AGENDA

Call to Order

Roll Call

Public Comment on Matters Not Listed on the Agenda

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

Consent Calendar (Action)

1a) Approve Minutes of the May 8, 2019, Board of Directors Meeting

1b) Receive April 2019 Treasurer Report

1c) Approve Establishment of SVCE EV-2A Generation Rate to Correspond with New PG&E Rate

1d) Adopt Resolution Amending SVCE’s Energy Risk Management Policy

1e) Adopt Resolution to Authorize the Chief Executive Officer to Execute Service Agreements with 1) Sacramento Municipal Utility District; 2) Center for Sustainable Energy; and 3) ADM Associates, Inc. and Delegate Authority to CEO to Spend up to $1,000,000 in Aggregate through September 30, 2021 under Master Consultant Agreements

1f) Innovation Onramp Program Update and Request to Authorize Chief Executive Officer to Execute Agreement with UtilityAPI for an Energy Data Exchange Platform Pilot in the Amount of $279,000

1g) Receive Automated Meter Infrastructure Audit Report from Abbott, Stringham and Lynch

1h) Receive the Annual Information Technology Audit Results
1i) Authorize the Chief Executive Officer to Execute Amended Engagement Letter Amending Scope of Work and Not-to-Exceed Amount with Keyes & Fox LLP

1j) Receive Finance and Administration Committee Report

1k) Receive Legislative Ad Hoc Committee Report

Regular Calendar

2) CEO Report (Discussion)

3) Adopt Resolution to Implement SVCE Generation Rate Changes Effective August 1, 2019 (Action)

4) Approve Non-Standard Pricing Agreement Policy and Adopt Resolution Delegating Authority to the Chief Executive Officer to Negotiate Non-Standard Pricing Agreements for Eligible Large Commercial and Industrial Customers (Action)

5) Approve Amendments to SVCE Strategic Plan (Action)

6) Executive Committee Report (Discussion)

7) Audit Committee Report (Discussion)

Board Member Announcements and Direction on Future Agenda Items

Public Comment on Closed Session

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

Convene to Closed Session (Community Hall Kitchen)
Public Employee Performance Evaluation
Title: Chief Executive Officer

Conference with Labor Negotiator
Agency Representative: Margaret Abe-Koga, Chair, Board of Directors
Unrepresented Employee: Chief Executive Officer

Report from Closed Session

Adjourn

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Clerk for the Authority at (408) 721-5301 x1005. Notification 48 hours prior to the meeting will enable the Authority to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.105 ADA Title II).
Call to Order

Chair Abe-Koga called the meeting to order at 7:02 p.m.

Roll Call

Present:
Chair Margaret Abe-Koga, City of Mountain View
Vice Chair Howard Miller, City of Saratoga
Director Javed Ellahie, City of Monte Sereno (arrived at 7:03 p.m.)
Director Bob Nuñez, City of Milpitas
Director Marico Sayoc, Town of Los Gatos
Director Nancy Smith, City of Sunnyvale
Director Rod Sinks, City of Cupertino
Alternate Director George Tyson, Town of Los Altos Hills
Director Liz Gibbons, City of Campbell
Director Jeannie Bruins, City of Los Altos
Director Susan Ellenberg, County of Santa Clara
Director Yvonne Martinez Beltran, City of Morgan Hill

Absent:
Director Fred Tovar, City of Gilroy

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

Consent Calendar

Chair Abe-Koga opened public comment for those wishing to pull an item from the consent calendar. No speakers.
Chair Abe-Koga closed public comment for those wishing to pull an item from the consent calendar.

Chair Abe-Koga commented on Item 1c) Adopt Resolution to Authorize the Chief Executive Officer to Execute 1) Cost-Sharing And Reimbursement Agreement Between The Peninsula Clean Energy Authority, The Silicon Valley Clean Energy Authority, City of San Jose, Administrator of San Jose Clean Energy, The East Bay Community Energy Authority and Monterey Bay Community Power Authority; and 2) An Addendum for Resource Adequacy Services with The Alliance for Cooperative Energy Services Power Marketing LLC, stating this was a notable accomplishment for five CCAs to collaborate on operational projects.

MOTION: Director Gibbons moved and Director Sinks seconded the motion to approve the Consent Calendar.
The motion carried unanimously with Director Tovar absent.

1a) Approve Minutes of the April 10, 2019, Board of Directors Meeting
1b) Receive March 2019 Treasurer Report
1c) Adopt Resolution to Authorize the Chief Executive Officer to Execute 1) Cost-Sharing And Reimbursement Agreement Between The Peninsula Clean Energy Authority, The Silicon Valley Clean Energy Authority, City of San Jose, Administrator of San Jose Clean Energy, The East Bay Community Energy Authority and Monterey Bay Community Power Authority; and 2) An Addendum for Resource Adequacy Services with The Alliance for Cooperative Energy Services Power Marketing LLC
1d) Authorize the Chief Executive Officer to Execute Agreement with Strategic Energy Innovations for Climate Corps Bay Area Fellows

Regular Calendar

2) CEO Report (Discussion)

CEO Girish Balachandran provided a CEO report which included noting neighboring CCA, Peninsula Clean Energy (PCE), received a bond rating from Moody's Investors Service.

Manager of Regulatory and Legislative Affairs Hilary Staver provided updates which included the CPUC's decision on direct access, an integrated resource planning update, information on the resource adequacy proceeding, rates, and legislative updates since the last Board of Directors meeting. Manager of Regulatory and Legislative Affairs Staver responded to Board member questions.

Chair Abe-Koga opened public comment.
No speakers.
Chair Abe-Koga closed public comment.

3) SVCE and Monterey Bay Community Power 2019 Joint Request for Proposals for Carbon-Free Renewable Resources Update (Discussion)

Director of Power Resources Monica Padilla introduced the item, presented a PowerPoint presentation, and responded to Board member questions.

Director Gibbons recommended staff keep an eye on which housing legislation gets approved over the next two years and noted that may be a consideration in our energy load projections.

Chair Abe-Koga opened public comment.
No speakers.
Chair Abe-Koga closed public comment.

CEO Balachandran responded to a question from Director Smith regarding legislation on power procurement requirements, and confirmed there would be frequent updates to the Board of Directors prior to the November/December Board meeting when the Board would take action to approve the award of the joint RFP.

4) Interim Update on Built Environment and Mobility Programs (Discussion)

Director of Decarbonization and Grid Innovation Programs Aimee Bailey introduced the item, presented a PowerPoint presentation, and responded to Board member questions on the built environment and mobility programs update.
Directors provided feedback on the programs update brochure, which was placed at Director’s seats. Feedback included a request to capture the explanation that only funds which have been allocated for specific programs are displayed in the graph on the back of the brochure, or only include the two years for which funds have been fully allocated, and to display fewer words and more graphics.

Directors requested copies to distribute to their respective communities.

Chair Abe-Koga opened public comment.

Diane Bailey, Director of MenloSpark, commented she was excited to hear about SVCE programs and provided information on a new campaign, ‘Fossil Free Buildings Campaign for Silicon Valley’.

Chair Abe-Koga closed public comment.

Director Gibbons requested Board members be added to mailing lists for SVCE programs and events; Director Sinks requested a status update on the agencies in SVCE and Peninsula Clean Energy’s (PCE) territory which have committed to the proposed reach codes.

Vice Chair Miller noted the importance of educating architects, contractors, suppliers, and the public on the benefits of electrification, and suggested showing side-by-side comparisons of gas versus electric efficiency on gas-run household equipment; Director Sinks suggested developing a fact sheet.

5) Bike to the Future 2019 Recap (Discussion)

Communications Manager Pamela Leonard introduced Community Outreach Fellow Colleen McCamy, who presented a PowerPoint presentation, video, and responded to Board member questions.

Board members shared their experience in attending the event and encouraged other Directors to attend next year.

Directors requested staff send Board members information to promote signups for the 2020 competition, and consider incentives to encourage more girls to participate next year.

6) Executive Committee Report (Discussion)

Chair Abe-Koga reported the Executive Committee met April 26, 2019 and discussed the CCA Cost-Sharing Agreement and received an update on mobility and built environment programs. Chair Abe-Koga noted the next meeting would occur Friday, May 24th, at 9:30 a.m.

7) Finance and Administration Committee Report (Discussion)

Vice Chair Miller reported there was no report as the Finance and Administration Committee had not met.

8) Legislative Ad Hoc Committee Report (Discussion)

Director Sinks noted at the last board meeting, there was concern from board members on the lack of certification of many of the Integrated Resource Plans (IRP) of CCAs. On recommendation of staff and under further consideration of the committee, the committee decided to refrain from sending a letter to the CPUC. Director Sinks reported the committee looked at various bills that would have an impact on SVCE, and members are generally in concurrence with the positions CalCCA has taken. Director Sinks reported the Legislative Ad Hoc Committee will reconvene in June, and commented if anyone has input on things the Legislative Ad Hoc committee should consider, they would accept all input.
9) Audit Committee Report (Discussion)
Chair Abe-Koga reported there was no report.

Chair Abe-Koga opened public comment for Item 6 through Item 9.
No speakers.
Chair Abe-Koga closed public comment for Item 6 through Item 9.

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

Director Gibbons addressed an article in the newspaper regarding the City of Santa Clara voting not to allow Bloom Energy products in their area. Director Gibbons commented she is on the American Institute of Architects (AIA) National Strategic Council, and has distributed SVCE’s decarbonization roadmap and programs to the AIA network; Director Gibbons noted her goal is to have AIA announce themselves as the first professional organization to go decarb. Director Gibbons commented the AIA California Council is running a competition, which she has been asked to identify projects; Director Gibbons provided the criteria for the projects, and requested those with project ideas send them to her. For general information, the San Mateo chapter of the AIA is opening a competition for the design of accessory dwelling units.

Chair Abe-Koga noted the June meeting agenda would be full, and reminded Directors there would be no Board of Directors meeting in July.

**Adjourn**

Chair Abe-Koga adjourned the meeting at 8:41 p.m.
TREASURER REPORT
Fiscal Year to Date
As of April 30, 2019
(Preliminary & Unaudited)
Issue Date: June 12, 2019

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<td>Statement of Revenues, Expenses &amp; Changes in Net Position</td>
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<td>Statement of Cash Flows</td>
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<td>Actuals to Budget Report</td>
<td>8-9</td>
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<td>Monthly Change in Net Position</td>
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<td>Personnel Report</td>
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<td>Accounts Receivable Aging Report</td>
<td>15</td>
</tr>
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</table>
Financial Highlights for the month of April 2019:

Note: At the April Board meeting, a 3% rates increase was approved and effective May 1st. The 3% adjustment was in response to PG&E raising their generation rates by 3%. Currently, SVCE has a 9% discount to PG&E and the rates adjustment is to restore the 6% discount. An incremental $3 million in revenues is projected.

During May, SVCE issued $0.6 million to over 2,200 customers in NEM year-end cash outs.

- SVCE operations resulted in a positive change in net position for the month of $4.7 million and year-to-date change in net position of $14.3 million.
  - April revenue of $18.3 million accounted for 307 GWh in net retail consumption.
  - Year-to-date operating margin is $20.2 million and $7.0 million above budget.
  - SVCE is above the minimum cash reserve target and financially stable.
- Retail GWh sales for the month were 1 GWh below budget and 1% below budget year-to-date.
  - April weather was near normal.
  - The Mid-Year Budget trued up actuals to budget for October through January.
- Power Supply costs are 9% below budget year-to-date.
  - Favorable adjustments for December through February power supply costs were recognized based on updated settlements from CAISO.
  - A cost sharing agreement focused on Resource Adequacy procurement between SVCE and other 4 other CCAs was approved by the Board in April.
  - Updates to the energy risk management policy are expected at the June Board meeting.
- Programs/Capital
  - The Programs Roadmap was approved by the Board of Directors in December 2018.
- Investing/Financing
  - SVCE currently has a $35 million line of credit.

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<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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<tr>
<td>Actual</td>
<td>8,092</td>
<td>953</td>
<td>1,947</td>
<td>(4,819)</td>
<td>(523)</td>
<td>4,026</td>
<td>4,650</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>14,325</td>
<td>29,584</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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<tr>
<td>Energy &amp; REC's</td>
<td>14,735</td>
<td>13,930</td>
<td>12,890</td>
<td>18,224</td>
<td>14,103</td>
<td>12,080</td>
<td>12,019</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>97,981</td>
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<td>Capacity</td>
<td>985</td>
<td>912</td>
<td>1,082</td>
<td>1,554</td>
<td>1,596</td>
<td>1,308</td>
<td>1,484</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>8,921</td>
<td>5,640</td>
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<td>CAISO Charges</td>
<td>798</td>
<td>1,043</td>
<td>438</td>
<td>1,768</td>
<td>917</td>
<td>(804)</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>3,125</td>
<td>8,573</td>
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<tr>
<td>NEM Expense</td>
<td>74</td>
<td>(82)</td>
<td>(242)</td>
<td>(287)</td>
<td>(146)</td>
<td>(81)</td>
<td>(154)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(917)</td>
<td>(17)</td>
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<tr>
<td>Charge/Credit (IST/Net Rev)</td>
<td>569</td>
<td>1,089</td>
<td>3,383</td>
<td>2,064</td>
<td>497</td>
<td>516</td>
<td>455</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>8,573</td>
<td>17</td>
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<tr>
<td>Net Power Costs</td>
<td>17,161</td>
<td>16,892</td>
<td>17,551</td>
<td>23,323</td>
<td>16,986</td>
<td>13,019</td>
<td>12,769</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>117,682</td>
<td>234,330</td>
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<table>
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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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<tr>
<td>Capital Expenditures</td>
<td>2</td>
<td>-</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>7</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>17</td>
<td>200</td>
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<tr>
<td>Energy Programs</td>
<td>37</td>
<td>3</td>
<td>-</td>
<td>1</td>
<td>3</td>
<td>16</td>
<td>59</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>119</td>
<td>5,640</td>
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<table>
<thead>
<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>
</tr>
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<tbody>
<tr>
<td>Retail Sales Actual</td>
<td>323</td>
<td>318</td>
<td>354</td>
<td>336</td>
<td>299</td>
<td>311</td>
<td>307</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,248</td>
<td>3,936</td>
</tr>
<tr>
<td>Retail Sales Budget</td>
<td>323</td>
<td>318</td>
<td>354</td>
<td>336</td>
<td>322</td>
<td>302</td>
<td>308</td>
<td>310</td>
<td>328</td>
<td>353</td>
<td>345</td>
<td>337</td>
<td>3,936</td>
<td>-</td>
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Other Statistics and Ratios

<table>
<thead>
<tr>
<th>Statistic</th>
<th>Value</th>
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<tbody>
<tr>
<td>Working Capital</td>
<td>$89,464,274</td>
</tr>
<tr>
<td>Current Ratio</td>
<td>4.5</td>
</tr>
<tr>
<td>Operating Margin</td>
<td>15%</td>
</tr>
<tr>
<td>Expense Coverage Days</td>
<td>103</td>
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<tr>
<td>Expense Coverage Days with LOC</td>
<td>149</td>
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<tr>
<td>Long-Term Debt</td>
<td>$0</td>
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<tr>
<td>Total Accounts</td>
<td>269,227</td>
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<tr>
<td>Opt-Out Accounts</td>
<td>9,881</td>
</tr>
<tr>
<td>Opt-Up Accounts</td>
<td>3,136</td>
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</tbody>
</table>

Retail Sales - Month

- Actual: 18.3
- Budget: 17.8
- FY16/17: 15.2

Retail Sales - YTD

- Actual: 137.9
- Budget: 138.6
- FY16/17: 117.8

O&M - Month

- Actual: 13.8
- Budget: 18.9
- FY16/17: 14.1

O&M - YTD

- Actual: 124.1
- Budget: 139.4
- FY16/17: 104.9
## SILICON VALLEY CLEAN ENERGY AUTHORITY

### STATEMENT OF NET POSITION
**As of April 30, 2019**

#### ASSETS

<table>
<thead>
<tr>
<th>Current Assets</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash &amp; Cash Equivalents</td>
<td>$77,349,523</td>
</tr>
<tr>
<td>Accounts Receivable, net of allowance</td>
<td>14,904,970</td>
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<tr>
<td>Energy Settlements Receivable</td>
<td>1,258,043</td>
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<tr>
<td>Accrued Revenue</td>
<td>11,747,583</td>
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<tr>
<td>Other Receivables</td>
<td>310,987</td>
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<tr>
<td>Prepaid Expenses</td>
<td>1,177,364</td>
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<tr>
<td>Deposits</td>
<td>4,417,232</td>
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<tr>
<td>Restricted cash - lockbox</td>
<td>4,000,000</td>
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<tr>
<td><strong>Total Current Assets</strong></td>
<td><strong>115,165,702</strong></td>
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<table>
<thead>
<tr>
<th>Noncurrent assets</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital assets, net of depreciation</td>
<td>165,933</td>
</tr>
<tr>
<td>Deposits</td>
<td>3,129,060</td>
</tr>
<tr>
<td><strong>Total Noncurrent Assets</strong></td>
<td><strong>3,294,993</strong></td>
</tr>
</tbody>
</table>

| **Total Assets**                            | **118,460,695** |

#### LIABILITIES

<table>
<thead>
<tr>
<th>Current Liabilities</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts Payable</td>
<td>620,237</td>
</tr>
<tr>
<td>Accrued Cost of Electricity</td>
<td>23,626,769</td>
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<tr>
<td>Accrued Payroll &amp; Benefits</td>
<td>238,411</td>
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<tr>
<td>Other accrued liabilities</td>
<td>589,140</td>
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<tr>
<td>User Taxes and Energy Surcharges due to other gov'ts</td>
<td>598,551</td>
</tr>
<tr>
<td>Supplier Security Deposits</td>
<td>28,320</td>
</tr>
<tr>
<td><strong>Total Current Liabilities</strong></td>
<td><strong>25,701,428</strong></td>
</tr>
</tbody>
</table>

#### NET POSITION

| Net investment in capital assets             | 165,933 |
| Restricted for security collateral          | 4,000,000 |
| Unrestricted (deficit)                       | 88,593,334 |
| **Total Net Position**                      | **$92,759,267** |
## OPERATING REVENUES

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Sales, Net</td>
<td>$137,429,752</td>
</tr>
<tr>
<td>GreenPrime electricity premium</td>
<td>486,154</td>
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<tr>
<td><strong>TOTAL OPERATING REVENUES</strong></td>
<td><strong>$137,915,906</strong></td>
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## OPERATING EXPENSES

<table>
<thead>
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<th>Item</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>Cost of Electricity</td>
<td>117,681,381</td>
</tr>
<tr>
<td>Staff Compensation and benefits</td>
<td>1,841,914</td>
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<tr>
<td>Data Management</td>
<td>2,112,026</td>
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<tr>
<td>Service Fees - PG&amp;E</td>
<td>665,285</td>
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<tr>
<td>Consultants and Other Professional Fees</td>
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<tr>
<td>Legal</td>
<td>214,452</td>
</tr>
<tr>
<td>Communications &amp; Noticing</td>
<td>204,635</td>
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<tr>
<td>General &amp; Administrative</td>
<td>620,646</td>
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<tr>
<td>Depreciation</td>
<td>29,345</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING EXPENSES</strong></td>
<td><strong>$124,098,085</strong></td>
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**OPERATING INCOME(LOSS)**  
**$13,817,821**

## NONOPERATING REVENUES (EXPENSES)

<table>
<thead>
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<th>Item</th>
<th>Amount</th>
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<tr>
<td>Interest Income</td>
<td>562,582</td>
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<tr>
<td>Financing costs</td>
<td>(55,856)</td>
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<tr>
<td><strong>TOTAL NONOPERATING EXPENSES</strong></td>
<td><strong>$506,726</strong></td>
</tr>
</tbody>
</table>

## CHANGE IN NET POSITION

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Position at beginning of period</td>
<td>78,434,720</td>
</tr>
<tr>
<td><strong>Net Position at end of period</strong></td>
<td><strong>$92,759,267</strong></td>
</tr>
</tbody>
</table>

---

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2018 through April 30, 2019
## 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>$151,729,589</td>
</tr>
<tr>
<td>Receipts from wholesale sales</td>
<td>394,740</td>
</tr>
<tr>
<td>Supplier security deposits</td>
<td>28,320</td>
</tr>
<tr>
<td>Tax and surcharge receipts from customers</td>
<td>2,952,396</td>
</tr>
<tr>
<td>Energy settlements received</td>
<td>2,750,722</td>
</tr>
<tr>
<td>Deposits and collateral received</td>
<td>8,003,987</td>
</tr>
<tr>
<td>Payments to purchase electricity</td>
<td>(132,430,447)</td>
</tr>
<tr>
<td>Payments for staff compensation and benefits</td>
<td>(1,871,209)</td>
</tr>
<tr>
<td>Payments for data manager fees</td>
<td>(2,110,198)</td>
</tr>
<tr>
<td>Payments for PG&amp;E service fees</td>
<td>(570,760)</td>
</tr>
<tr>
<td>Payments for consultants and other professional services</td>
<td>(653,729)</td>
</tr>
<tr>
<td>Payments for legal fees</td>
<td>(204,618)</td>
</tr>
<tr>
<td>Payments for communications and noticing</td>
<td>(234,085)</td>
</tr>
<tr>
<td>Payments for general and administrative</td>
<td>(696,388)</td>
</tr>
<tr>
<td>Payments of deposits and collateral</td>
<td>(1,364,949)</td>
</tr>
<tr>
<td>Return of security deposits to suppliers</td>
<td>(585,000)</td>
</tr>
<tr>
<td>Tax and surcharge payments to other governments</td>
<td>(3,247,958)</td>
</tr>
</tbody>
</table>

