Ascend. Alternatively, the Board may direct staff to issue an RFP to select one or more consultants and bring each consultant agreement to the Board for approval. This approach is not recommended due to the need to develop competitive strategies and modeling ability as soon as possible. Additional consultants may be proposed for approval in the future.

FISCAL IMPACT
Approval of the Resolution and the Master Consultant Agreements will authorize the CEO to spend an amount not to exceed one-million dollars ($1,000,000) in aggregate through September 30, 2021. For fiscal year 2019, staff expects to spend between $200,000 and $350,000 which is within the current Board-approved budget for consultant support services under the Power Supply, Legislative and Regulatory and Program functional areas. Staff anticipates spending equivalent amounts in fiscal years 2020 and 2021; however, staff’s ability to commit to spending under the Master Consultant Agreements through task orders is limited to the Board’s appropriation of funds as part of the annual budget approval process.

ATTACHMENTS
1. Resolution 2018-15 Authorizing the Chief Operating Officer to Execute Master Consultant Agreements for an Aggregate Amount Not to Exceed One-million Dollars through September 30, 2021 inclusive; and authorize CEO to execute agreements with Hanover Strategy Advisors, Flynn Resource Consulting and Ascend Analytics.
2. Hanover Strategy Advisors Agreement
3. Flynn Resource Consulting Inc. Agreement
4. Ascend Analytics Agreement
SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2018-15

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY DELEGATING AUTHORITY TO THE CHIEF EXECUTIVE OFFICER TO EXECUTE MASTER CONSULTANT AGREEMENTS WITH HANOVER STRATEGY ADVISORS, FLYNN RESOURCES CONSULTING INC. AND ASCEND ANALYTICS, INC

THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the Silicon Valley Clean Energy Authority (“SVCE”) was formed on March 31, 2016, pursuant to a Joint Powers Agreement to promote, develop, conduct, operate, and manage energy programs in Santa Clara County;

WHEREAS, launch of service for Phase I occurred in April 2017, and launch of service for the remaining Phases occurred in July 2017;

WHEREAS, SVCE has a need to rapidly advance its portfolio management and retail pricing capabilities with the goals of reducing costs, managing risk and enhancing value for its customers through various rate offerings in order to further the Board’s Strategic Plan;

WHEREAS, consistent with its mission of reducing greenhouse gas emissions and offering customer choice at competitive rates, SVCE has engaged several consultants to provide support services and enhance SVCE’s internal capabilities;

WHEREAS, Hanover Strategy Advisors, Flynn Resources Consulting Inc., and Ascend Analytics, desire to provide general strategic consulting, legislative and regulatory support, supply portfolio management tools and support, energy risk management and retail rate and product offerings on a task order basis pursuant to a master agreement (“Services”);

WHEREAS, Staff has presented to the Board, and the Board has reviewed, the negotiated form of a Service Agreement between SVCE and Hanover Strategy Advisors, Flynn Resources Consulting, and Ascend Analytics collectively referred to as Master Consultant Agreements;

WHEREAS, in order to expedite the commencement of necessary consultant services, the Board wishes to delegate to the Chief Executive Officer the authority to approve any non-material changes, additions, variations or deletions (“Changes”) to the form of Master Consultant Agreements submitted to the Board;
WHEREAS, the Board also wishes to delegate to the Chief Executive Officer, or his or her designee, authority to spend up to one million dollars, in aggregate under the Master Consultant Agreements through September 30, 2021 inclusive;

WHEREAS, no commitment of funds shall be made without the appropriation of such funds by the Board;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The Board hereby delegates authority to the Chief Executive Officer to execute the Master Consultant Agreements with terms consistent with those presented to the Board, in a form approved by the General Counsel, subject to Changes that the Chief Executive Officer may deem necessary or appropriate. The total expenditures under the Master Consultant Agreements shall not exceed one million dollars ($1,000,000) through September 30, 2021 inclusive subject to sufficient appropriations being approved by the Board in each fiscal year.

ADOPTED AND APPROVED this 14th day of November 2018.