**Net cash provided (used) by operating activities**  
21,890,413

## CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest and related expense payments</td>
<td>(55,860)</td>
</tr>
</tbody>
</table>

**Net cash provided (used) by non-capital financing activities**  
(55,860)

## 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>(10,956)</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>562,582</td>
</tr>
</tbody>
</table>

Net change in cash and cash equivalents  
22,386,179

Cash and cash equivalents at beginning of year  
58,963,340

**Cash and cash equivalents at end of period**  
$81,349,519
RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES

Operating Income (loss) $ 13,817,821

Adjustments to reconcile operating income to net cash provided (used) by operating activities

- Depreciation expense 29,345
- Revenue reduced for uncollectible accounts 693,043
- (Increase) decrease in net accounts receivable 8,063,132
- (Increase) decrease in energy settlements receivable (1,258,043)
- (Increase) decrease in other receivables (224,726)
- (Increase) decrease in accrued revenue 5,183,778
- (Increase) decrease in prepaid expenses (53,518)
- (Increase) decrease in current deposits 6,639,038
- Increase (decrease) in accounts payable (100,301)
- Increase (decrease) in accrued payroll & benefits 47,122
- Increase (decrease) in energy settlements payable (134,409)
- Increase (decrease) in accrued cost of electricity (10,422,495)
- Increase (decrease) in accrued liabilities 589,140
- Increase (decrease) in taxes and surcharges due to other governments (421,834)
- Increase (decrease) in supplier security deposits (556,680)

Net cash provided (used) by operating activities $ 21,890,413
## SILICON VALLEY CLEAN ENERGY
### BUDGETARY COMPARISON SCHEDULE
**October 1, 2018 through April 30, 2019**

### REVENUES & OTHER SOURCES

<table>
<thead>
<tr>
<th>Source</th>
<th>FYTD</th>
<th>FYTD Amended</th>
<th>Variance</th>
<th>FY 2018-19 Amended</th>
<th>% Budget Spent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Sales</td>
<td>$137,429,752</td>
<td>$138,150,653</td>
<td>$(720,901)</td>
<td>$281,890,000</td>
<td>-1%</td>
</tr>
<tr>
<td>Green Prime Premium</td>
<td>486,154</td>
<td>413,722</td>
<td>72,432</td>
<td>630,000</td>
<td>18%</td>
</tr>
<tr>
<td>Other Income</td>
<td>-</td>
<td>37,500</td>
<td>(37,500)</td>
<td>100,000</td>
<td>-100%</td>
</tr>
<tr>
<td>Investment Income</td>
<td>562,582</td>
<td>474,577</td>
<td>88,005</td>
<td>850,000</td>
<td>0%</td>
</tr>
<tr>
<td><strong>TOTAL REVENUES &amp; OTHER SOURCES</strong></td>
<td>138,478,488</td>
<td>139,076,452</td>
<td>(597,964)</td>
<td>283,470,000</td>
<td></td>
</tr>
</tbody>
</table>

### EXPENDITURES & OTHER USES

#### CURRENT EXPENDITURES

<table>
<thead>
<tr>
<th>Category</th>
<th>FYTD</th>
<th>FYTD Amended</th>
<th>Variance</th>
<th>FY 2018-19 Amended</th>
<th>% Budget Spent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power Supply</td>
<td>117,681,381</td>
<td>129,998,869</td>
<td>12,317,488</td>
<td>234,330,000</td>
<td>50%</td>
</tr>
<tr>
<td>Data Management</td>
<td>2,112,026</td>
<td>2,086,297</td>
<td>(25,729)</td>
<td>3,560,000</td>
<td>59%</td>
</tr>
<tr>
<td>PG&amp;E Fees</td>
<td>665,285</td>
<td>657,094</td>
<td>(8,191)</td>
<td>1,120,000</td>
<td>59%</td>
</tr>
<tr>
<td>Salaries &amp; Benefits</td>
<td>1,841,914</td>
<td>2,255,034</td>
<td>413,120</td>
<td>4,300,000</td>
<td>43%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>823,919</td>
<td>1,170,421</td>
<td>346,502</td>
<td>2,290,000</td>
<td>36%</td>
</tr>
<tr>
<td>Marketing &amp; Promotions</td>
<td>175,828</td>
<td>388,362</td>
<td>212,534</td>
<td>910,000</td>
<td>19%</td>
</tr>
<tr>
<td>Notifications</td>
<td>28,807</td>
<td>69,642</td>
<td>40,835</td>
<td>160,000</td>
<td>18%</td>
</tr>
<tr>
<td>Lease</td>
<td>187,953</td>
<td>190,039</td>
<td>2,086</td>
<td>330,000</td>
<td>57%</td>
</tr>
<tr>
<td>General &amp; Administrative</td>
<td>432,693</td>
<td>445,840</td>
<td>13,147</td>
<td>836,000</td>
<td>52%</td>
</tr>
<tr>
<td><strong>TOTAL CURRENT EXPENDITURES</strong></td>
<td>123,949,806</td>
<td>137,261,597</td>
<td>13,311,791</td>
<td>247,836,000</td>
<td>50%</td>
</tr>
</tbody>
</table>

#### OTHER USES

<table>
<thead>
<tr>
<th>Category</th>
<th>FYTD</th>
<th>FYTD Amended</th>
<th>Variance</th>
<th>FY 2018-19 Amended</th>
<th>% Budget Spent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Programs</td>
<td>118,934</td>
<td>2,140,299</td>
<td>2,021,365</td>
<td>5,640,000</td>
<td>2%</td>
</tr>
<tr>
<td>Office Equipment</td>
<td>16,719</td>
<td>88,889</td>
<td>72,170</td>
<td>200,000</td>
<td>8%</td>
</tr>
<tr>
<td>Financial Security Requirement</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>147,000</td>
<td>0%</td>
</tr>
<tr>
<td>Refund of Bond</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(100,000)</td>
<td>0%</td>
</tr>
<tr>
<td><strong>TOTAL OTHER USES</strong></td>
<td>135,653</td>
<td>2,229,188</td>
<td>2,093,535</td>
<td>5,887,000</td>
<td>2%</td>
</tr>
</tbody>
</table>

#### DEBT SERVICE

<table>
<thead>
<tr>
<th>Category</th>
<th>FYTD</th>
<th>FYTD Amended</th>
<th>Variance</th>
<th>FY 2018-19 Amended</th>
<th>% Budget Spent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financing</td>
<td>55,856</td>
<td>68,660</td>
<td>12,804</td>
<td>90,000</td>
<td>19%</td>
</tr>
<tr>
<td>Interest</td>
<td>-</td>
<td>45,000</td>
<td>45,000</td>
<td>120,000</td>
<td>100%</td>
</tr>
<tr>
<td><strong>TOTAL DEBT SERVICE</strong></td>
<td>55,856</td>
<td>113,660</td>
<td>57,804</td>
<td>210,000</td>
<td>51%</td>
</tr>
</tbody>
</table>

**Total Expenditures, Other Uses & Debt Service**

<table>
<thead>
<tr>
<th>FYTD</th>
<th>FYTD Amended</th>
<th>Variance</th>
<th>FY 2018-19 Amended</th>
<th>% Budget Spent</th>
</tr>
</thead>
<tbody>
<tr>
<td>124,141,315</td>
<td>139,604,445</td>
<td>15,463,130</td>
<td>253,933,000</td>
<td>49%</td>
</tr>
</tbody>
</table>

**Net Increase(Decrease) in Available Fund Balance**

<table>
<thead>
<tr>
<th>FYTD</th>
<th>FYTD Amended</th>
<th>Variance</th>
<th>FY 2018-19 Amended</th>
<th>% Budget Spent</th>
</tr>
</thead>
<tbody>
<tr>
<td>$14,337,173</td>
<td>($527,994)</td>
<td>$14,865,167</td>
<td>+2815%</td>
<td>$29,537,000</td>
</tr>
</tbody>
</table>
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 $ 14,337,173

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

Subtract depreciation expense (29,345)
Add back capital asset acquisitions 16,719
Change in Net Position 14,324,547
### OPERATING REVENUES

<table>
<thead>
<tr>
<th></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>$26,013,308</td>
<td>$18,589,640</td>
<td>$20,295,540</td>
<td>$19,278,907</td>
<td>$17,206,905</td>
<td>$17,794,266</td>
<td>$18,251,186</td>
<td>$17,206,905</td>
<td>$17,794,266</td>
<td>$18,251,186</td>
<td>$17,206,905</td>
<td>$17,794,266</td>
<td>$18,251,186</td>
</tr>
<tr>
<td>Green electricity premium</td>
<td>76,005</td>
<td>66,459</td>
<td>67,567</td>
<td>73,924</td>
<td>61,034</td>
<td>69,967</td>
<td>71,198</td>
<td>486,154</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other income</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total operating revenues</strong></td>
<td><strong>26,089,313</strong></td>
<td><strong>18,656,099</strong></td>
<td><strong>20,363,107</strong></td>
<td><strong>19,352,831</strong></td>
<td><strong>17,267,939</strong></td>
<td><strong>17,864,233</strong></td>
<td><strong>18,322,384</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>137,915,906</strong></td>
</tr>
</tbody>
</table>

### OPERATING EXPENSES

<table>
<thead>
<tr>
<th></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>Cost of electricity</td>
<td>17,160,575</td>
<td>16,892,744</td>
<td>17,551,069</td>
<td>23,433,656</td>
<td>16,893,908</td>
<td>12,980,824</td>
<td>12,768,605</td>
<td>117,681,381</td>
<td>1,841,914</td>
<td>2,112,026</td>
<td>2,211,206</td>
<td>665,285</td>
<td>1,147,488</td>
</tr>
<tr>
<td>Staff compensation and benefits</td>
<td>236,907</td>
<td>256,926</td>
<td>264,613</td>
<td>269,608</td>
<td>250,743</td>
<td>287,282</td>
<td>275,835</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Data manager</td>
<td>301,479</td>
<td>300,856</td>
<td>301,200</td>
<td>301,385</td>
<td>301,626</td>
<td>287,282</td>
<td>275,835</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Service fees - PG&amp;E</td>
<td>94,279</td>
<td>94,000</td>
<td>94,377</td>
<td>94,000</td>
<td>99,753</td>
<td>94,263</td>
<td>94,613</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Consultants and other professional fees</td>
<td>130,737</td>
<td>114,869</td>
<td>129,909</td>
<td>123,353</td>
<td>120,076</td>
<td>117,599</td>
<td>78,370</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>General and administration</td>
<td>99,316</td>
<td>70,743</td>
<td>74,028</td>
<td>73,621</td>
<td>73,621</td>
<td>78,370</td>
<td>78,370</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Depreciation</td>
<td>4,179</td>
<td>4,179</td>
<td>4,335</td>
<td>4,393</td>
<td>3,969</td>
<td>4,160</td>
<td>4,130</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td><strong>18,027,472</strong></td>
<td><strong>17,734,317</strong></td>
<td><strong>18,419,531</strong></td>
<td><strong>24,300,016</strong></td>
<td><strong>17,887,602</strong></td>
<td><strong>13,947,487</strong></td>
<td><strong>13,781,660</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>124,098,085</strong></td>
</tr>
<tr>
<td><strong>Operating income (loss)</strong></td>
<td><strong>8,061,841</strong></td>
<td><strong>921,782</strong></td>
<td><strong>1,943,576</strong></td>
<td><strong>(4,947,185)</strong></td>
<td><strong>(619,663)</strong></td>
<td><strong>3,916,746</strong></td>
<td><strong>4,540,724</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>13,817,821</strong></td>
</tr>
</tbody>
</table>

### NONOPERATING REVENUES (EXPENSES)

<table>
<thead>
<tr>
<th></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>Interest income</td>
<td>30,474</td>
<td>30,758</td>
<td>58,997</td>
<td>128,308</td>
<td>96,180</td>
<td>109,063</td>
<td>108,802</td>
<td>562,582</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Interest and related expense</td>
<td>-</td>
<td>-</td>
<td>(55,856)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total nonoperating revenues (expenses)</strong></td>
<td><strong>30,474</strong></td>
<td><strong>30,758</strong></td>
<td><strong>3,141</strong></td>
<td><strong>128,308</strong></td>
<td><strong>96,180</strong></td>
<td><strong>109,063</strong></td>
<td><strong>108,802</strong></td>
<td><strong>562,582</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
</tr>
</tbody>
</table>

### CHANGE IN NET POSITION

<table>
<thead>
<tr>
<th></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><strong>$8,092,315</strong></td>
<td><strong>$952,540</strong></td>
<td><strong>$1,946,717</strong></td>
<td><strong>(4,818,877)</strong></td>
<td><strong>(523,483)</strong></td>
<td><strong>4,025,809</strong></td>
<td><strong>4,649,526</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>-</strong></td>
<td><strong>14,324,547</strong></td>
<td></td>
</tr>
</tbody>
</table>
## Personnel Report for April 2019

### Headcount

<table>
<thead>
<tr>
<th>Position</th>
<th>Budget</th>
<th>Actual</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director of Account Services and Community Relations</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>Energy Consultant</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Energy Associate</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Communications 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>Communications Specialist</td>
<td>1</td>
<td>1</td>
<td>0</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>Director of Finance and Administration</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Administrative Services Manager</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Management Analyst</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>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>Power Resources Manager</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Power Resources Planner</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Power Settlements &amp; Compliance Analyst</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Manager of Regulatory and Legislative Affairs</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>Director of Decarboniation and Grid Innovation</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Data Analyst</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Analyst</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>25</strong></td>
<td><strong>19</strong></td>
<td><strong>6</strong></td>
</tr>
</tbody>
</table>
## SILICON VALLEY CLEAN ENERGY AUTHORITY
### INVESTMENTS SUMMARY
#### October 1, 2018 through April 30, 2019

### Return on Investments

<table>
<thead>
<tr>
<th>Money Market</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>$30,474</td>
<td>$30,758</td>
<td>$58,997</td>
<td>$128,308</td>
<td>$96,180</td>
<td>$109,063</td>
<td>$108,802</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$562,582</td>
</tr>
</tbody>
</table>

### Portfolio Invested

| Average daily portfolio available to invest* | 55,148,395 | 63,583,109 | 62,254,625 | 69,135,839 | 70,770,817 | $71,496,022 | 71,216,494 |
| Average daily portfolio invested           | 20,154,823 | 20,185,339 | 35,700,846 | 60,277,386 | 60,380,303 | $60,476,566 | 60,585,707 |
| % of average daily portfolio invested      | 36.5%      | 31.7%      | 57.3%      | 87.2%      | 85.3%      | 84.6%       | 85.1%       |

### Detail of Portfolio

<table>
<thead>
<tr>
<th>Money Market - River City Bank</th>
<th>Opening Rate %</th>
<th>Current Rate %</th>
<th>Carrying Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1.26%</td>
<td>2.14%</td>
<td>$60,690,007</td>
</tr>
</tbody>
</table>

*Note: Balance available to invest does not lockbox or debt serve reserve funds.*
CUSTOMER ACCOUNTS

RESIDENTIAL ACCOUNTS

<table>
<thead>
<tr>
<th>Month</th>
<th>Actual</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct</td>
<td>239.7</td>
<td></td>
</tr>
<tr>
<td>Nov</td>
<td>240.0</td>
<td></td>
</tr>
<tr>
<td>Dec</td>
<td>240.4</td>
<td></td>
</tr>
<tr>
<td>Jan</td>
<td>240.5</td>
<td></td>
</tr>
<tr>
<td>Feb</td>
<td>240.6</td>
<td></td>
</tr>
<tr>
<td>Mar</td>
<td>240.8</td>
<td></td>
</tr>
<tr>
<td>Apr</td>
<td>241.4</td>
<td></td>
</tr>
<tr>
<td>May</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aug</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sep</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NON-RESIDENTIAL ACCOUNTS

<table>
<thead>
<tr>
<th>Month</th>
<th>Actual</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Nov</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Dec</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Jan</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Feb</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Mar</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Apr</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>May</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aug</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sep</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
WEATHER STATISTICS

COOLING DEGREE DAYS

HEATING DEGREE DAYS
### SILICON VALLEY CLEAN ENERGY AUTHORITY

#### ACCOUNTS RECEIVABLE AGING REPORT

<table>
<thead>
<tr>
<th>Accounts Receivable</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>$17,326,029</td>
<td>$15,024,688</td>
<td>$605,685</td>
<td>$299,278</td>
<td>$668,676</td>
<td>$727,702</td>
</tr>
</tbody>
</table>

| Period % | 100% | 86.7% | 3.5% | 1.7% | 3.9% | 4.2% |

*Note: A portion of accounts that are greater than 90 days old have been sent back to PG&E, however the receivable remains outstanding until PG&E writes the account off.
To: Silicon Valley Clean Energy Board of Directors
From: Girish Balachandran, CEO

**Item 1c: Approve Establishment of SVCE EV-2A Generation Rate to Correspond with New PG&E Rate**

Date: 6/12/2019

**RECOMMENDATION**
Approve establishment of new SVCE EV-2A generation rate effective July 1, 2019, to correspond with new PG&E rate.

**BACKGROUND**
PG&E currently provides a Time of Use (TOU) rate class specifically for drivers of electric vehicles (EV) and plug-in hybrid electric vehicles (PHEV). This rate, EV-A, requires that customers register the Vehicle Identification Number of their EV or PHEV in order to participate. The rate provides lower off-peak costs compared to other Time of Use rates as a price signal to charge one’s car in the off-peak hours and has higher on-peak costs compared to other Time of Use rates. SVCE has offered an EV-A generation rate, priced at the board approved discount level, since beginning service to customers in April of 2017.

PG&E currently plans to offer a new rate specific to EV and PHEV drivers beginning July 1, 2019. The new rate, EV-2A, will replace the sunsetting EV-A rate. Mandatory customer transition of existing EV-A accounts to the new EV-2A rate will begin in November of 2019. Newly created accounts held by EV and PHEV drivers will be enrolled in EV-2A beginning July 1, 2019.

SVCE does not currently have a corresponding EV-2A generation rate in its detailed rate sheet and will need to create one in order to correctly bill these newly enrolled or transitioning EV rate customers. SVCE currently serves 7,244 customers on an EV-A rate, though the number of EV and PHEV drivers in the territory is estimated to be much higher.

**ANALYSIS & DISCUSSION**
PG&E has not yet released exact pricing on the new EV-2A rate. This is anticipated later in June 2019. However, several distinguishing characteristics of the new EV-2A rate are known. The peak time period is to be shortened from 2 – 9 p.m. under EV-A to 4 – 9 p.m. under EV-2A - to better align with other TOU transitions and ‘duck curve’ ramping. The shouldering part-peak hours will also be reduced, extending the off-peak hours for charging from 11 p.m. to 7 a.m. under EV-A to 12 a.m. to 3 p.m. under EV-2A.

The original PG&E EV-A rate had a cap of 60,000 participants. Rather than cap total participation in the EV-2A rate, PG&E will limit customers’ usage while on the rate to 800% of their baseline annually. Extremely high users over the 800% of baseline cap will be transitioned to another (existing) TOU rate, ETOU-B. This rate has less potential for revenue shortfall from extreme off-peak usage, and will help to prevent cost shifting to other customers.
Rate Design Methodology
When detailed PG&E pricing is published later in June, the corresponding SVCE generation rate will utilize the same methodology used to calculate all other SVCE rates. Each SVCE EV-2A generation rate component (e.g. peak period price, off-peak price) will be discounted by 6% from the corresponding PG&E rate, inclusive of PCIA and franchise fee surcharges. This is the currently-effective discount for SVCE’s generation rates relative to PG&E, approved by the SVCE Board on April 10, 2019.

Timing and Approach for July 1, 2019 EV-2A Rate Creation
If approved by the Board, the newly created EV-2A rate will be added to the full list of currently approved rates and sent to Calpine for a short period of testing before the rate is made effective in the billing system as of July 1, 2019.

Conclusion
Staff requests that the Board approve creation of a new EV-2A rate, to be priced at the current Board-approved discount level of 6% relative to PG&E’s equivalent generation rate. Upon approval, this rate will be incorporated into SVCE’s full list of approved rates.

ALTERNATIVE
Staff recommends moving forward with the establishment of new SVCE EV-2A generation rates, but is open to suggestions from the Board.

FISCAL IMPACT
PG&E’s final pricing for the new EV-2A rate has not yet been released. However, the potential impact of transitioning 7,244 residential customers (representing approximately 1.7% of SVCE’s total load) from EV-A to EV-2A is likely to be nominal.
Staff Report – Item 1d

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1d: Adopt Resolution Amending SVCE’s Energy Risk Management Policy

Date: 6/12/2019

RECOMMENDATION
Staff recommends that the Board approve Resolution 2019-09 approving revisions to SVCE’s Energy Risk Management Policy.

BACKGROUND
The Energy Risk Management Policy (ERM Policy) was first adopted by the Silicon Valley Clean Energy Authority (SVCE) Board in February 2017. On May 10, 2017, the Board approved an update to the policy and expanded the Energy Risk Management Policy to incorporate other provisions to address key issues such as trading authority, credit risk and hedging. On January 9, 2019, the Board approved several modifications to the ERM Policy to clarify authorities, limitations and transacting and hedging tolerance bands, the addition of descriptions of risk and how they will be managed, and overall aimed to simplify the document by moving several items considered operational to Guidelines to be developed by the Chief Executive Officer (CEO). The current policy can be found on SVCE’s website: Energy Risk Management Policy (ERM Policy).

In order to consistently and uniformly delegate authority to the CEO, on March 13, 2019, the Board approved Resolution No. 2019-03 delegating the authority to the CEO to execute confirmation agreements pursuant to Board-approved Master Agreements with several electricity suppliers, including (a) granting the Chief Executive Officer authority to enter into confirmations for terms not greater than 60 months and (b) limiting the CEO’s transaction authority to purchases of product consistent with forecasted load and within the Energy Net Open Position (NOP) Tolerance Bands (as defined in the ERM Policy). The Resolution further directed that the ERM Policy be updated to reflect changes in delegated authority.