______________________________
Chair

ATTEST:

______________________________
Clerk
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND HANOVER STRATEGY ADVISORS LLC, FOR GENERAL CONSULTING SERVICES

THIS AGREEMENT, is entered into this 14th day of November, 2018, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and Hanover Strategy Advisors LLC, a California limited liability company whose address is 545 Savoy St. San Diego, CA 92106 (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 consulting services related to legislative and regulatory support, market assessment and strategy, product development and retail pricing and power supply portfolio cost and risk management, upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
   The term of this Agreement shall commence on November 15, 2018, and shall terminate on September 30, 2021, 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 on a task order basis as directed by the Authority and 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.

Page 1 of 8
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 RECOVERY 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 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
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 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. Aldyn W. Hoekstra 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:
Aldyn Hoekstra
Hanover Strategy Advisors
545 Savoy St.
San Diego, CA 92106

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 V. Padilla
Director of Power Resources
CONSULTANT NAME
Hanover Strategy Advisors LLC
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

The services to be provided by Consultant to Authority under this Scope of Services may be varied and flexible based on SVCE’s specific requirements as they evolve over time in response to market conditions, external opportunities and internal initiatives. Specific areas in which Consultant may provide services to SVCE are expected to include, but are not limited to, the following:

(1) Product Development, Marketing and Pricing/Deal Structuring
   (a) Review and analysis of existing SVCE product offerings, pricing structures and internal sales and pricing/structuring capabilities to assess alignment with the current and expected regulatory, market and competitive environment;
   (b) Analysis and recommendations for modifications, additions and deletions to product offerings, pricing structures and programs based on regulatory, market and competitive dynamics, trends and game-changing risks;
   (c) Analysis and guidance on developing new value propositions, product offerings, sales capabilities and marketing strategies for positioning SVCE in the market apart from direct rate comparisons to PG&E;
   (d) Development and implementation of robust internal capabilities for deal structuring and pricing in order to facilitate competitive service offerings; and
   (e) Other areas as required.

(2) Active Portfolio Risk Management, Procurement and Hedging Practices
   (a) Review of existing SVCE resource planning, procurement and risk management policies and procedures, position, risk and P&L reporting and management practices, and adequacy of risk controls;
   (b) Recommendations for modifications of the above items in light of changes to regulatory and market dynamics, competitive threats and opportunities, and SVCE financial objectives, risk tolerances and external requirements;
   (c) Developing and implementing robust commodity risk sensitivity and stress testing in order to assess and manage SVCE’s primary financial risk exposures and ensure ongoing financial viability under unexpected but realistic future conditions; and
   (d) Other areas as required.

(3) Market Assessment and Regulatory Strategy
   (a) Evaluate and recommend processes, procedures and information sources to develop and enhance ongoing wholesale market awareness, credibility and price discovery through active portfolio monitoring and transacting;
   (b) Evaluate and recommend alternatives for developing internal market assessment and market intelligence capabilities;
   (c) Evaluate and recommend approaches for leveraging capabilities of existing trade partners and service providers to improve value and insight to SVCE financial planning, credit risk management and operational response;
(d) Provide analysis and recommendations on initiatives to support SVCE Decarbonization Strategy and related activities (expand electric transportation, increase electrification, enhance building codes, deploy distributed energy resources and battery storage, implement innovative rate options); and
(e) Other areas as required.

(4) Organizational Capabilities/Strategic Alliances
(a) Conduct a Situation Assessment to evaluate the external environment (markets, regulations, competitors) as well as internal capabilities, assessment of gaps in required capabilities and SWOT to inform organizational and financial planning;
(b) Evaluate alternatives and recommend initiatives to achieve needed internal capabilities for meeting market, regulatory and competitive challenges identified above, including insourcing vs. outsourcing considerations and cost-benefit evaluations; and
(c) Other areas as required.
Exhibit B  
Schedule of Performance

Work will be assigned by the Authority on a task order basis.

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

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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 be determined on a task order basis, which shall specify a not to exceed amount. 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.