On May 8, 2019 the Board approved Resolution No. 2019-08 delegating authority to the CEO to execute a Cost-Sharing And Reimbursement Agreement (“Cost Sharing Agreement”) between five community choice aggregators (CCAs) including SVCE, Peninsula Clean Energy Authority, the City of San Jose, East Bay Community Energy Authority and Monterey Bay Community Power Authority; and to execute an Addendum for Resource Adequacy (RA) Services with the Alliance for Cooperative Energy Services Power Marketing LLC (ACES). Under the Cost Sharing Agreement and ACES Addendum, the five CCAs will receive aggregated resource adequacy management, procurement and regulatory compliance services in an effort to improve buying power and better meet California’s RA compliance requirements. On behalf of SVCE, the CEO has executed the Cost-Sharing Agreement and Addendum.

ANALYSIS & DISCUSSION
Several modifications are needed to the ERM Policy to reflect recent Board actions to 1) further clarify authority delegated to the CEO under the Board-approved Master Agreements; and 2) to delegate expanded authority to the CEO to transact RA products with non-Master Agreement counterparties for up to 60 months. Additionally, staff proposes limiting the CEO’s authority to set a maximum term limit for final delivery from date of execution. Additional minor modifications are proposed as summarized in Attachment 1 and provided in the redline version of the ERM Policy (Attachment 4).

Master Agreement Authority
As described above, the Board’s recent approval of Resolution No. 2019-03 directs changes to the ERM Policy to clarify authority delegated to the CEO as reflected in Attachment 3, Section 6.5 Authorized Trading Limits. Specifically, Table 2 of Section 6.5.2 is modified as follows and shown below.
a. transactions of up to 12 months in term, with any counterparty and with a maturity limit of 18 months to end of delivery from date of execution;
b. transactions of up to 60 months in term, with any counterparty approved by the Board under a Master Agreement with a maturity limit of 72 months to end of delivery from date of execution; and
c. Notional Value Limit is changed to Volume Limit and is limited to load needs.

**ERM Policy Revised Table 2: Authority Delegated to the CEO by the Board**

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Maturity Limit</th>
<th>Volume Limit</th>
<th>Counterparty Limits</th>
<th>Who</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy, Capacity, and CAISO Ancillary Services</td>
<td>Day Ahead and Real Time</td>
<td>n/a</td>
<td>As needed to meet SVCE's expected load obligations with the CAISO</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>Energy, Capacity, CRRs, and Environmental Products</td>
<td>Up to 12 months</td>
<td>18 months</td>
<td>As needed to meet SVCE's expected load needs (per Purchasing Policy)</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As needed to meet SVCE's expected load needs</td>
<td>Board-approved Master Agreements</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td>Over 60 months</td>
<td>As approved by the Board</td>
<td>As approved by the Board</td>
<td>As approved by the Board</td>
<td>Board</td>
</tr>
</tbody>
</table>

**Resource Adequacy**

SVCE must comply with the regulatory requirements for procurement of capacity products for Resource Adequacy (RA) needs. The CPUC has recently adopted a decision to modify compliance obligations for local resource adequacy from demonstrating for one-year period to a three-year period by October 31st. Additionally, SVCE must demonstrate, on a month-ahead basis, full compliance with its monthly RA obligations as shown below:

<table>
<thead>
<tr>
<th>Product</th>
<th>Year-Ahead Demonstration Requirement</th>
<th>Compliance Obligation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local</td>
<td>Year 1 &amp; 2: by October 31st, must demonstrate capacity to meet 100% of monthly obligation Year 3: by October 31st, must demonstrate capacity to meet 50% of monthly obligation</td>
<td>Obligation is based on 50% of SVCE's system coincident peak. Capacity must be procured for the Greater Bay Area and 7 Local Zones. Obligation for quantity and location set annually.</td>
</tr>
<tr>
<td>System</td>
<td>Year 1: by October 31st, must demonstrate capacity to meet 50% of “summer” (May through September) needs</td>
<td>System RA needs are based on 15% monthly planning reserve above SVCE’s expected monthly capacity forecast.</td>
</tr>
<tr>
<td>Flexible</td>
<td>Year 1: by October 31st, must demonstrate capacity to meet 50% of “summer” (May through September) needs</td>
<td>As determined by the CAISO</td>
</tr>
</tbody>
</table>

To adequately and effectively meet RA requirements, the CEO needs a broad authority to transact for terms of up to five years and with a broad set of suppliers, including counterparties not under a Master Agreement. And, while credit risk is a significant risk related to energy transactions, it is not as significant a risk for RA
products as the prices tend to be less volatile and suppliers are less likely to default. For this reason, many RA transactions are executed under a WSPP with less onerous credit terms than the EEI Master Agreement. For SVCE, the more significant risk associated with RA is that the product procured will not count towards a specific obligation (type or location) or the possibility of the establishment of a central buyer for RA which may strand or change the value of RA under contract. To mitigate such risk, SVCE will ladder RA procurement and continue to advocate for fair legislation and regulations related to RA. Additionally, to the extent possible SVCE will work to ensure that RA contracts contain proper language to deal with regulatory and/or legislative changes.

The Cost-Sharing Agreement among the five CCAs and aggregated RA services with ACES will work efficiently if the delegated authority to each CEO is relatively consistent. There are opportunities currently being pursued to purchase RA for a period of up to 5 years. If the delegated authority of one CCA is significantly less than what is required for ACES to enter into transactions, this would lead to delays and lost opportunities. A clear, expanded and consistent authority related to RA is necessary to achieve the benefits of aggregated RA services and to make a best effort to comply with the state’s onerous and ever-changing RA requirements. The table below reflects the proposed delegated authority for RA to the CEO consistent with the authority granted to CEO’s and/or risk oversight committees of the other CCAs participating in aggregated RA services through ACES. This authority is proposed in Attachment 3, new Section 6.5.3, Table 4.

**ERM Policy New Table 4: Resource Adequacy Authority Delegated to the CEO by the Board**

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Maturity Limit</th>
<th>Volume Limit</th>
<th>Counterparty Limit</th>
<th>Who</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>System Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>Flexible Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
</tbody>
</table>

**STRATEGIC PLAN**
SVCE’s strategic plan provides guidance on what types of energy-related products to acquire (e.g. purchase Power Content Category 1 renewable resources to meet Renewable Portfolio Standards), and what policy goals to pursue (e.g. ensure that 100% of SVCE’s energy needs are from carbon-free resources), and what overall strategies to pursue (e.g. stagger acquisitions to accommodate uncertainty and diversity the use of technologies to meet RPS needs). The Energy Risk Management Policy provides guidance for staff to meet the policies outlined in the Strategic Plan while managing the risks inherent in the energy supply business.

**ALTERNATIVE**
SVCE could continue with the Energy Risk Management Policy in place, but at a minimum the delegated transacting authority should reflect the Board’s direction to include authority under the Master Agreements.

**FISCAL IMPACT**
Implementing the proposed updated Energy Risk Management Policy is not expected to have a fiscal impact.

**ATTACHMENTS**
1. Summary of Revisions to the Energy Risk Management Policy
2. Resolution Approving Revised Energy Risk Management Policy
3. Energy Risk Manage Policy (clean with revisions)
4. Energy Risk Management Policy (redline)
# Energy Risk Management Policy – June 12, 2019 Proposed Revisions

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Transactions and Trading Limitations – Energy Hedging Tolerance Bands</td>
<td>Section 6.4 Tolerance Bands – sets minimum and maximum load to resource balance for the upcoming calendar year quarter, balance of the current calendar year and the next four calendar years.</td>
<td>No Change in policy.</td>
<td>Clarification/clean-up to Table 1 – Tolerance Bands:&lt;br&gt;• Clarified tolerance bands apply to calendar year;&lt;br&gt;• Changed “Prompt Year” to “Balance of Current Year”;&lt;br&gt;• Added an example for further clarification.</td>
</tr>
<tr>
<td>Authorized Transactions and Trading Limitations - Delegation of Authority to CEO under Master Agreements</td>
<td>6.5.2 Authority Delegated to the CEO by the Board is limited to 12 months for counterparties not under a Master Agreement. No limits exist to specific maximum maturity or end of delivery date and therefore CEO could enter into a 12-month transaction where the final delivery month may be way beyond 12 months.</td>
<td>Under Resolution 2019-03, the Board delegates to the CEO the authority to enter into Confirmations for terms not greater than 60 months and limited to purchases of Product consistent with forecasted load and within the Energy NOP Tolerance Bands. Establishes maximum maturity limits.</td>
<td>Resolution No. 2019-03 requires clarification to the ERM Policy&lt;br&gt;Minor change/clean-up to Table 2: Authority Delegated to the CEO by the Board:&lt;br&gt;• Added Maturity Limit&lt;br&gt;• Changed Notional Value Limit to Volume Limit and added to meet expected load;&lt;br&gt;• Added eligible Counterparty Tolerance bands for renewable resources</td>
</tr>
<tr>
<td>Authorized Transactions and Trading Limitations - Delegation of Authority to CEO under Master Agreements</td>
<td>Authority granted to the CEO does not distinguish between energy transactions and Resource Adequacy (RA) needed to meet compliance requirements.</td>
<td>Added 6.5.3 Resource Adequacy Authority Delegated to the Board which expands CEO authority to transact up to 60 months in term with counterparties including ones without a Master Agreement for RA related transactions.</td>
<td>Needed to meet California’s new multi-year RA obligation requirements and to effectively implement the multi CCA Cost Sharing Agreement and Addendum with for RA aggregated services.&lt;br&gt;Minor change/clean-up:&lt;br&gt;• Added Table 3: Resource Adequacy Requirements;&lt;br&gt;• Added Table 4: Resource Adequacy Authority Delegated to the CEO by the Board.&lt;br&gt;• Table 5: added Resource Adequacy as a specific Product</td>
</tr>
</tbody>
</table>
SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2019-09

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE AUTHORITY’S ENERGY RISK MANAGEMENT POLICY

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 first adopted an Energy Risk Management Policy in February 2017, which allowed SVCE to transact in the California Independent System Operator (CAISO) congestion market;

WHEREAS, On May 10, 2017, the Board approved an updated and expanded Energy Risk Management Policy (“Policy”) to incorporate other provisions to address key issues such as trading authority, credit risk and hedging;

WHEREAS, On January 9, 2019, the Board approved further revisions to the Policy to clarify the purpose of the Policy, simplify the document by eliminating operational items, and provide clear delegation of authority within the Policy;

WHEREAS, by Resolution No. 2019-03 the Board delegated the authority to the CEO to execute confirmation agreements pursuant to Board-approved Master Agreements with several electricity suppliers, including (a) granting the Chief Executive Officer (“CEO”) authority to enter into confirmations for terms not greater than 60 months and (b) limiting the CEO’s transaction authority to purchases of product consistent with forecasted load and within the Energy Net Open Position Tolerance Bands as defined in the Policy and further directed by that Policy;

WHEREAS, by Resolution No. 2019-08 the Board delegated authority to the CEO to execute a Cost-Sharing And Reimbursement Agreement (“Cost Sharing Agreement”) between five community choice aggregators (CCAs) including SVCE, Peninsula Clean Energy Authority, the City of San Jose, East Bay Community Energy Authority and Monterey Bay Community Power Authority; and to execute an Addendum for Resource Adequacy (RA) Services with the Alliance for Cooperative Energy Services Power Marketing LLC (ACES). Under the Cost Sharing Agreement and ACES Addendum, the five CCAs will receive aggregated resource adequacy management, procurement and regulatory compliance services in an effort to improve buying power and better meet California’s RA compliance requirements;
WHEREAS, the CEO has executed the Cost Sharing Agreement and Addendum and to effectively implement the Addendum the CEO seeks expanded authority to execute RA transactions as part of the Policy;

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 in order to further the Board’s Strategic Plan;

WHEREAS, Staff has presented to the Board, and the Board has reviewed, the attached revisions to the Policy;

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 amends the Energy Risk Management Policy as provided for in Exhibit A.

ADOPTED AND APPROVED this 12th day of June 2019, by the following vote:

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Chair

ATTEST:

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Clerk
Energy Risk Management Policy

Proposed:
June 12, 2019
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1 General Provisions

1.1 Background and Purpose of Policy

Silicon Valley Clean Energy’s (SVCE) mission is to reduce dependence on fossil fuels by providing carbon free, affordable and reliable electricity and innovative programs for the SVCE community.

This Energy Risk Management Policy (Policy) has been developed to help ensure that SVCE achieves its mission and adheres to policies established by the SVCE Board of Directors (Board), power supply and related contract commitments, good utility practice, and all applicable laws and regulations. SVCE is not engaged in the power supply business for profit and is, therefore, precluded by this Policy from engaging in many of the risk-taking activities typical to an organization orientated solely toward profit maximization.

This Policy defines SVCE’s general energy risk management framework and provides management with the authority to establish processes for monitoring, measuring, reporting, and controlling market and credit risks to which SVCE is exposed in its normal course of business.

1.2 Scope of Business and Related Market Risks

SVCE provides energy to retail customers in its service territory that entails business activities such as; bilateral purchases and sales of electricity under short-, medium- and long-term contracts; scheduling of load and generation of electricity into California Independent Systems Operator (CAISO) markets; retail marketing of electricity to consumers within its service territory; compliance with voluntary objectives and regulatory requirements as it relates to carbon free and renewable portfolio standard (RPS) compliant energy; participation in CAISO Congestion Revenue Rights ("CRRs") market; managing the balance of load and generation over short, medium and long term horizons; and compliance with California Public Utilities Commission (CPUC) Resource Adequacy (RA) requirements.

Examples of energy market risks include, but are not limited to, the following:

- Mark-to-Market Risk
- Market Price Risk
- Net Revenue Risk
- Counterparty Credit and Performance Risk
- Load and Generation Volumetric Risk
- Operational Risk
- Liquidity Risk
- Regulatory/Legislative Risk

This Policy focuses on the following:

- Risk Management Goals and Principles
- Definitions of Risks
- Internal Control Principles
- Risk Management Business Practices
- Authorized Transaction and Trading Limitations
- Risk Management Governance
This Policy does not address the following types of general business risk, which are treated separately in other official policies, ordinances and regulations of SVCE: fire, accident and casualty; health, safety, and workers’ compensation; cybersecurity, general liability; and other such typically insurable perils. The term “risk management,” as used herein, is therefore understood to refer solely to energy market risks as herein defined, and not those other categories of risk.

1.3 Policy Administration

This Energy Risk Management Policy (Policy) is adopted by the SVCE Board of Directors and will be reviewed and updated as needed at least every two calendar years by SVCE’s Board. The CEO is responsible for implementation of the Policy. The CEO is also responsible to develop Energy Risk Management Guidelines (Guidelines), which is required for staff to implement the Policy.

1.4 Policy Distribution

This Policy shall be distributed to all SVCE employees and third-party contractors who are engaged in the planning, procurement, sale and scheduling of electricity on SVCE’s behalf and/or in other SVCE departments providing oversight and support for these activities.

2 Risk Management Goals

Although SVCE does not engage in risk-taking activities typical in a for-profit organization, certain risks are incidental to the normal power supply operations and hedging activities. SVCE’s policy is to manage risk inherent with serving load, including the risks associated with normal cost-hedging activities, those associated with participation in wholesale markets in general and the CAISO in particular.

The goals of energy risk management shall be to:

1. assist in achieving the business objectives in the Strategic Plan, Integrated Resource Plan (IRP) and Cash Reserve Policy including retail rate stability and competitiveness and the accumulation of financial reserves;
2. avoid losses and excessive costs which would materially impact the financial condition of SVCE;
3. establish the parameters for energy procurement and sales activity to obtain the best possible price while ensuring compliance with Board-approved policies;
4. identify specific cost, regulatory and legislative risks that could adversely affect SVCE’s ability to achieve its business objectives, and to the extent possible, quantify and measure performance against those risks;
5. assist in assuring that market activities and transactions are undertaken in compliance with established procurement authorities, applicable laws, regulations and orders;
6. encourage the development and maintenance of a corporate culture at SVCE in which the proper balance is struck between control and facilitation and in which professionalism, discipline, technical skills and analytical rigor come together to achieve SVCE objectives; and
7. manage business risks to acceptable levels consistent with retail rate-setting, resource procurement and cash reserve management.
SVCE manages its energy resources and transactions to provide its customers with low cost renewable, carbon free and other energy while at the same time minimizing risks. The risk management principles that SVCE will use include:

1. Undue exposure to CAISO or bilateral energy market volatility for the purpose of potentially achieving lower costs but at the risk that costs may, in fact, be much higher, will not be accepted.
2. Procurement and hedging strategy will be determined by analytical methods supplemented by experienced judgement. SVCE will use that experienced judgement and its analytical tools to assess system cost drivers such as weather, short term energy prices, load variation and operational constraints to manage timing and quantity of purchases and sales of energy and related services, consistent with the limits identified in this Policy.
3. When actions are taken that are consistent with this Policy and for the combined goal of low costs and optimized risk, those actions are considered to be consistent with the objectives of this Policy.
4. SVCE will not engage in transactions, without proper authorization, whose purpose is not tied to managing costs and risks or are outside of the limits identified in this Policy.

3 Definition of Market Risks

The term “market risks,” as used here, refers specifically to those categories of risk which relate to SVCE’s participation in wholesale and retail markets as a Load Serving Entity (LSE) and its interests in long-term contracts. Market risks include market price risk, counterparty credit and performance risk, load and generation volumetric risk, operational risk, liquidity risk, and regulatory and legislative risk. These categories are defined and explained as follows.

3.1 Mark-to-Market Risk

Mark-to-Market risk is the risk that wholesale trading positions, long-term supply contracts and generation resources may move “out of the money,” that is, become less valuable in comparison with similar positions, contracts or resources obtainable at present prices. These same positions can also be “in the money” if they become more valuable in comparison to similar positions, contracts or resources obtainable at present market prices. This valuation methodology is commonly referred to as “Mark-to-Market.” If SVCE is “out of the money” on a substantial portion of its contracts, it may have to charge higher retail rates. This may erode SVCE’s competitive position and market share if other market participants (e.g., Direct Access providers or PG&E) are able to procure power at a lower cost and offer lower retail electricity rates.

3.2 Market Price Risk

Market Price risk is the risk that market prices change, resulting in changes to energy procurement cost. For example, the cost for the unhedged portion of a supply portfolio (net open position) will increase when market prices increase. Conversely, if resources are in excess to needs and market prices fall, the revenue expected from the sale of the surplus resources will decrease. In addition, uncertain market price relationships (locational risk) affect SVCE’s procurement costs.

A subcomponent of market price risk is market liquidity. Illiquid markets make it more difficult to buy or sell a commodity and can result in higher premiums on purchases or deeper discounts on sales.
Another dimension of market price risk is congestion risk. Congestion risks arise from the difference between the prices SVCE pays the CAISO to schedule its load and the prices SVCE receives from the CAISO for energy delivered by SVCE’s suppliers.

### 3.3 Net Revenue Risk

Net Revenues are the total of all revenues received (from retail sales to customers and from the sale of any energy products that were surplus or unneeded) less the total costs (including the costs of long-term contracts, forward transactions, and spot market purchases plus all other operating costs). Net Revenue Risk is the risk that any of those factors—revenues or costs—changes (e.g. changes in market prices or retail sales volumes, or failures of counterparties). Net Revenue is the “bottom line” for SVCE as it determines the financial viability of the authority.

One of the main components of net revenue risk is on the retail revenue side, which is at risk when customers opt out from service by SVCE and return to PG&E, or if customers choose to find another supplier through direct access opportunities that may arise. In addition, when the Power Charge Indifference Adjustment (PCIA) is changed, it directly affects SVCE’s bottom line if SVCE compensates by changing its retail rates.

### 3.4 Counterparty Credit and Performance Risk

Performance and credit risk refers to the inability or unwillingness of a counterparty to perform according to its contractual obligations or to extend credit. Failure to perform may arise if an energy supplier fails to deliver energy as agreed. There are four general performance and credit risk scenarios:

1. counterparties and wholesale suppliers may fail to deliver energy or environmental attributes, requiring SVCE to purchase replacement products elsewhere, possibly at a higher cost;
2. counterparties may fail to take delivery of energy or environmental attributes sold to them, necessitating a quick resale of the product elsewhere, possibly at a lower price;
3. counterparties may fail to pay for energy or environmental attributes delivered; and
4. counterparties and suppliers may refuse to extend credit to SVCE, possibly resulting in higher collateral posting costs impacting SVCE’s cash and bank lines of credit.

An important subcategory of credit risk is concentration risk. When a portfolio of positions and resources is concentrated in one or a very few counterparties, sources, or locations, it becomes more likely that major losses will be sustained in the event of non-performance by a counterparty or supplier or as a result of price fluctuations at one location.

### 3.5 Load and Generation Volumetric Risk

Energy deliveries must be planned for based upon forecasted load adjusted for distribution line losses. SVCE forecasts load over the long and short term and enters into long- and short-term fixed-price energy contracts to hedge its load.

Load forecasting risks arises from inaccurate load forecasts and can result in the over or under procurement of energy and/or revenues that deviate from approved budgets. Energy delivery risk occurs if a generator fails to deliver expected or forecast energy. Variations in wind speed and cloud cover can also impact the amount of electricity generated by solar and wind resources, and occasional oversupply of power on the grid can lead to curtailment.
of energy deliveries or reduce revenue as a result of low or negative prices at energy delivery points. Weather is an important variable that can result in higher or lower electricity usage due to heating and cooling needs.

In the CAISO markets this situation can result in both oversupply and undersupply of electricity relative to SVCE’s load and the over or under scheduling of generation or load into the day ahead market relative to actual energy consumed or delivered in the real time market. Load and generation volumetric risk may result in unanticipated open positions and imbalance energy costs. Imbalance energy costs result from differences in the price or volume of generation or load scheduled into the day ahead market when compared to the price or volume of generation or load occurring in the real time market during that time period.

3.6 Operational Risk

Operational risk consists of the potential for failure to act effectively to plan, execute and control business activities. Operational risk includes the potential for:

1. organizational structure that is ineffective in addressing risk (i.e., the lack of sufficient authority to make and execute decisions, inadequate supervision, ineffective internal checks and balances, incomplete, inaccurate and untimely forecasts or reporting, failure to separate incompatible functions, etc.);
2. absence, shortage or loss of key personnel or lack of cross functional training;
3. lack or failure of facilities, equipment, systems and tools such as computers, software, communications links and data services;
4. exposure to litigation or sanctions resulting from violating laws and regulations, not meeting contractual obligations, failure to address legal issues and/or receive competent legal advice, not drafting and analyzing contracts effectively, etc.; and
5. errors or omissions in the conduct of business, including failure to execute transactions, violation of guidelines and directives, etc.

3.7 Liquidity Risk

Liquidity Risk is the risk that SVCE will be unable to meet its financial obligations. This can be caused by unexpected financial events and/or inaccurate pro forma calculations, rate analysis, and debt analysis. Some unexpected financial events impacting liquidity could include:

1. breach of SVCE credit covenants or thresholds; SVCE has credit covenants included in its banking and several short-term energy contracts. Breach of credit covenants or thresholds could result in the withdrawal of SVCE’s line of credit or trigger the requirement to post collateral;
2. calls for collateral from the CAISO or SVCE’s counterparties based on terms of transacting agreements; and
3. from time to time SVCE may be the subject of legal or other claims arising from the normal course of business. Payment of a claim by SVCE could reduce SVCE’s liquidity if the cause of loss is not covered by SVCE’s insurance policies.

3.8 Regulatory/Legislative Risk

Regulatory risk encompasses market structure and operational risks associated with shifting state and federal regulatory policies, rules, and regulations that could negatively impact SVCE. Some examples are the potential increase of exit fees for customers served by Community Choice Aggregators such as SVCE that would result in higher electricity rates for
SVCE’s customers, and the risk that the customers would select another supplier through an expanded Direct Access program.

Legislative risk is associated with actions by federal and state legislative bodies, such as any adverse changes or requirements that may infringe on SVCE’s autonomy, increase its costs, impact its customer base, or otherwise negatively impact SVCE’s ability to fulfill its mission.

4 Internal Control Principles

Internal controls shall be based on proven principles that meet or exceed the requirements of financial institutions and credit rating agencies and good utility practice. The required controls shall include all customary and usual business practices designed to prevent errors and improprieties, ensure accurate and timely reporting of results of operations and information pertinent to management, and facilitate attainment of business objectives. These controls are currently and shall remain fully integrated into all activities of the business and shall be consistent with stated objectives.

4.1 Segregation of duties

One of the main aspects of internal controls is the segregation of duties to ensure that the staff person that executes a transaction is not the same person that evaluates or settles the transaction. Appropriate segregation of duties is to be established and maintained throughout the system of controls over financial risks. Senior management must be diligent in ensuring that appropriate segregation of duties is adhered to within the context of organizational changes, while considering staffing limitations, SVCE’s business model as a cost hedger, and the overall level of transactions with counterparties. Segregation of duties and functions between front, middle, and back office activities is generally as follows:

- The Front Office is directly involved in resource planning, product procurement and sales transactions and implementation of strategies within authorized limits.
- The Middle Office’s functions are related to risk management and counterparty credit. The primary responsibility is ensure that all products utilized and transaction activities are undertaken in compliance with current policy.
- The Back Office is comprised of those functions responsible for verification, validation accounting, processing, reconciling and settling all transactions.

Controls over inputs and systems operations are of particular importance in ensuring the integrity of data used in risk control and management. In all cases, there will be an appropriate segregation of duties or oversight to reduce the risk of error and/or fraud.

To the maximum extent practicable given SVCE’s business model and level of staffing, Front-Office activities will be functionally independent from Middle and BackOffice activities. As a result, the Front Office will generally neither perform nor supervise Middle-Office Risk Management activities, or Back Office financial accounting or settlements. The Director of Power Resources is responsible for ensuring the Front Office’s ability to perform tasks in compliance with this Policy. This arrangement will provide independent and regular management oversight for both risk-taking and risk-control activities. It will also allow for a clear separation of duties between the Front-Office transacting and Middle Office risk-control functions.

To the maximum extent practicable given SVCE’s business model and level of staffing, Middle Office activities will be functionally independent from all Front Office and Back Office activities. The Middle Office will have primary responsibility for risk management oversight.
and policy development and compliance. If there are not adequate resources necessary to fully support a Middle Office, this function may be combined with another function provided that appropriate segregation of duties or sufficient internal controls are maintained at all times.

To the maximum extent practicable given SVCE’s business model and level of staffing, Back Office settlement activities will be functionally independent from all Front Office and Middle Office activities. The Back Office will have primary responsibility for all transaction confirmation, accounting and reconciliation processes. If there are not adequate resources necessary to fully support a Back Office, this function may be combined with another function provided that appropriate segregation of duties or sufficient internal controls are maintained at all times.

4.2 Additional Internal Controls
Besides segregation of duties, additional required operational control principles include the following, which the CEO shall implement by incorporating them into the ERM Guidelines and procedures:

1. Delegation of authority that is commensurate with responsibility and capability, and relevant training to ensure adequate knowledge to operate in and comply with rules associated with the markets in which they transact (e.g., CAISO). Contract origination, commercial approval, legal review, invoice validation, and transaction auditing shall be performed by separate staff or contractor for any single transaction. No single staff member shall perform all these functions on any transaction.
2. Defining authorized products and transactions (see Section 6.3).
3. Defining procurement authority for any transactions for which procurement authority has not already been explicitly granted as set forth in SVCE’s Purchasing Policy and any Board Resolution delegating energy procurement authority (e.g. Resolution 2016-15 which delegates authority to the CEO to execute confirmation agreements with energy service providers with whom SVCE has executed Master Agreements).
4. Defining proper trade capture process for executing power supply contracts.
5. Complete and precise capture of transaction and other data, with standardization of electronic and hard copy documentation.
6. Meaningful summarization and accurate reporting of transactions and other activity at regular intervals.
7. Consultation with legal counsel on all legal issues related to this Policy.
8. Timely and accurate risk and performance measurement at regular intervals.
9. Regular compliance review to ensure that this Policy and the Guidelines are adhered to, with specific guidelines for resolving instances of noncompliance.
10. Active participation by senior management in risk management processes.

5 Risk Management Business Practices

5.1 Risk Measurement Metrics and Reporting
A vital element of this Policy is the regular identification, measurement and communication of risk. To effectively communicate risk, all risk management activities must be monitored on a frequent basis using risk measurement methodologies that quantify the risks associated with SVCE’s procurement-related business activities and performance relative to goals.
SVCE measures and updates its risks using a variety of tools that model programmatic financial projections, market exposure and risk metrics, as well as through short term budget updates.

SVCE seeks to minimize financial exposure to higher-volatility spot market wholesale electricity using rolling hedges and net open position percentage bands. Financial exposure creates budget uncertainty. To mitigate the financial exposure to short-time horizon price volatility, SVCE continually reduces its financial exposure by reducing the quantity of energy in either open long or short positions.

The following items are measured, monitored, and reported:

1. Reserve Requirement Targets – on no less than an annual basis, SVCE staff will monitor SVCE’s reserves to ensure that they meet the targeted thresholds as outlined in SVCE’s Cash Reserve Policy.
2. Mark-to-Market Valuation – marking to market is the process of determining the current value of contracted supply. A mark-to-market valuation shall be performed at least on a monthly basis.
3. Exposure Reporting – calculates the notional dollar risk exposure of open portfolio positions at current market prices. The exposure risk calculation shall be performed at least on a monthly basis.
4. Open Position Monitoring – on a monthly basis, SVCE shall calculate/monitor its open positions for all energy and capacity products.

Consistent with the above, the Middle Office will develop reports and provide feedback to the Risk Oversight Committee. Risk measurement methodologies shall be re-evaluated on a periodic basis to ensure SVCE adjusts its methods to reflect the evolving competitive landscape.

5.2 Mark-to-Market Risk

SVCE manages its mark-to-market risk by comparing the current value of any wholesale trading positions and long-term supply contracts to the cost of the contracts. This is important if there are trading restrictions for entering into new transactions with certain counterparties based on the terms of the agreements and to counterparty credit limits. Being aware of the Mark-to-Market of the portfolio is important as it provides an indication of the competitiveness of the portfolio.

5.3 Market Price Risk

SVCE manages market price risk by determining its Load and Resource Balance which defines forecasted load, energy under contract and SVCE’s open positions in various energy product types including renewable energy, carbon free energy, system power, and SVCE’s procurement targets.

SVCE determines its NOP by comparing the forecasted use to supply resources on a monthly basis. The NOP is exposed to potentially volatile market prices. The quantity of energy SVCE will contract for in each year is guided by the NOP tolerances. Market price risk is determined by evaluating how costs could increase (or decrease) if market prices were to reach high (or low) values.

SVCE minimizes financial exposure to higher-volatility spot market wholesale electricity prices by hedging its NOP according to the NOP tolerance bands in Section 6.4. To reduce this exposure, SVCE’s practice is to close its NOP (hedge at close to 100%) for the prompt
month and quarter. The relatively tight prompt year tolerance band provides a high level of budget certainty. However, SVCE will continue to have some exposure to spot market prices due to the load changes and the difference between forecasted and actual load. These differences result in a need to purchase or sell energy in the short-term markets.

In general, SVCE will seek to spread out its long-term purchases of renewable energy to diversify exposure to market conditions and reduce the risk of concentrating purchases in any one year.

For products generally purchased through short- and medium-term contracts, SVCE follows a similar strategy of diversifying contracting over the delivery horizon.

As predominantly a net buyer, SVCE manages its market liquidity risk through purchasing at different intervals and maintaining a diverse set of counterparties to transact with.

Congestion risk is managed through the contracting process with a preference for day ahead scheduling and energy delivery at the NP 15 trading hub and through resource assessment and selection. Once energy is procured SVCE manages congestion risks through the prudent management of Congestion Revenue Rights (CRRs). CRRs are financial instruments used to hedge against transmission congestion costs encountered in the CAISO day-ahead market. SVCE uses a third-party scheduling coordinator to manage its CRR portfolio. SVCE uses CRRs to reduce its exposure to congestion and other CAISO charges, and will not use CRRs for speculative purposes.

5.4 Net Revenue Risk

SVCE manages net revenue risk by managing each of its contributing factors as described in other sections in this Policy—market price risk, load and generation volumetric risk, counterparty performance, etc. In addition, SVCE strives to provide competitively priced products that are valued by its customers to minimize opt out rates. Net revenue is monitored closely so that trend changes can be identified as early as possible and corrective action can be taken as appropriate.

5.5 Counterparty Credit and Performance Risk

SVCE evaluates and monitors the financial strength of service and energy providers. Generally, SVCE manages its exposure to energy suppliers through a preference for counterparties with Investment Grade Credit ratings as determined by Moody’s or Standard and Poor’s and through the use of security requirements in the form of cash and letters of credit. SVCE measures its mark-to-market counterparty credit exposure consistent with industry best practices. Additionally, SVCE manages counterparty credit risk by monitoring and controlling collateral, letters of credit and other forms of credit calls on the agency as well as paying bills in a timely fashion to avoid defaulting on any term of an agreement.

5.6 Load and Generation Volumetric Risk

SVCE manages energy delivery risks by ensuring that contracts include appropriate contractual penalties for non-delivery, acquiring energy from a geographically and technologically diverse portfolio of generating assets with a range of generation profiles.

SVCE manages load forecasting and related weather risks by contracting with qualified data management and scheduling coordinators who together provide the systems and data necessary to forecast and schedule load using good utility practice.
SVCE’s load scheduling strategy, as executed by its scheduling coordinator, ensures that price risk in the day ahead and real time CAISO markets is managed effectively and is consistent with good utility practice.

5.7 Operational Risk

Operational risks are managed through:

- Adherence to this Policy and oversight of procurement activity;
- Conformity to Employee Handbook;
- Staff resources, expertise and/or training reinforcing a culture of compliance;
- Ongoing and timely internal and external audits; and
- Cross-training amongst staff
- Authorized traders and others involved in any phase of transacting are prohibited to own stock in a current or potential counterparty to avoid a conflict of interest

5.8 Liquidity Risk

SVCE manages liquidity risk through adherence to its loan and power purchase agreement credit covenants, limiting commitments to provide security consistent with the Guidelines, ensuring it has adequate loan facilities, prudent cash and investment management, and adherence to its Cash Reserve Policy. SVCE monitors its liquidity (defined as unrestricted cash, investments and unused bank lines of credit) no less than weekly. SVCE utilizes scenario and sensitivity analyses while preparing budget, rate, and pro forma analyses in order to identify potential financial outcomes and ensure sufficient liquidity under adverse conditions.

5.9 Regulatory/Legislative Risk

SVCE manages its regulatory and legislative risk through active participation in working groups and advocacy coalitions such as the California Community Choice Association. SVCE regularly participates in regulatory rulemaking proceedings and legislative affairs to protect SVCE’s interests.

5.10 Reporting

Reporting of critical information to relevant parties is a key component of energy risk management. Periodic reports will be provided to the ROC that shall provide sufficient details on SVCE’s transactions, NOP, market exposure, credit exposure, counterparty credit ratings, transaction compliance, and other relevant data. The frequency and content of the reports for each oversight body shall be prescribed in the Energy Risk Management Guidelines. Should the risks associated with the portfolio or a specific transaction within the portfolio fall outside of any established risk limit, the CEO will report this fact to the ROC within one business day via email, and will evaluate the risk of holding any of the contracts in the portfolio to delivery and report to the Board within 3 months.

6 Authorized Transaction and Trading Limitations

6.1 Trader Authorization Process

The Front Office shall request that the Middle Office begin the trader authorization process. The Middle Office shall verify that the trader’s background and experience is sufficient to transact on behalf of SVCE. Before authorizing personnel to transact, the Middle Office shall:
• Require that trader affirm that they are not currently under investigation for market manipulation;
• Require that trader affirm that they have not been previously investigated for market manipulation;
• Verify that trader has read and understands SVCE’s ERM Policy and Guidelines; and
• Determine that the trader has sufficient understanding and experience of the energy markets in which SVCE participates.

The Middle Office shall maintain a list of the authorized trading personnel as part of the ERM Guidelines.

6.2 Approved Markets
Approved markets in which SVCE authorized traders can participate are as follows:
• California Independent System Operator (CAISO);
• Western Electricity Coordinating Council (WECC); and
• California Air Resources Board (CARB) emissions/carbon auctions

6.3 Approved Transactions
Authorized transactions which SVCE authorized traders can utilize must be consistent with this Policy. Transactions must be directly related to the procurement and/or administration of:
• electric energy,
• reserve capacity,
• transmission and distribution service,
• ancillary services,
• congestion revenue rights (CRRs),
• renewable energy,
• renewable energy certificates (RECs),
• basis transactions,
• greenhouse gas emissions allowances,
• tolling agreements, and
• bilateral purchases of energy products.

Prohibited transactions are those transactions that are not related to serving retail electric load and/or reducing financial exposure. Speculative buying and selling of energy products is prohibited. Speculation is defined as buying energy in excess of forecasted load plus reasonable planning reserves or selling energy or environmental attributes that are not yet owned by SVCE. In no event shall speculative transactions be permitted. Any financial derivatives transaction including, but not limited to futures, swaps, options, and swaptions are also prohibited.

6.4 Tolerance Bands
Hedging its load obligation is a key function for SVCE. The primary responsibility of the Front Office is to manage the energy portfolio and purchase energy to hedge the cost of SVCE’s load obligation. As described in Section 5.3 (Market Price Risk), SVCE ladders its energy purchases over time to access the market at different times. Every six months, the Front Office produces a Portfolio Management Plan that must be approved by the CEO. The Portfolio Management Plan must describe the current portfolio position, the recommended hedging transactions, the portfolio position after the transactions, and how the portfolio will remain within the Tolerance Bands in Table 1.
**Energy Hedging**

Tolerance bands for SVCE’s Net Open Position (NOP) for energy—load minus hedged and fixed-price supplies—shall fall within the tolerances outlined in Table 1 below:

<table>
<thead>
<tr>
<th>Period*</th>
<th>Minimum Tolerance</th>
<th>Maximum Tolerance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prompt Quarter</td>
<td>85%</td>
<td>105%</td>
</tr>
<tr>
<td>Current Balance of Year</td>
<td>80%</td>
<td>105%</td>
</tr>
<tr>
<td>Year 2</td>
<td>70%</td>
<td>90%</td>
</tr>
<tr>
<td>Year 3</td>
<td>55%</td>
<td>75%</td>
</tr>
<tr>
<td>Year 4</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>Year 5</td>
<td>0</td>
<td>50%</td>
</tr>
</tbody>
</table>

*For example, if the current year calendar year is 2019, then Year 2 is 2020.

**Resource Adequacy**

SVCE must comply with the regulatory requirements for procurement of capacity products for Resource Adequacy (RA) needs. The CPUC has recently adopted a decision to modify compliance obligations for local resource adequacy from demonstrating for one year to three year by October 31st. Additionally, SVCE must demonstrate, on a month-ahead basis, full compliance with its monthly RA obligations. SVCE endeavors to purchase RA products over time to meet its obligation and to diversify its purchases between suppliers and market conditions.

**Renewable Portfolio Standard and Carbon-free**

With respect to purchases to meet the Renewable Portfolio Standard (RPS), SVCE is guided by its Strategic Plan, which states that purchases should be staggered to accommodate regulatory uncertainty, changes in load and supply price risks and that the RPS portfolio should be diversified with respect to technologies.

**6.5 Authorized Trading Limits**

**6.5.1 Transacting Authority Retained by the Board**

The Board retains the authority to approve:

- All transactions with terms of over 12 months unless it has explicitly delegated authority to the CEO;
- All transactions with terms of over 5 years; and
- Master Agreements under which the CEO is delegated authority to transact.

**6.5.2 Authority Delegated to the CEO by the Board**

Under the Board-approved Purchasing Policy, the CEO is delegated the authority to approve and execute contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board. In addition, under Resolution 2019-03, the Board delegates to the CEO the authority to enter into Confirmations for terms not greater than 60 months and limited to purchases of Product consistent with forecasted load and within the Energy NOP Tolerance Bands (as defined in the ERM Policy).

Table 2 below lists the authorized trading limits to transact on behalf of SVCE for all non-resource adequacy related products. If the CEO delegates some of his authority, he must...
document any such delegations in the Energy Risk Management Guidelines.

**Table 2: Authority Delegated to the CEO by the Board**

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Maturity Limit</th>
<th>Volume Limit</th>
<th>Counterparty Limits</th>
<th>Who</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy, Capacity, and CAISO Ancillary Services</td>
<td>Day Ahead and Real Time</td>
<td>N/A</td>
<td>As needed to meet SVCE’s expected load obligations with the CAISO</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>Energy, Capacity, CRRs, and Environmental Products</td>
<td>Up to 12 months</td>
<td>18 months</td>
<td>As needed to meet SVCE’s expected load needs (per Purchasing Policy)</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As needed to meet SVCE’s expected load needs</td>
<td>Board-approved Master Agreements</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td>Over 60 months</td>
<td>As approved by Board</td>
<td>As approved by the Board</td>
<td>As approved by the Board</td>
<td>Board</td>
</tr>
</tbody>
</table>

**6.5.3 Resource Adequacy Authority Delegated to the CEO by the Board**

RA obligations are set by the CPUC and may change with respect to the quantity needed, type of RA, location and timing. Failure to meet California’s RA compliance obligations, may subject SVCE to hefty penalties. Table 3 contains current RA “Year Ahead” compliance reporting and demonstration obligations, which are subject to change as California considers broad changes to how reliability requirements are met including the possible establishment of a central buyer for all load serving entities.

**Table 3: Resource Adequacy Requirements**

<table>
<thead>
<tr>
<th>Resource Adequacy Product</th>
<th>Year-Ahead Demonstration Requirement</th>
<th>Compliance Obligation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local</td>
<td>Year 1 &amp; 2: by October 31st, must demonstrate capacity to meet 100% of monthly obligation Year 2: by October 31st, must demonstrate capacity to meet 50% of monthly obligation</td>
<td>Obligation is based on 50% of SVCE’s system coincident peak. Capacity must be procured for the Greater Bay Area and 7 Local Zones. Obligation for quantity and location set annually.</td>
</tr>
<tr>
<td>System</td>
<td>Year 1: by October 31st, must demonstrate capacity to meet 50% of “summer” (May through September) needs</td>
<td>System RA needs are based on 15% monthly planning reserve above SVCE’s expected monthly capacity forecast.</td>
</tr>
<tr>
<td>Flexible</td>
<td>Year 1: by October 31st, must</td>
<td></td>
</tr>
</tbody>
</table>
Eligible RA capacity must meet the CAISO’s resource requirements including an assigned Net Qualifying Capacity (MW), have an assigned resource identification number and cannot be counted by another load serving entity.