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Rates

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<td>Teresa Marrinan</td>
<td>Founding Partner</td>
<td>$352</td>
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<td>TBD</td>
<td>Senior Analyst</td>
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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 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.
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
FLYNN RESOURCES CONSULTING INC., FOR GENERAL CONSULTING SERVICES

THIS AGREEMENT, is entered into this 14th day of November, 2018, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and Flynn Resources Consultants Inc, a California Corporation whose address is 5440 Edgeview Drive, Discovery Bay, CA 94505, (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 consulting services related to legislative and regulatory support, market assessment and strategy, product development and retail pricing and power supply portfolio cost and risk management, upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
   The term of this Agreement shall commence on November 15, 2018, and shall terminate on September 30, 2021, 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 on a task order basis as directed by the Authority and 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 RECOUSE 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 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
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 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. Doug Boccignone 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:
Doug Boccignone
Flynn Resource Consultants Inc.
5440 Edgeview Drive
Discovery Bay, CA 94505

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 V. Padilla
Director of Power Resources
CONSULTANT NAME
Flynn Resources Consulting 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

The services to be provided by Consultant to Authority under this Scope of Services may be varied and flexible based on SVCE’s specific requirements as they evolve over time in response to market conditions, external opportunities and internal initiatives. Specific areas in which Consultant may provide services to SVCE are expected to include, but are not limited to, the following:

1) Provide analysis, strategies and assistance related to resource adequacy requirements, congestion revenue rights, resource procurement, integrated resource planning, portfolio risk management, and mitigating the impacts of modifications to the Power Charge Indifference Adjustment.
2) Develop strategies, initiatives and systems to respond to several key legislative, regulatory and wholesale market design changes and threats, and support participation in joint action activities.
3) Software and support services
4) Other areas as required


### Exhibit B

**Schedule of Performance**

Work will be assigned by the Authority on a task order basis.

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

<table>
<thead>
<tr>
<th>Task</th>
<th>Begin</th>
<th>Complete</th>
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<tbody>
<tr>
<td>1.</td>
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<td>10.</td>
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</table>
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 be determined on a task order basis, which shall specify a not to exceed amount. 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.

<table>
<thead>
<tr>
<th>Task</th>
<th>Estimated Budget</th>
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<tbody>
<tr>
<td>1.</td>
<td>$ XX,000</td>
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<tr>
<td>2.</td>
<td>$ XX,000</td>
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<tr>
<td>3.</td>
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<td>9.</td>
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<td>10.</td>
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<td>Total</td>
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Rates

<table>
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<tr>
<th>Personnel</th>
<th>Title</th>
<th>Hourly</th>
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<tbody>
<tr>
<td>Doug Boccignone</td>
<td>Principal</td>
<td>$320</td>
</tr>
<tr>
<td></td>
<td>Managing Consultant</td>
<td>$300</td>
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<td></td>
<td>Senior Consultant Power Engineer</td>
<td>$290</td>
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<td></td>
<td>Senior Consultant</td>
<td>$260</td>
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<td></td>
<td>Consultant</td>
<td>$220</td>
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<td></td>
<td>Associate Consultant</td>
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<td></td>
<td>Analyst</td>
<td>$145</td>
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<tr>
<td></td>
<td>Support Services</td>
<td>$85</td>
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</tbody>
</table>

Software Support:
For any month in which specialized modeling software is used to perform services under this agreement, the following charges shall apply:

- Power flow modeling - $290/month
- Short circuit modeling – $850/month
- OASIS Data - $1,270/month
- Market modeling - $4,210/month

Each year, effective July 1, 2019, the specialized modeling software costs shall increase by 3%, rounded to the nearest $5.

Specialized software costs that exceed the above amounts may be billed with the prior approval of the client representative.

**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 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.
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
ASCEND ANALYTICS FOR
GENERAL CONSULTING, SOFTWARE TOOLS AND SUPPORT SERVICES

THIS AGREEMENT, is entered into this 14th day of November, 2018, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and Ascend Analytics, a Colorado corporation whose address is 1877 Broadway Suite 706, Boulder CO, 80302, (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 general strategic consulting related to business planning and processes, power portfolio optimization, risk management and customer rate products and behind-the-meter offerings upon the terms and conditions herein.

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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.

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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 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
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 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. Gary Dorris, Ph.D., 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:
Gary Dorris Ph.D.
Ascend Analytics
1877 Broadway Suite 706
Boulder CO, 80302

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
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 V. Padilla
Director of Power Resources
CONSULTANT NAME
Ascend Analytics
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

The services to be provided by Consultant to Authority under this Scope of Services may be varied and flexible based on SVCE’s specific requirements as they evolve over time in response to market conditions, external opportunities and internal initiatives. Specific areas in which Consultant may provide services to SVCE are expected to include, but are not limited to, the following:

A. Retail Pricing Analytics:
   i) Cost to Serve Customers - Apply PowerSimm to determine the cost to serve customers accounting.
   ii) Retail Pricing Structures: Determine costs, risks, and gross margins to serve different customers or customer categories under unique retail price structures including:
      a. Determine impact on competitiveness of PCIA charges.
      b. Determine gross margin or “headroom” inclusive of the cost of risk on each customer.

B. Portfolio Management Analytics:
   a. Battery economics - Apply BatterySimm to captures realistic revenues of battery storage with imperfect foresight. Determine the optimal dispatch strategy by co-optimizing between energy and ancillary services and the optimal sizing of battery storage system
   b. Solar plus Storage Valuation - Apply BatterySimm to determine optimal configuration of battery and solar system and the value of solar plus storage for both closed systems (eligible for ITC) and open systems (not eligible for ITC).
   c. Green Sleeking - Value the costs and risks of a green sleeved offering to C&I customers.
   d. Distributed Energy Resources - Determine the value of DER resources for energy and associated T&D benefits.
   e. Hedge Optimization - Portfolio management analytics serve to preserve margin in alignment with performance metrics / budget forecasts, maintain SVCE’s competitive advantage through periods of adverse market conditions, and generate profits through dynamic hedging and DER dispatch.

C. Portfolio/Risk Management Business Processes – assist in modeling, reporting and limiting portfolio risks

D. Non-wires Alternative Solicitation & Other Solicitations – assist in administering and evaluating solicitations for energy and related products.

E. Software and support services

F. Other services as needed.
G. **Exhibit B**

**Schedule of Performance**

Services and/or software to be assigned by Authority on a task order basis.

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

<table>
<thead>
<tr>
<th>Task</th>
<th>Begin</th>
<th>Complete</th>
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<tbody>
<tr>
<td>1.</td>
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<td>10.</td>
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</table>
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 be determined on a task order basis, which shall specify a not to exceed amount. 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.

<table>
<thead>
<tr>
<th>Task</th>
<th>Estimated Budget</th>
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<tbody>
<tr>
<td>1.</td>
<td>$ XX,000</td>
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<tr>
<td>2.</td>
<td>$ XX,000</td>
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<tr>
<td>3.</td>
<td></td>
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<td>4.</td>
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<td>9.</td>
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<tr>
<td>10.</td>
<td></td>
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<tr>
<td>Total</td>
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</tbody>
</table>

Rates

<table>
<thead>
<tr>
<th>Personnel</th>
<th>Title</th>
<th>Hourly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mehdi Shahriari, PhD</td>
<td>Analyst</td>
<td>$188</td>
</tr>
<tr>
<td>Neha Nandakumar</td>
<td>Senior Analyst</td>
<td>$232</td>
</tr>
<tr>
<td>Brandon Mauch, PhD</td>
<td>Project Manager</td>
<td>$259</td>
</tr>
<tr>
<td>David Millar, Scott Wrigglesworth</td>
<td>Senior Project Manager/Advisor</td>
<td>$292</td>
</tr>
<tr>
<td>Sean Burrows, PhD</td>
<td>Principal Analyst</td>
<td>$336</td>
</tr>
<tr>
<td>Gary Dorris, PhD</td>
<td>Engagement Director</td>
<td>$424</td>
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</tbody>
</table>
## Software Fee Schedule and Supporting Labor Support

<table>
<thead>
<tr>
<th>Software</th>
<th>Application (Appendix A for Description</th>
<th>Annual Software Fee</th>
<th>1st Year Labor Cost</th>
<th>2nd Year Labor Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ascend CurveDeveloper</td>
<td>Provides data infrastructure of forward power and gas market data, spot power prices for CAISO day-ahead and real-time (5 and 15 minutes) energy and ancillary services, and system data of CAISO load and renewable production hourly history.</td>
<td>$25,000</td>
<td>$10,000</td>
<td></td>
</tr>
<tr>
<td>PowerSimm</td>
<td>Portfolio management and retail pricing</td>
<td>$80,000</td>
<td></td>
<td>$40,000</td>
</tr>
<tr>
<td>BatterySimm</td>
<td>Evaluation of battery economics and battery + solar economics.</td>
<td>$15,000</td>
<td></td>
<td>$2,500</td>
</tr>
<tr>
<td>Hosting and system</td>
<td>Provide complete hosted solution hardware consisting of at least 1 TB of storage, 20 computing cores, system maintenance, and third party licenses of Oracle, MS SQL, MS BI, MS Excel. Additional database storage can be purchased for $2,000/TB as necessary. Requires SAS license after 3 months at approximately $14,000 for first year and $4,000 for second year.</td>
<td>$24,000</td>
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<tr>
<td>maintenance</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$144,000</strong></td>
<td></td>
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</tbody>
</table>