To adequately and effectively meet RA requirements, the CEO needs a broad authority to transact for terms of up to five years and with a broad set of suppliers, including counterparties not under a Master Agreement. And, while credit risk is a significant risk related to energy transactions, it is not as significant a risk for RA products as the prices tend to be less volatile and suppliers are less likely to default on compliance related products. For this reason, many RA transactions are executed under a WSPP with less onerous credit terms than the EEI Master Agreement. For SVCE, the more significant risk associated with RA is that the product procured will not count towards a specific obligation (type or location) or the possibility of the establishment of a central buyer for RA which may strand or change the value of RA under contract. To mitigate such risk, SVCE will ladder RA procurement consistent with an RA Procurement Plan subject to CEO approval. Table 4 lists the CEO’s authority for RA transactions, which may be delegated provided proper documentation is established by the CEO.

### Table 4: Resource Adequacy Authority Delegated to the CEO by the Board

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Maturity Limit</th>
<th>Volume Limit</th>
<th>Counterparty Limit</th>
<th>Who</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>System Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>Flexible Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>All of the above</td>
<td>Over 60 months</td>
<td>As approved by the Board</td>
<td>As approved by the Board</td>
<td>Any counterparty</td>
<td>Board</td>
</tr>
</tbody>
</table>

#### 6.5.4 Limits of Authority Delegated to Authorized Personnel by the CEO

The Front Office periodically prepares a needs assessment and develops a Portfolio Plan, which defines the transactions required to meet SVCE’s needs and to remain within the Tolerance Bands of Section 6.4. The CEO must approve the Portfolio Plan and may delegate some of his authority to Authorized Personnel (as determined according to the process described in Section 6.1).

Although the CEO may delegate some of his authority to Authorized Personnel, the Board limits the authority he can delegate as shown in Table 5 below:
Table 5: Limits of Authority Delegated to Authorized Personnel by the CEO

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Notional Value Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy, Capacity, and CAISO Ancillary Services</td>
<td>Day Ahead and Real Time</td>
<td>As needed to meet SVCE’s obligations with the CAISO</td>
</tr>
<tr>
<td>Energy</td>
<td>Balance of the month</td>
<td>$5 Million</td>
</tr>
<tr>
<td></td>
<td>Prompt month</td>
<td>$7.5 Million</td>
</tr>
<tr>
<td></td>
<td>Up to 12 months</td>
<td>$25 Million</td>
</tr>
<tr>
<td>Resource Adequacy Products, CRRs</td>
<td>Prompt month</td>
<td>As needed to meet SVCE’s obligations</td>
</tr>
<tr>
<td></td>
<td>Balance of compliance year</td>
<td>As needed to meet SVCE’s obligations</td>
</tr>
<tr>
<td></td>
<td>Up to 12 months</td>
<td>$15 Million</td>
</tr>
</tbody>
</table>
| Environmental Products (Carbon Free and Renewable Energy Resources) | Up to 12 months | $15 Million                                                                           

6.6 Conflict of Interest

All SVCE employees who are involved in any aspect of transacting for energy or energy-related resources are prohibited from investing in any company with whom SVCE transacts, including those with whom it has executed enabling agreements. Prior to engaging in evaluation of, negotiation with, transacting with, or oversight of a transaction or potential transaction with any company, all involved employees must ensure that they are divested in direct holdings with that company. The ban on investment and requirement to divest is regardless of whether the investment would require disclosure on the employee’s FPPC Form 700.
7 Risk Management Policy Governance

7.1 SVCE Board of Directors

The SVCE Board is responsible for adopting this Policy and reviewing it as needed every two calendar years. The Board also approves SVCE’s annual budget, contracting authorities and delegates responsibilities for the management of SVCE’s operations to its CEO.

7.2 Risk Oversight Committee

SVCE’s CEO formed the Risk Oversight Committee (ROC) and is responsible to inform the ROC about any risk management issues and to provide assurance that this Policy is implemented. The CEO shall provide the ROC information and analysis that illustrate that all transactions are consistent with the risk tolerances and that risk management controls and practices are sufficient to monitor and manage risks that SVCE is exposed to.

The ROC shall meet at least once per calendar quarter, or as otherwise called to order by the CEO.

The ROC shall from time to time review the Energy Risk Management Guidelines defining in detail the internal controls, strategies and processes for managing market risks incurred through or attendant upon wholesale trading, retail marketing, long-term contracting, CRR trading and load and generation scheduling. The ROC shall receive and review information and reports regarding risk management, wholesale trading transactions, and the administration of supply contracts. The ROC will also review counterparty credit lines and cash reserves to ensure proper levels are maintained for credit, operations and liquidity. In addition, the ROC shall review any instances of non-compliance with any provisions of the Policy or Guidelines.

7.3 Internal Risk Oversight Committee

The CEO formed the Internal Risk Oversight Committee (IROC) to review in more detail any risk management issues that arise. The IROC comprises members of the Front, Middle, and Back Office and is used to coordinate any activities related to transacting. The IROC regularly reviews SVCE’s risks and risk management strategies and assists the CEO to ensure that proper controls are in place. The IROC is responsible to develop, approve and update Energy Risk Management Guidelines that implement the Energy Risk Management Policy.
ADDENDUM
SVCE Energy Risk Management Policy
Version Tracking

<table>
<thead>
<tr>
<th>Version</th>
<th>Date of Board Approval</th>
<th>Major Changes Made</th>
</tr>
</thead>
</table>
| 4       | June 12, 2019 (proposed) | **Authorized Transactions and Trading Limitations – Energy Hedging Tolerance Bands:**
|         |                        | Clarification/clean-up to Table 1 – Tolerance Bands: |
|         |                        | • Clarified tolerance bands apply to calendar year; |
|         |                        | • Changed “Prompt Year” to “Balance of Current Year”; |
|         |                        | Added an example for further clarification. |
|         |                        | **Authorized Transactions and Trading Limitations - Delegation of Authority to CEO under Master Agreements:**
<p>|         |                        | Under Resolution 2019-03, the Board delegates to the CEO the authority to enter into Confirmations for terms not greater than 60 months and limited to purchases of Product consistent with forecasted load and within the Energy NOP Tolerance Bands. Establishes maximum maturity limits. |
|         |                        | Added 6.5.3 Resource Adequacy Authority Delegated to the Board which expands CEO authority to transact up to 60 months in term with counterparties including ones without a Master Agreement for RA related transactions. |</p>
<table>
<thead>
<tr>
<th>Version</th>
<th>Date of Board Approval</th>
<th>Major Changes Made</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>January 9, 2019</td>
<td><strong>Introduction, purpose, scope of policy:</strong> Section 1 (General Provisions) includes an overall description of the policy, summarizes the scope of the policy and lists the risks that will be discussed in the policy.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Authorized transactions:</strong> Section 1.2 (Scope of Business and Related Market Risks) lists the types of activities that SVCE will engage in to conduct its business (e.g. bilateral trading of energy, scheduling of load and resources, participating in CAISO markets including CRRs). Section 6.2 (Approved Markets) states that SVCE can transact in the CAISO, WECC and CARB markets. Section 6.3 (Approved Transactions) lists authorized products (e.g. energy, capacity, transmission, ancillary services, renewable energy resources, CRRs, etc.) and prohibited transactions (e.g. transactions that are speculative or financial derivatives products).</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Risk management goals:</strong> Section 2 (Risk Management Goals) lists seven goals to manage the risks inherent in serving load in the CAISO market structure.</td>
</tr>
</tbody>
</table>
|         |                        | **Definition of risks:** Section 3 (Definition of Market Risks) provides a comprehensive description of the market risks faced by SVCE:  
- Mark-to-Market Risk  
- Market Price Risk  
- Net Revenue Risk  
- Counterparty Credit and Performance Risk  
- Load and Generation Volumetric Risk  
- Operational Risk  
- Liquidity Risk  
- Regulatory/Legislative Risk |
<table>
<thead>
<tr>
<th>Version</th>
<th>Date of Board Approval</th>
<th>Major Changes Made</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 (Cont.)</td>
<td>January 9, 2019</td>
<td><strong>Segregation of duties:</strong> Section 4.1 (Segregation of Duties) describes the general responsibilities of the Front Office, Middle Office and Back Office and provides a comprehensive description of the importance of segregation of duties in the risk management control infrastructure.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Discussion of how identified risks will be measured and managed:</strong> Section 5 (Risk Management Business Practices) describes generally how risks are measured and managed and includes an explanation of how each risk identified in Section 3 (Definition of Market Risks) is managed.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Reporting:</strong> Section 5.1 (Risk Measurement Metrics and Reporting) lists the general items that are to be measured, monitored and reported. Reporting is also discussed in Section 5.10 (Reporting) as a “key component” of energy risk management: “Periodic reports will be provided to the ROC that shall provide sufficient details on SVCE’s transactions, NOP, market exposure, credit exposure, counterparty credit ratings, transaction compliance, and other relevant data.” Detail is to be found in the Guidelines. Reporting is also mentioned in Section 4.2 (Additional Internal Controls) as a part of the required operational controls.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Authority to transact:</strong> Section 6.5 (Authorized Trading Limits) is divided into authority reserved by the Board (Section 6.5.1), authority delegated to the CEO (Section 6.5.2), and the limitation on what the CEO can delegate to authorized personnel.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Transacting limits:</strong> Section 6.4 (Tolerance Bands) provides the same list as in the current policy for energy, but does not include tolerance bands for renewable resources or capacity (Resource Adequacy) products.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Conflict of Interest:</strong> Section 6.6 (Conflict of Interest) states that employees involved in transacting are barred from investing in any company with whom SVCE transacts.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Governance structure:</strong> Section 7 (Risk Management Policy Governance) describes the responsibilities of the Board, ROC, and Internal ROC. Section 4.1 (Segregation of Duties) describes the general responsibilities of the Front Office, Middle Office and Back Office.</td>
</tr>
<tr>
<td>Version</td>
<td>Date of Board Approval</td>
<td>Major Changes Made</td>
</tr>
<tr>
<td>---------</td>
<td>------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>2</td>
<td>May 10, 2017</td>
<td>The policy was enhanced following the formation of SVCE’s Risk Oversight Committee; additional sections and information added included: Energy Risk Management Objective Governance Structure Roles and Responsibilities Hedging Authorized Transaction and Trading Limitations Counterparty Credit Reporting</td>
</tr>
<tr>
<td>1</td>
<td>February 8, 2017</td>
<td>Original document</td>
</tr>
</tbody>
</table>
Energy Risk Management Policy

January 9 Proposed Adopted: June 12, 2019
Updated April 11, 2019 (per Board Resolution 2019-03)
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1 General Provisions

1.1 Background and Purpose of Policy

Silicon Valley Clean Energy’s (SVCE) mission is to reduce dependence on fossil fuels by providing carbon free, affordable and reliable electricity and innovative programs for the SVCE community.

This Energy Risk Management Policy (Policy) has been developed to help ensure that SVCE achieves its mission and adheres to policies established by the SVCE Board of Directors (Board), power supply and related contract commitments, good utility practice, and all applicable laws and regulations. SVCE is not engaged in the power supply business for profit and is, therefore, precluded by this Policy from engaging in many of the risk-taking activities typical to an organization orientated solely toward profit maximization.

This Policy defines SVCE’s general energy risk management framework and provides management with the authority to establish processes for monitoring, measuring, reporting, and controlling market and credit risks to which SVCE is exposed in its normal course of business.

1.2 Scope of Business and Related Market Risks

SVCE provides energy to retail customers in its service territory that entails business activities such as; bilateral purchases and sales of electricity under short-, medium- and long-term contracts; scheduling of load and generation of electricity into California Independent Systems Operator (CAISO) markets; retail marketing of electricity to consumers within its service territory; compliance with voluntary objectives and regulatory requirements as it relates to carbon free and renewable portfolio standard (RPS) compliant energy; participation in CAISO Congestion Revenue Rights (“CRRs”) market; managing the balance of load and generation over short, medium and long term horizons; and compliance with California Public Utilities Commission (CPUC) Resource Adequacy (RA) requirements.

Examples of energy market risks include, but are not limited to, the following:

- Mark-to-Market Risk
- Market Price Risk
- Net Revenue Risk
- Counterparty Credit and Performance Risk
- Load and Generation Volumetric Risk
- Operational Risk
- Liquidity Risk
- Regulatory/Legislative Risk

This Policy focuses on the following:

- Risk Management Goals and Principles
- Definitions of Risks
- Internal Control Principles
- Risk Management Business Practices
- Authorized Transaction and Trading Limitations
- Risk Management Governance
This Policy does not address the following types of general business risk, which are treated separately in other official policies, ordinances and regulations of SVCE: fire, accident and casualty; health, safety, and workers’ compensation; cybersecurity, general liability; and other such typically insurable perils. The term “risk management,” as used herein, is therefore understood to refer solely to energy market risks as herein defined, and not those other categories of risk.

1.3 Policy Administration

This Energy Risk Management Policy (Policy) is adopted by the SVCE Board of Directors and will be reviewed and updated as needed at least every two calendar years by SVCE’s Board. The CEO is responsible for implementation of the Policy. The CEO is also responsible to develop Energy Risk Management Guidelines (Guidelines), which is required for staff to implement the Policy.

1.4 Policy Distribution

This Policy shall be distributed to all SVCE employees and third-party contractors who are engaged in the planning, procurement, sale and scheduling of electricity on SVCE’s behalf and/or in other SVCE departments providing oversight and support for these activities.

2 Risk Management Goals

Although SVCE does not engage in risk-taking activities typical in a for-profit organization, certain risks are incidental to the normal power supply operations and hedging activities. SVCE’s policy is to manage risk inherent with serving load, including the risks associated with normal cost-hedging activities, those associated with participation in wholesale markets in general and the CAISO in particular.

The goals of energy risk management shall be to:

1. assist in achieving the business objectives in the Strategic Plan, Integrated Resource Plan (IRP) and Cash Reserve Policy including retail rate stability and competitiveness and the accumulation of financial reserves;
2. avoid losses and excessive costs which would materially impact the financial condition of SVCE;
3. establish the parameters for energy procurement and sales activity to obtain the best possible price while ensuring compliance with Board-approved policies;
4. identify specific cost, regulatory and legislative risks that could adversely affect SVCE’s ability to achieve its business objectives, and to the extent possible, quantify and measure performance against those risks;
5. assist in assuring that market activities and transactions are undertaken in compliance with established procurement authorities, applicable laws, regulations and orders;
6. encourage the development and maintenance of a corporate culture at SVCE in which the proper balance is struck between control and facilitation and in which professionalism, discipline, technical skills and analytical rigor come together to achieve SVCE objectives; and
7. manage business risks to acceptable levels consistent with retail rate-setting, resource procurement and cash reserve management.
SVCE manages its energy resources and transactions to provide its customers with low cost renewable, carbon free and other energy while at the same time minimizing risks. The risk management principles that SVCE will use include:

1. Undue exposure to CAISO or bilateral energy market volatility for the purpose of potentially achieving lower costs but at the risk that costs may, in fact, be much higher, will not be accepted.

2. Procurement and hedging strategy will be determined by analytical methods supplemented by experienced judgement. SVCE will use that experienced judgement and its analytical tools to assess system cost drivers such as weather, short term energy prices, load variation and operational constraints to manage timing and quantity of purchases and sales of energy and related services, consistent with the limits identified in this Policy.

3. When actions are taken that are consistent with this Policy and for the combined goal of low costs and optimized risk, those actions are considered to be consistent with the objectives of this Policy.

4. SVCE will not engage in transactions, without proper authorization, whose purpose is not tied to managing costs and risks or are outside of the limits identified in this Policy.

3 Definition of Market Risks

The term “market risks,” as used here, refers specifically to those categories of risk which relate to SVCE’s participation in wholesale and retail markets as a Load Serving Entity (LSE) and its interests in long-term contracts. Market risks include market price risk, counterparty credit and performance risk, load and generation volumetric risk, operational risk, liquidity risk, and regulatory and legislative risk. These categories are defined and explained as follows.

3.1 Mark-to-Market Risk

Mark-to-Market risk is the risk that wholesale trading positions, long-term supply contracts and generation resources may move “out of the money,” that is, become less valuable in comparison with similar positions, contracts or resources obtainable at present prices. These same positions can also be “in the money” if they become more valuable in comparison to similar positions, contracts or resources obtainable at present market prices. This valuation methodology is commonly referred to as “Mark-to-Market.” If SVCE is “out of the money” on a substantial portion of its contracts, it may have to charge higher retail rates. This may erode SVCE’s competitive position and market share if other market participants (e.g., Direct Access providers or PG&E) are able to procure power at a lower cost and offer lower retail electricity rates.

3.2 Market Price Risk

Market Price risk is the risk that market prices change, resulting in changes to energy procurement cost. For example, the cost for the unhedged portion of a supply portfolio (net open position) will increase when market prices increase. Conversely, if resources are in excess to needs and market prices fall, the revenue expected from the sale of the surplus resources will decrease. In addition, uncertain market price relationships (locational risk) affect SVCE’s procurement costs.

A subcomponent of market price risk is market liquidity. Illiquid markets make it more difficult to buy or sell a commodity and can result in higher premiums on purchases or deeper discounts on sales.
Another dimension of market price risk is congestion risk. Congestion risks arise from the difference between the prices SVCE pays the CAISO to schedule its load and the prices SVCE receives from the CAISO for energy delivered by SVCE’s suppliers.

3.3 Net Revenue Risk

Net Revenues are the total of all revenues received (from retail sales to customers and from the sale of any energy products that were surplus or unneeded) less the total costs (including the costs of long-term contracts, forward transactions, and spot market purchases plus all other operating costs). Net Revenue Risk is the risk that any of those factors—revenues or costs—changes (e.g. changes in market prices or retail sales volumes, or failures of counterparties). Net Revenue is the “bottom line” for SVCE as it determines the financial viability of the authority.

One of the main components of net revenue risk is on the retail revenue side, which is at risk when customers opt out from service by SVCE and return to PG&E, or if customers choose to find another supplier through direct access opportunities that may arise. In addition, when the Power Charge Indifference Adjustment (PCIA) is changed, it directly affects SVCE’s bottom line if SVCE compensates by changing its retail rates.

3.4 Counterparty Credit and Performance Risk

Performance and credit risk refers to the inability or unwillingness of a counterparty to perform according to its contractual obligations or to extend credit. Failure to perform may arise if an energy supplier fails to deliver energy as agreed. There are four general performance and credit risk scenarios:

1. counterparties and wholesale suppliers may fail to deliver energy or environmental attributes, requiring SVCE to purchase replacement products elsewhere, possibly at a higher cost;
2. counterparties may fail to take delivery of energy or environmental attributes sold to them, necessitating a quick resale of the product elsewhere, possibly at a lower price;
3. counterparties may fail to pay for energy or environmental attributes delivered; and
4. counterparties and suppliers may refuse to extend credit to SVCE, possibly resulting in higher collateral posting costs impacting SVCE’s cash and bank lines of credit.

An important subcategory of credit risk is concentration risk. When a portfolio of positions and resources is concentrated in one or a very few counterparties, sources, or locations, it becomes more likely that major losses will be sustained in the event of non-performance by a counterparty or supplier or as a result of price fluctuations at one location.

3.5 Load and Generation Volumetric Risk

Energy deliveries must be planned for based upon forecasted load adjusted for distribution line losses. SVCE forecasts load over the long and short term and enters into long- and short-term fixed-price energy contracts to hedge its load.

Load forecasting risks arise from inaccurate load forecasts and can result in the over or under procurement of energy and/or revenues that deviate from approved budgets. Energy delivery risk occurs if a generator fails to deliver expected or forecast energy. Variations in wind speed and cloud cover can also impact the amount of electricity generated by solar and wind resources, and occasional oversupply of power on the grid can lead to curtailment.
of energy deliveries or reduce revenue as a result of low or negative prices at energy delivery points. Weather is an important variable that can result in higher or lower electricity usage due to heating and cooling needs.

In the CAISO markets this situation can result in both oversupply and undersupply of electricity relative to SVCE’s load and the over or under scheduling of generation or load into the day ahead market relative to actual energy consumed or delivered in the real time market. Load and generation volumetric risk may result in unanticipated open positions and imbalance energy costs. Imbalance energy costs result from differences in the price or volume of generation or load scheduled into the day ahead market when compared to the price or volume of generation or load occurring in the real time market during that time period.

3.6 Operational Risk
Operational risk consists of the potential for failure to act effectively to plan, execute and control business activities. Operational risk includes the potential for:
1. organizational structure that is ineffective in addressing risk (i.e., the lack of sufficient authority to make and execute decisions, inadequate supervision, ineffective internal checks and balances, incomplete, inaccurate and untimely forecasts or reporting, failure to separate incompatible functions, etc.);
2. absence, shortage or loss of key personnel or lack of cross functional training;
3. lack or failure of facilities, equipment, systems and tools such as computers, software, communications links and data services;
4. exposure to litigation or sanctions resulting from violating laws and regulations, not meeting contractual obligations, failure to address legal issues and/or receive competent legal advice, not drafting and analyzing contracts effectively, etc.; and
5. errors or omissions in the conduct of business, including failure to execute transactions, violation of guidelines and directives, etc.

3.7 Liquidity Risk
Liquidity Risk is the risk that SVCE will be unable to meet its financial obligations. This can be caused by unexpected financial events and/or inaccurate pro forma calculations, rate analysis, and debt analysis. Some unexpected financial events impacting liquidity could include:
1. breach of SVCE credit covenants or thresholds; SVCE has credit covenants included in its banking and several short-term energy contracts. Breach of credit covenants or thresholds could result in the withdrawal of SVCE’s line of credit or trigger the requirement to post collateral;
2. calls for collateral from the CAISO or SVCE’s counterparties based on terms of transacting agreements; and
3. from time to time SVCE may be the subject of legal or other claims arising from the normal course of business. Payment of a claim by SVCE could reduce SVCE’s liquidity if the cause of loss is not covered by SVCE’s insurance policies.

3.8 Regulatory/Legislative Risk
Regulatory risk encompasses market structure and operational risks associated with shifting state and federal regulatory policies, rules, and regulations that could negatively impact SVCE. Some examples are the potential increase of exit fees for customers served by Community Choice Aggregators such as SVCE that would result in higher electricity rates for
SVCE’s customers, and the risk that the customers would select another supplier through an expanded Direct Access program.

Legislative risk is associated with actions by federal and state legislative bodies, such as any adverse changes or requirements that may infringe on SVCE’s autonomy, increase its costs, impact its customer base, or otherwise negatively impact SVCE’s ability to fulfill its mission.

4 Internal Control Principles

Internal controls shall be based on proven principles that meet or exceed the requirements of financial institutions and credit rating agencies and good utility practice. The required controls shall include all customary and usual business practices designed to prevent errors and improprieties, ensure accurate and timely reporting of results of operations and information pertinent to management, and facilitate attainment of business objectives. These controls are currently and shall remain fully integrated into all activities of the business and shall be consistent with stated objectives.

4.1 Segregation of duties

One of the main aspects of internal controls is the segregation of duties to ensure that the staff person that executes a transaction is not the same person that evaluates or settles the transaction. Appropriate segregation of duties is to be established and maintained throughout the system of controls over financial risks. Senior management must be diligent in ensuring that appropriate segregation of duties is adhered to within the context of organizational changes, while considering staffing limitations, SVCE’s business model as a cost hedger, and the overall level of transactions with counterparties. Segregation of duties and functions between front, middle, and back office activities is generally as follows:

- The Front Office is directly involved in resource planning, product procurement and sales transactions and implementation of strategies within authorized limits.
- The Middle Office’s functions are related to risk management and counterparty credit. The primary responsibility is ensure that all products utilized and transaction activities are undertaken in compliance with current policy.
- The Back Office is comprised of those functions responsible for verification, validation accounting, processing, reconciling and settling all transactions.

Controls over inputs and systems operations are of particular importance in ensuring the integrity of data used in risk control and management. In all cases, there will be an appropriate segregation of duties or oversight to reduce the risk of error and/or fraud.

To the maximum extent practicable given SVCE’s business model and level of staffing, Front-Office activities will be functionally independent from Middle and BackOffice activities. As a result, the Front Office will generally neither perform nor supervise Middle-Office Risk Management activities, or Back Office financial accounting or settlements. The Director of Power Resources is responsible for ensuring the Front Office’s ability to perform tasks in compliance with this Policy. This arrangement will provide independent and regular management oversight for both risk-taking and risk-control activities. It will also allow for a clear separation of duties between the Front-Office transacting and Middle Office risk-control functions.

To the maximum extent practicable given SVCE’s business model and level of staffing, Middle Office activities will be functionally independent from all Front Office and Back Office activities. The Middle Office will have primary responsibility for risk management oversight.
and policy development and compliance. If there are not adequate resources necessary to fully support a Middle Office, this function may be combined with another function provided that appropriate segregation of duties or sufficient internal controls are maintained at all times.

To the maximum extent practicable given SVCE’s business model and level of staffing, Back Office settlement activities will be functionally independent from all Front Office and Middle Office activities. The Back Office will have primary responsibility for all transaction confirmation, accounting and reconciliation processes. If there are not adequate resources necessary to fully support a Back Office, this function may be combined with another function provided that appropriate segregation of duties or sufficient internal controls are maintained at all times.

4.2 Additional Internal Controls

Besides segregation of duties, additional required operational control principles include the following, which the CEO shall implement by incorporating them into the ERM Guidelines and procedures:

1. Delegation of authority that is commensurate with responsibility and capability, and relevant training to ensure adequate knowledge to operate in and comply with rules associated with the markets in which they transact (e.g., CAISO). Contract origination, commercial approval, legal review, invoice validation, and transaction auditing shall be performed by separate staff or contractor for any single transaction. No single staff member shall perform all these functions on any transaction.
2. Defining authorized products and transactions (see Section 6.3).
3. Defining procurement authority for any transactions for which procurement authority has not already been explicitly granted as set forth in SVCE’s Purchasing Policy and any Board Resolution delegating energy procurement authority (e.g. Resolution 2016-15 which delegates authority to the CEO to execute confirmation agreements with energy service providers with whom SVCE has executed Master Agreements).
4. Defining proper trade capture process for executing power supply contracts.
5. Complete and precise capture of transaction and other data, with standardization of electronic and hard copy documentation.
6. Meaningful summarization and accurate reporting of transactions and other activity at regular intervals.
7. Consultation with legal counsel on all legal issues related to this Policy.
8. Timely and accurate risk and performance measurement at regular intervals.
9. Regular compliance review to ensure that this Policy and the Guidelines are adhered to, with specific guidelines for resolving instances of noncompliance.
10. Active participation by senior management in risk management processes.

5 Risk Management Business Practices

5.1 Risk Measurement Metrics and Reporting

A vital element of this Policy is the regular identification, measurement and communication of risk. To effectively communicate risk, all risk management activities must be monitored on a frequent basis using risk measurement methodologies that quantify the risks associated with SVCE’s procurement-related business activities and performance relative to goals.
SVCE measures and updates its risks using a variety of tools that model programmatic financial projections, market exposure and risk metrics, as well as through short term budget updates.

SVCE seeks to minimize financial exposure to higher-volatility spot market wholesale electricity using rolling hedges and net open position percentage bands. Financial exposure creates budget uncertainty. To mitigate the financial exposure to short-time horizon price volatility, SVCE continually reduces its financial exposure by reducing the quantity of energy in either open long or short positions.

The following items are measured, monitored, and reported:

1. Reserve Requirement Targets – on no less than an annual basis, SVCE staff will monitor SVCE’s reserves to ensure that they meet the targeted thresholds as outlined in SVCE’s Cash Reserve Policy.
2. Mark-to-Market Valuation – marking to market is the process of determining the current value of contracted supply. A mark-to-market valuation shall be performed at least on a monthly basis.
3. Exposure Reporting – calculates the notional dollar risk exposure of open portfolio positions at current market prices. The exposure risk calculation shall be performed at least on a monthly basis.
4. Open Position Monitoring – on a monthly basis, SVCE shall calculate/monitor its open positions for all energy and capacity products.

Consistent with the above, the Middle Office will develop reports and provide feedback to the Risk Oversight Committee. Risk measurement methodologies shall be re-evaluated on a periodic basis to ensure SVCE adjusts its methods to reflect the evolving competitive landscape.

5.2 Mark-to-Market Risk

SVCE manages its mark-to-market risk by comparing the current value of any wholesale trading positions and long-term supply contracts to the cost of the contracts. This is important if there are trading restrictions for entering into new transactions with certain counterparties based on the terms of the agreements and to counterparty credit limits. Being aware of the Mark-to-Market of the portfolio is important as it provides an indication of the competitiveness of the portfolio.

5.3 Market Price Risk

SVCE manages market price risk by determining its Load and Resource Balance which defines forecasted load, energy under contract and SVCE’s open positions in various energy product types including renewable energy, carbon free energy, system power, and SVCE’s procurement targets.

SVCE determines its NOP by comparing the forecasted use to supply resources on a monthly basis. The NOP is exposed to potentially volatile market prices. The quantity of energy SVCE will contract for in each year is guided by the NOP tolerances. Market price risk is determined by evaluating how costs could increase (or decrease) if market prices were to reach high (or low) values.

SVCE minimizes financial exposure to higher-volatility spot market wholesale electricity prices by hedging its NOP according to the NOP tolerance bands in Section 6.4. To reduce this exposure, SVCE’s practice is to close its NOP (hedge at close to 100%) for the prompt
month and quarter. The relatively tight prompt year tolerance band provides a high level of budget certainty. However, SVCE will continue to have some exposure to spot market prices due to the load changes and the difference between forecasted and actual load. These differences result in a need to purchase or sell energy in the short-term markets.

In general, SVCE will seek to spread out its long-term purchases of renewable energy to diversify exposure to market conditions and reduce the risk of concentrating purchases in any one year.

For products generally purchased through short- and medium-term contracts, SVCE follows a similar strategy of diversifying contracting over the delivery horizon.

As predominantly a net buyer, SVCE manages its market liquidity risk through purchasing at different intervals and maintaining a diverse set of counterparties to transact with.

Congestion risk is managed through the contracting process with a preference for day ahead scheduling and energy delivery at the NP 15 trading hub and through resource assessment and selection. Once energy is procured SVCE manages congestion risks through the prudent management of Congestion Revenue Rights (CRRs). CRRs are financial instruments used to hedge against transmission congestion costs encountered in the CAISO day-ahead market. SVCE uses a third-party scheduling coordinator to manage its CRR portfolio. SVCE uses CRRs to reduce its exposure to congestion and other CAISO charges, and will not use CRRs for speculative purposes.

5.4 Net Revenue Risk
SVCE manages net revenue risk by managing each of its contributing factors as described in other sections in this Policy—market price risk, load and generation volumetric risk, counterparty performance, etc. In addition, SVCE strives to provide competitively priced products that are valued by its customers to minimize opt out rates. Net revenue is monitored closely so that trend changes can be identified as early as possible and corrective action can be taken as appropriate.

5.5 Counterparty Credit and Performance Risk
SVCE evaluates and monitors the financial strength of service and energy providers. Generally, SVCE manages its exposure to energy suppliers through a preference for counterparties with Investment Grade Credit ratings as determined by Moody’s or Standard and Poor’s and through the use of security requirements in the form of cash and letters of credit. SVCE measures its mark-to-market counterparty credit exposure consistent with industry best practices. Additionally, SVCE manages counterparty credit risk by monitoring and controlling collateral, letters of credit and other forms of credit calls on the agency as well as paying bills in a timely fashion to avoid defaulting on any term of an agreement.

5.6 Load and Generation Volumetric Risk
SVCE manages energy delivery risks by ensuring that contracts include appropriate contractual penalties for non-delivery, acquiring energy from a geographically and technologically diverse portfolio of generating assets with a range of generation profiles.

SVCE manages load forecasting and related weather risks by contracting with qualified data management and scheduling coordinators who together provide the systems and data necessary to forecast and schedule load using good utility practice.
SVCE’s load scheduling strategy, as executed by its scheduling coordinator, ensures that price risk in the day ahead and real time CAISO markets is managed effectively and is consistent with good utility practice.

5.7 Operational Risk
Operational risks are managed through:

- Adherence to this Policy and oversight of procurement activity;
- Conformity to Employee Handbook;
- Staff resources, expertise and/or training reinforcing a culture of compliance;
- Ongoing and timely internal and external audits; and
- Cross-training amongst staff
- Authorized traders and others involved in any phase of transacting are prohibited to own stock in a current or potential counterparty to avoid a conflict of interest

5.8 Liquidity Risk
SVCE manages liquidity risk through adherence to its loan and power purchase agreement credit covenants, limiting commitments to provide security consistent with the Guidelines, ensuring it has adequate loan facilities, prudent cash and investment management, and adherence to its Cash Reserve Policy. SVCE monitors its liquidity (defined as unrestricted cash, investments and unused bank lines of credit) no less than weekly. SVCE utilizes scenario and sensitivity analyses while preparing budget, rate, and pro forma analyses in order to identify potential financial outcomes and ensure sufficient liquidity under adverse conditions.

5.9 Regulatory/Legislative Risk
SVCE manages its regulatory and legislative risk through active participation in working groups and advocacy coalitions such as the California Community Choice Association. SVCE regularly participates in regulatory rulemaking proceedings and legislative affairs to protect SVCE’s interests.

5.10 Reporting
Reporting of critical information to relevant parties is a key component of energy risk management. Periodic reports will be provided to the ROC that shall provide sufficient details on SVCE’s transactions, NOP, market exposure, credit exposure, counterparty credit ratings, transaction compliance, and other relevant data. The frequency and content of the reports for each oversight body shall be prescribed in the Energy Risk Management Guidelines. Should the risks associated with the portfolio or a specific transaction within the portfolio fall outside of any established risk limit, the CEO will report this fact to the ROC within one business day via email, and will evaluate the risk of holding any of the contracts in the portfolio to delivery and report to the Board within 3 months.

6 Authorized Transaction and Trading Limitations

6.1 Trader Authorization Process
The Front Office shall request that the Middle Office begin the trader authorization process. The Middle Office shall verify that the trader’s background and experience is sufficient to transact on behalf of SVCE. Before authorizing personnel to transact, the Middle Office shall:
• Require that trader affirm that they are not currently under investigation for market manipulation;
• Require that trader affirm that they have not been previously investigated for market manipulation;
• Verify that trader has read and understands SVCE’s ERM Policy and Guidelines; and
• Determine that the trader has sufficient understanding and experience of the energy markets in which SVCE participates.

The Middle Office shall maintain a list of the authorized trading personnel as part of the ERM Guidelines.

6.2 Approved Markets
Approved markets in which SVCE authorized traders can participate are as follows:
• California Independent System Operator (CAISO);
• Western Electricity Coordinating Council (WECC); and
• California Air Resources Board (CARB) emissions/carbon auctions

6.3 Approved Transactions
Authorized transactions which SVCE authorized traders can utilize must be consistent with this Policy. Transactions must be directly related to the procurement and/or administration of:
• electric energy,
• reserve capacity,
• transmission and distribution service,
• ancillary services,
• congestion revenue rights (CRRs),
• renewable energy,
• renewable energy certificates (RECs),
• basis transactions,
• greenhouse gas emissions allowances,
• tolling agreements, and
• bilateral purchases of energy products.

Prohibited transactions are those transactions that are not related to serving retail electric load and/or reducing financial exposure. Speculative buying and selling of energy products is prohibited. Speculation is defined as buying energy in excess of forecasted load plus reasonable planning reserves or selling energy or environmental attributes that are not yet owned by SVCE. In no event shall speculative transactions be permitted. Any financial derivatives transaction including, but not limited to futures, swaps, options, and swaptions are also prohibited.

6.4 Tolerance Bands
Hedging its load obligation is a key function for SVCE. The primary responsibility of the Front Office is to manage the energy portfolio and purchase energy to hedge the cost of SVCE’s load obligation. As described in Section 5.3 (Market Price Risk), SVCE ladders its energy purchases over time to access the market at different times. Every six months, the Front Office produces a Portfolio Management Plan that must be approved by the CEO. The Portfolio Management Plan must describe the current portfolio position, the recommended hedging transactions, the portfolio position after the transactions, and how the portfolio will remain within the Tolerance Bands in Table 1.
**Energy Hedging**

Tolerance bands for SVCE’s Net Open Position (NOP) for energy—load minus hedged and fixed-price supplies—shall fall within the tolerances outlined in Table 1 below:

<table>
<thead>
<tr>
<th>Period*</th>
<th>Minimum Tolerance</th>
<th>Maximum Tolerance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prompt Quarter</td>
<td>85%</td>
<td>105%</td>
</tr>
<tr>
<td>Current Balance of Year Prompt-Year</td>
<td>80%</td>
<td>105%</td>
</tr>
<tr>
<td>Year 2</td>
<td>70%</td>
<td>90%</td>
</tr>
<tr>
<td>Year 3</td>
<td>55%</td>
<td>75%</td>
</tr>
<tr>
<td>Year 4</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>Year 5</td>
<td>0</td>
<td>50%</td>
</tr>
</tbody>
</table>

*For example, if the current year calendar year is 2019, then Year 2 is 2020.

**Resource Adequacy**

SVCE must comply with the regulatory requirements for procurement of capacity products for Resource Adequacy (RA) needs. The CPUC has recently adopted a decision to modify compliance obligations for local resource adequacy from demonstrating for one year to three year by October 31st. Currently, this requirement is to show compliance for the prompt calendar year by October 31st for a portion of RA obligations, but the requirement may change to a three-year requirement for local RA. Additionally, SVCE must demonstrate, on a month-ahead basis, full compliance with its monthly RA obligations.

SVCE endeavors to purchases RA products over time to meet its obligation and to diversify its purchases between suppliers and market conditions.

**Renewable Portfolio Standard and Carbon-free**

With respect to purchases to meet the Renewable Portfolio Standard (RPS), SVCE is guided by its Strategic Plan, which states that purchases should be staggered to accommodate regulatory uncertainty, changes in load and supply price risks and that the RPS portfolio should be diversified with respect to technologies.

### 6.5 Authorized Trading Limits

#### 6.5.1 Transacting Authority Retained by the Board

The Board retains the authority to approve:
- All transactions with terms of over 12 months unless it has explicitly delegated authority to the CEO;
- All transactions with terms of over 5 years; and
- Master Agreements under which the CEO **may be is delegated some** authority to transact

#### 6.5.2 Authority Delegated to the CEO by the Board

Under the Board-approved Purchasing Policy, the CEO is delegated the authority to approve and execute contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board. In addition, under Resolution 2019-03, the Board delegates to the CEO the authority to enter into Confirmations for terms not greater than 60 months and limited to purchases of Product consistent with forecasted load and within the Energy NOP Tolerance Bands (as defined in the ERM Policy).
procurement authority to the CEO from time to time to transact under Board-approved Master Agreements (e.g. Resolution 2016-15 which delegates authority to the CEO to execute confirmation agreements for terms of up to 57 months with six energy service providers with whom SVCE has executed Master Agreements).

Table 2 below lists the authorized trading limits to transact on behalf of SVCE for all non-resource adequacy related products. If the CEO delegates some of his authority, he must document any such delegations in the Energy Risk Management Guidelines.
Table 2: Authority Delegated to the CEO by the Board

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Maturity Limit</th>
<th>Notional-Volume Value Limit</th>
<th>Counterparty Limits</th>
<th>Who</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy, Capacity, and CAISO Ancillary Services</td>
<td>Day Ahead and Real Time</td>
<td>N/A</td>
<td>As needed to meet SVCE’s expected load obligations with the CAISO</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>Energy, Capacity, CRRs, and Environmental Products</td>
<td>Up to 12 months</td>
<td>18 months</td>
<td>As needed to meet SVCE’s expected load needs (per Purchasing Policy)</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As needed to meet SVCE’s expected load needs As-delegated to the CEO For-all-Confirmations-under-Master Agreements-approved-by-the Board</td>
<td>Board-approved Master Agreements</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td>Over 60 months</td>
<td>As approved by Board</td>
<td>As approved by the Board</td>
<td>As approved by the Board</td>
<td>Board</td>
</tr>
</tbody>
</table>

6.5.3 Resource Adequacy Authority Delegated to the CEO by the Board

RA obligations are set by the CPUC and may change with respect to the quantity needed, type of RA, location and timing. Failure to meet California’s RA compliance obligations, may subject SVCE to hefty penalties. Table 3 contains current RA “Year Ahead” compliance reporting and demonstration obligations, which are subject to change as California considers broad changes to how reliability requirements are met including the possible establishment of a central buyer for all load serving entities.

Table 3: Resource Adequacy Requirements

<table>
<thead>
<tr>
<th>Resource Adequacy Product</th>
<th>Year-Ahead Demonstration Requirement</th>
<th>Compliance Obligation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local</td>
<td>Year 1 &amp; 2: by October 31st, must demonstrate capacity to meet 100% of monthly obligation Year 2: by October 31st, must demonstrate capacity to meet 50% of monthly obligation</td>
<td>Obligation is based on 50% of SVCE’s system coincident peak. Capacity must be procured for the Greater Bay Area and 7 Local Zones. Obligation for quantity and location set annually.</td>
</tr>
</tbody>
</table>
System Year 1: by October 31st, must demonstrate capacity to meet 50% of “summer” (May through September) needs

System RA needs are based on 15% monthly planning reserve above SVCE’s expected monthly capacity forecast.

Flexible Year 1: by October 31st, must demonstrate capacity to meet 50% of “summer” (May through September) needs

Eligible RA capacity must meet the CAISO’s resource requirements including an assigned Net Qualifying Capacity (MW), have an assigned resource identification number and cannot be counted by another load serving entity.

To adequately and effectively meet RA requirements, the CEO needs a broad authority to transact for terms of up to five years and with a broad set of suppliers, including counterparties not under a Master Agreement. And, while credit risk is a significant risk related to energy transactions, it is not as significant a risk for RA products as the prices tend to be less volatile and suppliers are less likely to default on compliance related products. For this reason, many RA transactions are executed under a WSP with less onerous credit terms than the EEI Master Agreement. For SVCE, the more significant risk associated with RA is that the product procured will not count towards a specific obligation (type or location) or the possibility of the establishment of a central buyer for RA which may strand or change the value of RA under contract. To mitigate such risk, SVCE will ladder RA procurement consistent with an RA Procurement Plan subject to CEO approval. Table 4 lists the CEO’s authority for RA transactions, which may be delegated provided proper documentation is established by the CEO.