### 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 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.
RECOMMENDATION
Receive staff overview presentation on building design incentives and reach codes.

BACKGROUND
In California, most existing buildings rely on natural gas for space and water heating. The California Building Code has traditionally favored natural gas for heating, due to its relative efficiency in heating applications. In calendar year 2017, natural gas used for these purposes generated 31% of GHG emissions across Silicon Valley Clean Energy’s service territory.

In recent years, electric heat pump technologies have seen significant increases in efficiency. At the same time the electric grid has become much cleaner, increasingly powered by renewable and carbon-free energy sources. Now, it is both cleaner and more energy-efficient to use electricity rather than natural gas in many heating applications. Accordingly, the 2019 California Building Code has been written to remove some of the previous barriers that existed for electricity relative to gas.

However, significant barriers to decarbonization and electrification of heating applications remain. New ‘all electric’ solutions are not yet well-understood by homeowners, contractors or the planning/design community. Space and water heating in new construction often default to natural gas, as this is what has worked in the past. Moving the local market in the direction of all-electric construction will require educating building owners and contractors, and development of supporting incentives and standards.

ANALYSIS & DISCUSSION
To date, local jurisdictions have used a variety of programmatic and policy tools to influence design and construction of high-performance ‘green’ buildings meeting advanced sustainability and energy-related requirements. Similar approaches should be considered for accelerating the future design and construction of all-electric, carbon-free buildings.

The staff presentation on building design incentives and reach codes will provide an overview of potential tools for use by Silicon Valley Clean Energy and SVCE’s member jurisdictions, including:

- SVCE cash incentives program for design and construction of model all-electric, zero-carbon buildings
- Municipal development incentive program (e.g. floor area bonuses) for all-electric building projects
- Development and implementation of building reach codes to:
  - promote incorporation of all-electric versus gas appliances in new construction, and/or
  - expand requirements for electric vehicle charging infrastructure
To adopt potential reach code(s) in tandem with municipal adoption of the new 2019 California Building Code (effective January 1, 2020), SVCE and Silicon Valley Clean Energy member agencies will need to meet several key schedule milestones for reach code development, beginning in early 2019.

STRATEGIC PLAN
As referenced in SVCE’s Strategic Plan Item 5.3.2, this Staff presentation outlines potential opportunities for “engagement of built environment trade allies (e.g. architects, engineers, builders, developers and realtors) and member agency building officials in creating a roadmap addressing and encouraging the advancement of decarbonization technologies and measures (e.g. expediting/subsidizing building permits, adding codes and ordinances beyond existing building codes)”.

FISCAL IMPACT
None – discussion item only.

ATTACHMENTS
None.
Staff Report – Item 5

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 5: Executive Committee Report

Date: 11/14/2018

No report as the Executive Committee has not met since September 25, 2018. The next regularly scheduled meeting is December 4, 2018, 11:30 a.m., at the SVCE office.
Staff Report – Item 6

To: Silicon Valley Clean Energy Board of Directors
From: Girish Balachandran, CEO

Item 6: Finance and Administration Committee Report

Date: 11/14/2018

No report as the Finance and Administration Committee has not met since September 4, 2018. The next regularly scheduled meeting is set to occur December 5, 11:00 a.m., at the SVCE Office.
Staff Report – Item 7

To: Silicon Valley Clean Energy Board of Directors
From: Girish Balachandran, CEO

Item 7: Legislative Ad Hoc Committee Report

Date: 11/14/2018

No report as the Legislative Ad Hoc Committee has not met since October 5, 2018.