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Maturity Limit</th>
<th>Volume Limit</th>
<th>Counterparty Limit</th>
<th>Who</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>System Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>Flexible Capacity</td>
<td>Up to 60 months</td>
<td>72 months</td>
<td>As required to comply</td>
<td>Any counterparty</td>
<td>CEO</td>
</tr>
<tr>
<td>All of the above</td>
<td>Over 60 months</td>
<td>As approved by the Board</td>
<td>As approved by the Board</td>
<td>Any counterparty</td>
<td>Board</td>
</tr>
</tbody>
</table>

### Table 4: Resource Adequacy Authority Delegated to the CEO by the Board

6.36.5.4 Limits of Authority Delegated to Authorized Personnel by the CEO

The Front Office periodically prepares a needs assessment and develops a Portfolio Plan, which defines the transactions required to meet SVCE’s needs and to remain within the Tolerance Bands of Section 6.4. The CEO must approve the Portfolio Plan and may delegate some of his authority to Authorized Personnel (as determined according to the process described in Section 6.1).
Although the CEO may delegate some of his authority to Authorized Personnel, the Board limits the authority he can delegate as shown in Table 53 below:

**Table 53: Limits of Authority Delegated to Authorized Personnel by the CEO**

<table>
<thead>
<tr>
<th>Product</th>
<th>Term Limit</th>
<th>Notional Value Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy, Capacity, and CAISO Ancillary Services</td>
<td>Day Ahead and Real Time</td>
<td>As needed to meet SVCE’s obligations with the CAISO</td>
</tr>
<tr>
<td>Energy</td>
<td>Balance of the month</td>
<td>$5 Million</td>
</tr>
<tr>
<td></td>
<td>Prompt month</td>
<td>$7.5 Million</td>
</tr>
<tr>
<td></td>
<td>Up to 12 months</td>
<td>$25 Million</td>
</tr>
<tr>
<td>Capacity, *(Resource Adequacy Products), CRRs</td>
<td>Prompt month</td>
<td>As needed to meet SVCE’s obligations</td>
</tr>
<tr>
<td></td>
<td>Balance of compliance year</td>
<td>As needed to meet SVCE’s obligations</td>
</tr>
<tr>
<td></td>
<td>Up to 12 months</td>
<td>$15 Million</td>
</tr>
<tr>
<td>Environmental Products (Carbon Free and Renewable Energy Resources)</td>
<td>Up to 12 months</td>
<td>$15 Million</td>
</tr>
</tbody>
</table>

**6.6 Conflict of Interest**

All SVCE employees who are involved in any aspect of transacting for energy or energy-related resources are prohibited from investing in any company with whom SVCE transacts, including those with whom it has executed enabling agreements. Prior to engaging in evaluation of, negotiation with, transacting with, or oversight of a transaction or potential transaction with any company, all involved employees must ensure that they are divested in direct holdings with that company. The ban on investment and requirement to divest is regardless of whether the investment would require disclosure on the employee’s FPPC Form 700.
7 Risk Management Policy Governance

7.1 SVCE Board of Directors
The SVCE Board is responsible for adopting this Policy and reviewing it as needed every two calendar years. The Board also approves SVCE’s annual budget, contracting authorities and delegates responsibilities for the management of SVCE’s operations to its CEO.

7.2 Risk Oversight Committee
SVCE’s CEO formed the Risk Oversight Committee (ROC) and is responsible to inform the ROC about any risk management issues and to provide assurance that this Policy is implemented. The CEO shall provide the ROC information and analysis that illustrate that all transactions are consistent with the risk tolerances and that risk management controls and practices are sufficient to monitor and manage risks that SVCE is exposed to.

The ROC shall meet at least once per calendar quarter, or as otherwise called to order by the CEO.

The ROC shall from time to time review the Energy Risk Management Guidelines defining in detail the internal controls, strategies and processes for managing market risks incurred through or attendant upon wholesale trading, retail marketing, long-term contracting, CRR trading and load and generation scheduling. The ROC shall receive and review information and reports regarding risk management, wholesale trading transactions, and the administration of supply contracts. The ROC will also review counterparty credit lines and cash reserves to ensure proper levels are maintained for credit, operations and liquidity. In addition, the ROC shall review any instances of non-compliance with any provisions of the Policy or Guidelines.

7.3 Internal Risk Oversight Committee
The CEO formed the Internal Risk Oversight Committee (IROC) to review in more detail any risk management issues that arise. The IROC comprises members of the Front, Middle, and Back Office and is used to coordinate any activities related to transacting. The IROC regularly reviews SVCE’s risks and risk management strategies and assists the CEO to ensure that proper controls are in place. The IROC is responsible to develop, approve and update Energy Risk Management Guidelines that implement the Energy Risk Management Policy.
Staff Report – Item 1e

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1e: Adopt Resolution to Authorize the Chief Executive Officer to Execute Service Agreements with 1) Sacramento Municipal Utility District; 2) Center for Sustainable Energy; and 3) ADM Associates, Inc. and Delegate Authority to CEO to Spend up to $1,000,000 in Aggregate through September 30, 2021 under Master Consultant Agreements

Date: 6/12/2019

RECOMMENDATION
Adopt Resolution No. 2019-10 authorizing the Chief Executive Officer (CEO) to execute service agreements, with non-substantive changes, with Sacramento Municipal Utility District (“SMUD”), Center for Sustainable Energy (“CSE”), and ADM Associates, Inc. (“ADM”), collectively referred to as (“Master Consultant Agreements”), for consulting and support related to decarbonization and innovation program design, implementation, management, and evaluation; 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. Staff propose biannual reporting on the expenses and balances of the contracts, consistent with the reporting frequency of the master consultant agreements with Ascend Analytics, Flynn Resources Consulting, Inc., and Hanover Strategy Advisors, LLC, for strategic consulting, support, and risk management services.

BACKGROUND
In December 2018, the SVCE Board adopted the Decarbonization Strategy and Programs Roadmap (abbr. “Roadmap”) to achieve its mission to reduce dependence on fossil fuels by providing carbon-free, affordable and reliable electricity and innovative programs for the community. Staff’s ability to rapidly roll-out the programs portfolio is limited by existing bandwidth and specialized expertise. Therefore, since the adoption of the Roadmap, SVCE has successfully launched several key initiatives (reach code initiatives, EV charging infrastructure joint action plan, virtual power plant industry stakeholder engagement, etc.) by leveraging partnerships with external consultants to augment staff bandwidth and bring to bear their specialized expertise. To continue to rapidly roll-out the remainder of the programs portfolio, staff is seeking to bring on multiple external consultants for program design, implementation, management, and evaluation services.

ANALYSIS & DISCUSSION
SVCE carried out a competitive solicitation process to select the consultants for this work. Staff issued a request for proposals1 (RFP) on April 15, which closed on May 17. The RFP requested proposals for three distinct tasks:

- Task A: general design, implementation and management work
- Task B: Innovation Onramp program management, which requires administering numerous, concurrent, cutting-edge pilot projects

1 The RFP is available at the following link: https://www.svcleanenergy.org/wp-content/uploads/2019/04/Program-Support-RFP.pdf
• Task C: evaluation, measurement & verification (EM&V) of individual programs and the entire programs portfolio

The RFP garnered a strong response, with eight qualified proposals for Task A, six for Task B, and six for Task C. SVCE conducted in-person interviews with finalist teams on May 30 and 31. The six-person evaluation panel for Tasks A and B finalist interviews consisted of four SVCE staff members, one representative from our member agencies, and an energy program manager from the City of San Jose. The four-person evaluation panel for Task C consisted of three SVCE staff members and one representative from our local, environmental advocacy community. The proposals submitted by SMUD, CSE and ADM were selected as the finalists for Task A, B, and C, respectively.

In addition to augmenting staff's limited bandwidth, program design, development, management and evaluation all require specialized knowledge and expertise. 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 progress of SVCE’s programs portfolio roll-out, external opportunities and internal initiatives. In some cases, the consultants may be asked to work together on a specific task and/or project.

A summary of the initial task orders and associated not-to-exceed budgets for each consultant are shown in the following table.

<table>
<thead>
<tr>
<th>Consultant</th>
<th>Anticipated Task Orders</th>
<th>Estimated Budgets</th>
</tr>
</thead>
<tbody>
<tr>
<td>SMUD</td>
<td>FutureFit Heat Pump Water Heater</td>
<td>Up to $80k per year for two fiscal years, approved by the Board in the Roadmap budget (Dec 2018)</td>
</tr>
<tr>
<td></td>
<td>All-Electric Showcase Grant</td>
<td>Up to $100k per year for two fiscal years, approved by the Board in the Roadmap budget (Dec 2018)</td>
</tr>
<tr>
<td></td>
<td>Customer Resource Center</td>
<td>Up to $100k per year for two fiscal years, approved by the Board in the Roadmap budget (Dec 2018)</td>
</tr>
<tr>
<td>CSE</td>
<td>Innovation Onramp</td>
<td>Up to $100k per year for two fiscal years, approved by the Board in the Roadmap budget (Dec 2018)</td>
</tr>
<tr>
<td>ADM</td>
<td>Program- and portfolio-level EM&amp;V support</td>
<td>Up to $100k per year for two fiscal years, included in the overarching Board-approved programs budget of 2% of operating revenues</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$960,000 estimated for FY19 &amp; FY20</td>
</tr>
</tbody>
</table>

Details about each consultant are summarized below.

**SMUD**
SMUD’s Community Energy Services (CES) business unit was created in recent years to leverage SMUD’s knowledgeable and experienced staff to serve CCA clients. Related to programs in specific, SMUD has been designing, developing and administering innovative, customer-facing products and programs for decades, and currently offers nearly 100 programs to their customers and community. Key staff and experience from their programs teams are brought to bear under this consulting agreement. In addition to decades of relevant programs experience, SMUD as an organization is also aligned in its mission to address climate change, reinvest
in the community, and harness local control. Recent CCA clients include East Bay Community Energy and Valley Clean Energy, who have retained SMUD for services spanning billing, data management, procurement strategy, call center, rate and policy design, and other operational support. Specific areas in which SMUD may provide services include, but are not limited to, the following:

- Program Design and Implementation
- Program Application Administration
- Program Management

Anticipated task orders and approximate budget amounts to be carried out by SMUD are listed in the table above and include support for the FutureFit Heat Pump Water Heater program, the All-Electric Showcase Award Program, and the Customer Resource Center.

**CSE**

CSE has deep knowledge and expertise related to customer-facing energy programs generally, but specifically innovative pilot programs involving emerging technologies. For instance, CSE is the prime recipient of eight pilot projects totaling over $20M from the California Energy Commission’s (CEC) Electric Program Investment Charge (EPIC) program, the primary vehicle for funding emerging technology pilots that benefit investor-owned utility customers. CSE has also worked with various municipal utility and CCA clients in Northern California on programs-focused work, including Palo Alto Utilities and Sonoma Clean Power. Specific areas in which CSE may provide services include, but are not limited to, the following for the Innovation Onramp program and other innovation-focused activities.

- Applicant Interaction
- Pre-Screening of Applications
- Facilitate SVCE Screening of Applications
- Design and Implement Pilots
- Program Management for Select Pilots
- Portfolio Management
- Portfolio Review

Anticipated task orders and approximate budget amounts to be carried out by CSE are listed in the table above and include support for the Innovation Onramp program.

**ADM**

ADM services focus on comprehensive energy research and program evaluation. They are an established provider of evaluation, measurement and verification (EM&V) services using transparent, data-driven and rigorous methodologies and approaches. ADM also has extensive experience specifically with emerging technology pilots, which is needed to effectively evaluate SVCE’s innovation program activities. ADM’s services will help ensure SVCE is providing the best possible programs to customers and the community, and that the programs portfolio in aggregate is efficiently and effectively furthering SVCE’s mission. Recent municipal utility, CCA and public sector clients include SMUD, Truckee Donner Public Utilities District, and the California Energy Commission. Specific areas in which ADM may provide services include, but are not limited to, the following.

- Portfolio-Level Review
- Program-Level Review
- Report Development and Presentation

Anticipated task orders and approximate budget amounts to be carried out by ADM are listed in the table above and include support for the program-specific and portfolio level EM&V.

**STRATEGIC PLAN**

The proposal supports SVCE's Strategic Plan Goal 5, which is to work with the community to achieve energy and transportation GHG emissions reductions of 30% emissions reduction from the 2015 baseline by 2021, 40% by 2025 and 50% by 2030. The consulting services brought on through the proposed Master Consultant Agreements will directly support specifically Strategy 5.3 to develop and conduct SVCE programs that promote decarbonization via grid innovation and fuel switching.
ALTERNATIVE
The primary alternative to the Staff recommendation is to not contract for consulting services, and instead use SVCE staff resources for all programs-related work. Staff does not recommend this alternative for the following reasons.

1. SVCE staff resources are currently very limited, which would make it infeasible to complete the work on the timeline proposed in the Roadmap to successfully roll-out the programs portfolio. Furthermore, the services to be provided by each consultant require flexibility as SVCE’s needs are expected to evolve in response to progress of SVCE’s programs portfolio roll-out, external opportunities and internal initiatives. Contracting with the proposed firms will allow SVCE to more easily ramp up resources, as needed.

2. Each of the three firms have extensive experience and deep subject matter expertise related to decarbonization and grid innovation program design, implementation, management and evaluation, which is being leveraged through these contracts.

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. Staff anticipates spending on programs to increase during the period from FY19 to FY21 as the programs portfolio is launched; 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. All spending is within the Board-approved programs budget of 2% of operating revenues.

ATTACHMENTS
1. Resolution 2019-10 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 SMUD, CSE and ADM.
2. Draft SMUD Agreement
3. Draft CSE Agreement
4. Draft ADM Agreement
SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2019-10

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 SACRAMENTO MUNICIPAL UTILITY DISTRICT, CENTER FOR SUSTAINABLE ENERGY, AND ADM ASSOCIATES, 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, the Board adopted 2021, 2025 and 2030 greenhouse gas emissions reduction targets;

WHEREAS, the Board adopted the Decarbonization Strategy and Programs Roadmap and initial budget for the implementation of decarbonization programs pursuant to the Roadmap on December 12, 2018 by Resolution No. 2018-20;

WHEREAS, the Board approved additional decarbonization and grid innovation programs and budget amendments on February 13, 2019, by Resolutions No. 2019-02 and on April 10, 2019, by Resolution No. 2019-07;

WHEREAS, SVCE has a need to rapidly roll-out its programs portfolio with the goals of addressing greenhouse gas emissions and providing innovative programs for its customers in order to further the Board’s Strategic Plan;

WHEREAS, SVCE has engaged several consultants to provide program design, implementation, management, and evaluation support services and enhance SVCE’s internal capabilities;

WHEREAS, Sacramento Municipal Utility District, Center for Sustainable Energy, and ADM Associates, Inc., were selected through a competitive solicitation process to provide support services 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 Sacramento Municipal Utility District, Center for Sustainable Energy, and ADM Associates, Inc. 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 12th day of June 2019, by the following vote:

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>NAME</th>
<th>AYE</th>
<th>NO</th>
<th>ABSTAIN</th>
<th>ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Campbell</td>
<td>Director Gibbons</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Cupertino</td>
<td>Director Sinks</td>
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<tr>
<td>City of Gilroy</td>
<td>Director Tovar</td>
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<td>City of Los Altos</td>
<td>Director Bruins</td>
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</tr>
<tr>
<td>Town of Los Altos Hills</td>
<td>Director Corrigan</td>
<td></td>
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<tr>
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<td>City of Milpitas</td>
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<tr>
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<td>Director Ellahie</td>
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<tr>
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<td>Director Martinez-Beltran</td>
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<td>City of Mountain View</td>
<td>Director Abe-Koga</td>
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<tr>
<td>County of Santa Clara</td>
<td>Director Ellenberg</td>
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<tr>
<td>City of Saratoga</td>
<td>Director Miller</td>
<td></td>
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</tr>
<tr>
<td>City of Sunnyvale</td>
<td>Director Smith</td>
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</tr>
</tbody>
</table>

________________________________________
Chair

ATTEST:

________________________________________
Clerk
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND SACRAMENTO MUNICIPAL UTILITY DISTRICT FOR PROGRAM CONSULTING SERVICES

THIS AGREEMENT, is entered into this 25 day of June, 2019, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and SACRAMENTO MUNICIPAL UTILITY DISTRICT, a political subdivision of the State of California established under the Municipal Utility District Act whose address is 6201 S Street Sacramento CA 95817 (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 program design, implementation, and management consulting services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
   The term of this Agreement shall commence on June 25, 2019, 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 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.

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**
   Aimee Bailey, Director of Decarbonization and Grid Innovation, shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Tracy Carlson, Director of Community Energy Services, 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
Attn: Aimee Bailey

TO CONSULTANT:
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95817
Attn: Ali Crawford, SMUD Legal

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**

________________________________________
Aimee Bailey  
Director of Decarbonization and Grid Innovation
CONSULTANT NAME
Sacramento Municipal Utility District
By: __________________________
Name: Arlen Orchard
Title: Chief Executive Officer
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 progress of SVCE’s programs portfolio roll-out, external opportunities and internal initiatives. Areas in which Consultant may provide services to SVCE are expected to include, but are not limited to, the below. Specific tasks to be completed shall be effectuated by task order(s) agreed to by the Parties.

1. Program Design and Implementation

1.1 Work with SVCE to shape a final program design, based on existing draft development work that SVCE staff has completed. May include defining project goals, requirements and restrictions.

1.2 Estimate required effort on behalf of consultant and SVCE. Outline key roles and responsibilities, and obtain SVCE sign-off on program-specific plans.

1.3 Review budget and objectives to provide an estimate on cost-effectiveness and anticipated achievements of the program.

1.4 Work with SVCE staff and SVCE’s marketing consultant(s) to design an effective marketing campaign recognizing the importance of matching customers with competent providers.

1.5 Work with SVCE staff and SVCE’s third-party evaluation, measurement & verification (EM&V) consultants to design an EM&V plan for the program.

1.6 Implement and operationalize the program design. Develop any required materials, applications or other forms. Address any remaining gaps in the program design and fill in missing details to the level of granularity required to administer the program. Work with SVCE staff to publish necessary materials on the web and launch marketing campaigns.

1.7 Iterate and revise the program design and implementation, as necessary, throughout the life of the program to address any key issues that are discovered, or at the request of SVCE staff.

1.8 Establish SVCE’s program on a comprehensive program tracking software to easily monitor all data relating to the program. The software should integrate with SVCE’s systems to periodically transition data to SVCE. SVCE will retain ownership of all data.

2. Program Application Administration

2.1 Respond to applicant requests for clarification on requirements, help with application forms and application status through email and phone channels.
2.2 Manage application processes. Review and approve, or deny and provide feedback, all applications based on eligibility, completeness and accuracy.

2.3 Monitor any reservations in the system for compliance with program requirements. Process any additional paperwork upon completion of reservation terms and approve project. Remind applicants with reservations who have not completed their projects as they approach the end of their reservation window, and reject any that fail to meet the terms.

2.4 Through the processes identified with SVCE staff, route approved projects for required rebate payment and other processing.

3. Program Management

3.1 Provide SVCE with periodic updates on the budget, including spent money, reserved funds and remaining funds. Updates should identify successes and failures, along with the impact that the program has had to date.

3.2 Identify key issues faced by the program and communicate with SVCE to resolve them effectively.

3.3 Provide all additional reporting documentation required for compliance with the program funding sources.

3.4 Provide SVCE with periodic updates on program achievements and progress towards state objectives and goals.

3.5 As needed, design feedback surveys with SVCE staff and administer them to program participants.

3.6 Coordinate with SVCE’s EM&V consultant to facilitate their review and evaluation of the program.

4. Miscellaneous Other Support

4.1 On a time and materials basis, SVCE may require additional miscellaneous work. This Scope of Services has described the standard program requirements, but all future programs will be unique and may require additional support. SVCE also believes that there may be additional, innovative work that the consultant could perform within this overarching scope.
Exhibit B
Schedule of Performance

Work will be assigned by the Authority on a task order basis. Each task order shall assign work consistent with the Scope of Services, a not to exceed budget, and a schedule for performance of each such task, and shall be signed by both Parties and attached to this Agreement.
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 in each task order.

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 labor estimate and 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 in each task order shall be at no cost to Authority unless previously approved in writing by Authority.

Rates

<table>
<thead>
<tr>
<th>Title (Personnel)</th>
<th>Hourly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director (Tracy Carlson)</td>
<td>$200.00</td>
</tr>
<tr>
<td>Manager (Ali Crawford, Obadiah Bartholomy, Lupe Jimenez)</td>
<td>$150.00</td>
</tr>
<tr>
<td>Senior Designer (Ryan Braas)</td>
<td>$150.00</td>
</tr>
<tr>
<td>Project Manager II (Jennifer Archuleta)</td>
<td>$150.00</td>
</tr>
<tr>
<td>Program Analyst (Pammy Ponenala)</td>
<td>$100.00</td>
</tr>
<tr>
<td>Administrative Assistant (Tiffiney Vernoin)</td>
<td>$80.00</td>
</tr>
</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**

Pursuant to California Government Code §990, Consultant is a self-insured public entity. Consultant is self-insured for general and professional liability, auto liability, cyber, workers’ compensation, and for damage to property owned by Consultant or others, to the extent to which Consultant has contractually assumed responsibility. A certificate of insurance is not applicable when an entity is self-insured and there is no expiration date. Consultant shall provide a letter of self-insurance stating that Consultant’s self-insurance program adequately protects against liabilities and claims arising out of the performance of the agreement.

Consultant meets the following minimum insurance requirements:

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.

   (5) **Cyber Coverage**
   Cyber coverage with an aggregate limit of liability of $1 million dollars ($1,000,000.00).
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND CENTER FOR SUSTAINABLE ENERGY FOR INNOVATION PROGRAM ADMINISTRATION SERVICES

THIS AGREEMENT, is entered into this 12th day of June, 2019, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and Center for Sustainable Energy, a California nonprofit public benefit corporation recognized as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of the United States ("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 decarbonization and grid innovation program design, implementation and management consulting services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**
   The term of this Agreement shall commence on June 12, 2019, 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 RECURSE 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 promptly provide 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. On or before the
      commencement of the term of this Agreement, Consultant shall cause any insurer providing
      comprehensive general and automotive liability insurance to either Consultant or Authority with
      respect to the services of Consultant herein to provide evidence that such insurer has waived
      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 (at which time the terms and conditions of subcontracting shall be agreed), Consultant shall not hire subcontractors to cause performance of the services required under this Agreement.

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. Beckie Menten 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:
Center for Sustainable Energy
Attn: Notice Officer
3980 Sherman Street, Suite 170
San Diego, CA 92110
e-mail: legal@energycenter.org

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.

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21. **CONFLICT OF LAW**
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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**
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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**

_______________________________
Aimee Bailey
Director of Decarbonization and Grid Innovation

CENTER FOR SUSTAINABLE ENERGY
By: __________________________
Name: Lawrence Goldenhersh
Title: President

SILICON VALLEY CLEAN ENERGY AUTHORITY
By: __________________________
Name: Girish Balachandran
Title: Chief Executive Officer

**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 progress of SVCE’s programs portfolio roll-out, 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, for Innovation Onramp and potentially other innovation-related program activities:

1. **Applicant Interaction**
   
   1.1 Monitor email inbox and phone line to actively respond to applicant inquiries.
   
   1.2 Address inquiries on the overarching program objectives, application and other general topics.
   
   1.3 Address inquiries on the evaluation process and provide any required status updates to interested applicants

2. **Pre-Screening**
   
   2.1 Screen applications for eligibility and completeness.
   
   2.2 Provide an initial evaluation to SVCE staff on the strengths and weaknesses of each application.

3. **Facilitate SVCE Screening**
   
   3.1 Organize the quarterly evaluation process for a panel of SVCE staff to review screened applicants.
   
   3.2 Lead the review panel through the evaluation process. Help to structure and guide the conversation around the key goals of SVCE and the Innovation Onramp program.
   
   3.3 Take notes to support future feedback to applicants and record decisions.

4. **Design and Implement Pilots**
   
   4.1 Lead in contacting new partners (applicants chosen through SVCE screening) and communicating next steps.
   
   4.2 Work with partners to develop pilot scopes of work. These scopes should guide partners towards objectives, roles, responsibilities, timelines, milestones and evaluation, measurement & verification that support SVCE’s mission and overarching goals while leveraging the innovative idea(s) from the partner.
5. **Program Management for Select Pilots**

5.1 Maintain close contact with partner throughout the contract term. Communicate with partner key challenges and provide logistical support as needed. Alert SVCE staff to any important decision-making moments for feedback.

5.2 Monitor progress towards scope requirements and help partner ensure that they are met.

5.3 Create periodic and final reports on pilot, with help of partner, for SVCE to review.

6. **Portfolio Management**

6.1 Maintain close contact with all partners throughout the contract term. Address any partner questions and monitor ongoing progress of pilots.

6.2 Monitor partner use of grant funding to ensure it complies with all SVCE requirements.

7. **Portfolio Review**

7.1 On a quarterly basis, aggregate key metrics and updates from all active partners and integrate into a portfolio review document and presentation.

7.2 Provide recommendations based on findings and incorporate into documentation. Recommendations could include pilot-specific or portfolio-level commentary.

7.3 Present findings to SVCE staff and address any questions.

7.4 Follow up with SVCE staff and partners on any action items identified during the review process.

8. **Miscellaneous Other Support**

8.1 On a time and materials basis, SVCE may request additional work outside the rest of the scope. This could be a presentation on the Innovation Onramp program to the SVCE Board, community workshop or extra administrative help on a given pilot.
Exhibit B
Schedule of Performance

Work will be assigned on a task order basis by a representative of the Authority. Each task order shall assign work consistent with the Scope of Services, a not to exceed budget, and a schedule for performance of each such task, and shall be signed by both Parties and attached to this Agreement.
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 by each task order.

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall be determined and agreed to by the Parties on a task order basis.

Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth in the applicable task order shall be at no cost to Authority unless previously approved in writing by Authority.

RATES
Consultant anticipates that the staff identified below will perform work consistent with the Scope of Services. Consultant may assign additional staff and hourly rates on a task order basis with the approval of Authority. Such assignment and acceptance of additional staff consistent with the task order may be confirmed by e-mail communications. Hourly rates contained herein are applicable for calendar year 2019. Consultant shall increase hourly rates by 3% at the beginning of each subsequent calendar year.

<table>
<thead>
<tr>
<th>Personnel</th>
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<td>Beckie Menten</td>
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<td>Pierre Bull</td>
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<td>Jon Hart</td>
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<td>Sarah Bliss</td>
<td>Sr. Manager</td>
<td>$165</td>
</tr>
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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.

   (5) **Cyber Coverage**
   Cyber coverage with an aggregate limit of liability of $1 million dollars ($1,000,000.00); provided that such insurance need not be in place as of the commencement of the term of this Agreement but must be in place prior to receiving confidential information from Authority or Authority’s customers in connection with Consultant’s performance under this Agreement.
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND ADM ASSOCIATES, INC. FOR EVALUATION, MEASUREMENT AND VERIFICATION SERVICES

THIS AGREEMENT, is entered into this 12 day of June, 2019, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and ADM Associates, Inc., a California corporation whose address is 3239 Ramos Circle, Sacramento CA 95827 (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 evaluation, measurement and verification support for decarbonization and grid innovation programs upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
The term of this Agreement shall commence on June 12, 2019, 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 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.

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. Adam Thomas 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:
Adam Thomas
ADM Associates, Inc.
3239 Ramos Circle
Sacramento CA 95827

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

_______________________________
Aimee Bailey
Director of Decarbonization and Grid Innovation

CONSULTANT NAME

ADM Associates
By: ____________________
Name: Adam Thomas
Title: Director
Date: ____________________

SILICON VALLEY CLEAN ENERGY

APPROVED AS TO FORM:

________________________________________
Counsel for Authority

ATTEST:

________________________________________
Authority Clerk

A Joint Powers Authority
By: ____________________
Name: Girish Balachandran
Title: Chief Executive Officer
Date: ____________________
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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 progress of SVCE’s programs portfolio roll-out, 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. Portfolio-Level Review

1.1 Work with SVCE staff to aggregate data from all programs and efforts in the SVCE portfolio. This will include program administered by third-party contractors and those run in-house.

1.2 Based on available literature and knowledge of SVCE programs, assess reasonability and accuracy of totals.

1.3 Note any suggested caveats or adjustments to totals that SVCE should consider when reporting the numbers to other groups.

2. Program-Level Review

2.1 Work with SVCE staff to identify programs to review at the outset of each six-month cycle. Coordinate with SVCE staff and its third-party contractors to acquire all data, program information and anything else necessary for a comprehensive review.

2.2 Work with SVCE staff to determine appropriate depth for evaluation, measurement & verification (EM&V) review. Investigate pertinent literature and other similar programs to contextualize the review needs.

2.3 Review all aspects of the programs identified for review. This should include administration processes, costs, technology requirements, budget, results, impact and persistence. Concepts of interest include free-ridership and cost-effectiveness. Thoroughly explore any discrepancies discovered during the review. The review may include validating models and assumptions, surveying program participants and surveying program non-participants.

2.4 Provide suggestions for improving any issues discovered in the program review. Also suggest any innovative additions that could provide additional benefit to the program, even if they do not address an identified issue.

3. Report Development and Presentation

3.1 Summarize findings into a clear and concise report for SVCE staff. This report should provide sufficient detail to implement any suggested changes while not being burdensome to read and review. Work with SVCE staff to revise the draft document to achieve a successful final
version.

3.2 Transform report into a presentation format and present it to SVCE staff. Address any questions or concerns and incorporate into the final version of the report delivered to SVCE.

4. Miscellaneous Other Support

4.1 On a time and materials basis, SVCE may require additional EM&V related work outside the scope above.
Exhibit B
Schedule of Performance

Work will be assigned by the Authority on a task order basis. Each task order shall assign work consistent with the Scope of Services, a not to exceed budget, and a schedule for performance of each such task, and shall be signed by both Parties and attached to this Agreement.
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Rates

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<tbody>
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<td>Director</td>
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<tr>
<td>Dan Mort</td>
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<tr>
<td>Daniel Chapmen</td>
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<td>Jeremy Offenstein</td>
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5. **Cyber Coverage**
   Cyber coverage with an aggregate limit of liability of $1 million dollars ($1,000,000.00).
Staff Report – Item 1f

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1f: **Innovation Onramp Program Update and Request to Authorize Chief Executive Officer to Execute Agreement with UtilityAPI for an Energy Data Exchange Platform Pilot in the Amount of $279,000**

Date: 6/12/2019

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**RECOMMENDATION**

Staff recommends that the Board adopt a motion to approve and authorize the CEO to execute the attached agreement with UtilityAPI, with non-substantive changes approved by the CEO, for an energy data exchange platform pilot to empower GHG reduction, choice, competition and local investment through data access from June 12, 2019 through June 11, 2020 and for an amount not to exceed $279,000.

**BACKGROUND**

To achieve its mission to reduce dependence on fossil fuels by providing carbon-free, affordable and reliable electricity and innovative programs for the community, SVCE adopted Strategy 5.2 of the Strategic Plan, to establish an SVCE decarbonization strategy and programs roadmap (abbv. “Roadmap”). In December 2018, the Board approved the Roadmap and approximately $6M to begin implementation. The Roadmap budget includes $1.2M for the Innovation Onramp and Innovation Partners programs. The goal of SVCE’s innovation programs is to leverage our unique position to engage and support the innovation ecosystem in addressing key market barriers to achieving deep decarbonization in SVCE service territory and beyond. Innovation Onramp in specific is a program to provide grant funding to external partners to support innovative pilot projects. The program design features a periodic application deadline, standardized application process, transparent evaluation criteria, staged funding levels to support scaling from ideas to proofs of concepts to demonstrations, and standardized partnership agreements. The first application deadline for Innovation Onramp closed April 30, 2019. SVCE received fifteen applications in total, and after a thorough evaluation process, five were selected to proceed, as described in further detail below.

One pilot project in specific has been designated a flagship pilot. The pilot proposed by the mission-driven software company UtilityAPI is to partner with SVCE and SVCE’s data management services provider Calpine to deploy a data exchange platform for SVCE service territory, which would allow third parties to request and download customer utility bill and usage data. The goal is to demonstrate the potential of free, authorized access to standardized and automated energy usage data in accelerating the deployment of clean energy projects, while empowering customer choice and supporting local businesses. The proposed pilot demonstration scope and budget are described in further detail below.

**ANALYSIS & DISCUSSION**

*Results from Innovation Onramp’s First Application Deadline*

SVCE received fifteen Innovation Onramp applications for the April 30, 2019, deadline. The primary evaluation criteria for proposals are the five prioritization criteria identified in the Decarb Strategy & Programs Roadmap (Customer & Community Value, Emissions Impact, Scalable & Transferable, Equity in Service, Core Role for
SVCE. Secondary evaluation criteria include staff resource impacts, acceptance of the terms and conditions in the standardized partnership agreements, co-funding for project (in-kind labor or other grant funding), and alignment with other program activities. SVCE programs staff carried out an initial evaluation of proposals. A group of finalists were invited for in-person interviews held on May 24, 2019. The evaluation panel for the finalist interviews consisted of two SVCE staff members and a representative from Elemental Excelerator, a local nonprofit accelerator focused on solutions to pressing social and environmental issues in areas such as sustainable energy, mobility, agriculture, and water.

Due to bandwidth limitations and as disclosed on the Innovation Onramp website, the number of pilot partnerships were limited to up to five for the first application deadline. Five projects were selected to proceed and are described in detail in Attachment 1. Staff is currently working with the project teams to finalize the scope, budget and timeline of the pilots and execute the pilot partnership agreements, which is estimated to be complete by the end of June 2019.

Of the applications that did not rank highly from the evaluation, the primary reasons were overlap in scope of a current program initiative (e.g. customer resource center, virtual power plant initiative, etc.), unclear and/or incomplete proposal, and insufficient alignment with SVCE’s functions and role.

Flagship Pilot with UtilityAPI
As described briefly above, the pilot project proposed by UtilityAPI has been designated a flagship pilot, given its potential to demonstrate foundational market transformation with the application of SVCE core principles, including data access, transparency, and local reinvestment. The pilot project is to establish an energy data exchange platform pilot to empower GHG reduction, choice, competition and local investment through data access. The data exchange platform was originally developed under a grant from the U.S. Department of Energy SunShot Initiative in a $1.85M project. Attachment 2 provides additional detail on the specific market barriers addressed by UtilityAPI’s data exchange platform that would be demonstrated in the pilot via a comparison between paper authorization forms, PG&E’s Share My Data platform, and the proposed SVCE and UtilityAPI data exchange platform. Attachment 3 includes the draft partnership agreement for the proposed pilot. The staff proposal is a request that the Board authorize the CEO to execute the attached agreement with UtilityAPI, with non-substantive changes approved by the CEO, for an amount not to exceed $279,000.

Staff anticipates this pilot project could lead to multiple future opportunities for collaboration. Given the costly nature of IT integration for data-focused pilots such as this, staff submitted letters of support to UtilityAPI for grant funding proposals to external funding agencies, which would serve as co-funding to expand upon this proposed pilot in innovative ways.

STRATEGIC PLAN
The Innovation Onramp program supports SVCE’s Strategic Plan Goal 5, which is to work with the community to achieve energy and transportation GHG emissions reductions of 30% emissions reduction from the 2015 baseline by 2021, 40% by 2025 and 50% by 2030. The Innovation Onramp program supports Strategy 5.3 to develop and conduct SVCE programs that promote decarbonization via grid innovation and fuel switching.

The flagship pilot with UtilityAPI in specific supports the Roadmap Strategy 8.f, “Establish an open data portal to provide transparency where appropriate to improve the ability for market actors to support SVCE’s missions and spur private sector innovation”.

FISCAL IMPACT
The Board approved a budget of $600k per fiscal year for FY19 and FY20 for Innovation Onramp in December 2018 with Resolution No. 2018-20. The pilots identified in this staff report, including the UtilityAPI pilot agreement for $279,000, fall within the Board-approved budget.

ATTACHMENTS
1. Innovation Onramp Pilot Project Descriptions
2. Comparison of Customer Journey for Data Access
3. Draft Pilot Partnership Agreement with UtilityAPI
The following projects were selected as awardees for Innovation Onramp.

1. **Empowering GHG Reduction, Choice, Competition and Local Investment through Data Access (FLAGSHIP PILOT)**
   
   **Requested budget:** $279,000
   
   **Pilot Stage:** Commercialization/Demonstration
   
   **Project Team:**
   - Daniel Roesler, CEO/CTO – UtilityAPI
   - Lynne Wander, COO – UtilityAPI
   - Devin Hampton, VP of Corporate Development – UtilityAPI
   - *Santiago Chuck – Calpine
   - *Tony Choi – Calpine
   - *George Theofanous – Calpine

   **Project Summary:** The goal of this project is to demonstrate the impact of free, authorized access to standardized and automated energy usage data in accelerating the deployment of clean energy projects, while empowering consumer choice and supporting local businesses. To achieve this goal, UtilityAPI will work in partnership with SVCE and SVCE’s data management services provider Calpine to implement its new-to-market EE/DER Engagement Platform. This EE/DER Engagement Platform will foster a first-of-its-kind, clean and efficient energy ecosystem based on real data for SVCE’s customers and local businesses. Within this ecosystem, unfettered authorized access to energy usage data will unlock expansive participation in known use cases such as storage, solar, energy efficiency and electric vehicle adoption. It will further demonstrate new business models emerging from the service to offer SVCE customers further choice, specifically related to aggregated demand response providers, electric vehicles, electric vehicle charging infrastructure, and other, as-yet-unknown offerings. The pilot will result in an acceleration of solar, storage, and energy efficiency project proposals and implementations for SVCE customers, giving customers choice and fostering competition amongst vendors. Also, because UtilityAPI offers an easy to use interface for its platform, small businesses are able to compete with larger companies by having access to the same data tools.

   *Please note Calpine was not a co-applicant to the Innovation Onramp program, but because they are SVCE’s data management services provider, they are a key partner to the successful implementation of this pilot project.

2. **SVCE Public Mobility Resource Hubs: 100% Solar EV Public Charging Stations and EV Outreach Workshops**
   
   **Requested budget:** $100,000
   
   **Pilot Stage:** Commercialization/Demonstration
   
   **Project Team:**
   - Deborah Feng, City Manager – City of Cupertino
   - Roger Lee, Asst. Dir. Of Public Works – City of Cupertino
   - Ken Tanase, Facilities and Fleet Manager – City of Cupertino
   - Gilee Corral, Sustainability Coordinator – City of Cupertino
   - Tom McCalmont, CEO – Paired Power
   - Ariane Erickson, GoEV Program Manager – Acterra

   **Project Summary:** The goal of this project is to demonstrate a multi-faceted decarbonization strategy for cities to achieve mobility and building electrification goals utilizing 100% on-site solar power. For
this project, City of Cupertino has partnered with local EV charging company, Paired Power, to deploy 100% solar EV grid-tied charging stations at a municipal site. The pilot project will demonstrate the innovative and unique features of Paired Power’s SEVO SunStation product. For the pilot demonstration, the City of Cupertino has also partnered with Acterra, a local Bay Area non-profit, that manages and provides public EV outreach programs to increase public EV awareness and adoption in the region. Acterra will host three public EV outreach workshops quarterly at the demonstration site, which will include a 40-minute EV expo at SEVO SunStation conducted by Acterra’s EV Ambassadors (volunteer owner-enthusiasts), and a 1-hour presentation on the benefits of EVs.

3. CA Zero Carbon School and Community College Districts: A Programmatic Approach

*Requested budget: $75,000*

*Pilot Stage: Prototype/Proof of Concept*

*Project Team:*

- Alice Sung, Principal – Greenbank Associates
- Alexis Karolides, Principal Architect & Sustainability Practice Leader – Point Energy Innovations
- Peter Rumsey, Founder and CEO – Point Energy Innovations
- Jim Kelsey, Founder and President – kW Engineering
- Jim Kozelka – Manager, Energy Systems, Foothill-De Anza Community College (FHDA CCD)
- Robert Cormia – Chemistry Faculty, clean energy advocate, FHDA CCD
- Local K-12 School District Project Partner(s) to be determined at outreach

*Project Summary:* Although there is a growing body of examples of new ZNE K-12 school and college buildings, a comprehensive statewide program to bring existing schools and colleges to zero carbon through decarbonization has only begun in the sector. This project proposal will build upon research and the practical application of extant feasibility studies, tools, best practices, technical reports, case studies, and roadmaps towards a programmatic solution for ZNE and decarbonization district-wide for both K-12 public schools and community college districts. Policies and guidelines to construct new buildings as zero carbon (all-electric) may be the simpler task, as they occur on a project basis. For school districts with a lack of capacity combined with a portfolio of multiple existing campuses in various conditions, a major barrier is “where and how to start.” For many community college campuses, with legacy central plants, the complexities of decarbonization at district-energy scale and DER define a different major challenge. Building decarbonization of existing public schools and community colleges deserves our focused attention at the level of scale of master planning the whole portfolio, with 5- and 10- year infrastructure planning. This will allow us to embed best practices and prioritizations of incremental actions as existing facilities are modernized, replacing near or past- end-of-life space heating, water heating systems, and kitchen equipment, during this critical next decade to meet California state GHG goals. Working closely with SVCE and local K-14 Project Partners within the SVCE territory, the Project Team will:

- Develop more clean energy/climate action awareness and education within the school and community college district communities;
- Engage local public education sector Project Partners to identify practical needs, barriers and gaps beyond ZNE in implementing building decarbonization in existing district portfolios;
- Research and curate tailored Toolkits, one for K-12 and one for community college districts to address the above; and,
- Develop a comprehensive draft Strategic Plan for a statewide “CA Zero Carbon School and Community College Districts Program” to enable all K-14 operating carbon emissions to transition to zero by 2030.
4. The Power Swap Challenge

Requested budget: $10,000
Pilot Stage: Idea/Concept
Project Team:
- Jonathan Roth, PhD candidate – Stanford University
- Ranjitha Shivaram, PhD candidate – Stanford University
- Daniel Irvin, JD candidate – Stanford University
- Clothilde Venereau, Masters candidate – Stanford University

Project Summary: The "Power Swap Challenge" was a concept initially developed by the project team at the Stanford Cleantech Challenge in April 2019 in response to SVCE’s challenge area to provide solutions to accelerate building electrification. Based upon initial research, the Power Swap Challenge concept addresses current market failures through three pillars: marketing campaigns, contractor workshops, and a financial/economic analysis. This proposed project focuses on working with SVCE staff to build on the initial concept by carrying out significant additional research and program design work, stakeholder interviews (e.g. contractors, homeowners, banks/financiers, renters, landlords, equipment suppliers, restaurants, and policy-makers), and financial analysis to arrive at a refined, holistic, highly viable program design that SVCE can implement.

5. Understanding the Role of Land Use and Urban Form in the Energy Efficiency and Decarbonization of Silicon Valley’s Urban Energy Systems

Requested budget: $0
Pilot Stage: N/A - academic partnership
Project Team:
- Rishee Jain, Asst. Professor – Stanford University
- Ranjitha Shivaram, PhD candidate – Stanford University

Project Summary: In order to achieve California’s aggressive 2050 GHG goals, there is a need for an additional 61-74% reduction in GHGs below forecasted 2030 levels. Buildings in California are responsible for a quarter of total emissions, making urban energy efficiency and decarbonization of the built environment a critical lever to achieve the state’s GHG goals. Urban energy efficiency is a complex phenomenon that can be difficult to define and quantify. Existing research approaches to urban energy efficiency typically assume centralized energy generation and consider reduced end-use energy consumption as a proxy for greater efficiency. This paradigm is less relevant today, given two emergent and disruptive energy trends that have direct implications for how energy efficiency is understood in cities - (1) the integration of distributed energy resources (DER) such as solar energy and battery storage into the built environment, and (2) the rise of electric mobility which interacts with the built environment and potentially acts as “mobile batteries” for peak load management. These trends necessitate a better understanding of the balance between in-boundary and out-boundary urban energy flows as well as the techno-economic feasibility of urban energy self-sufficiency. This project addresses this need through the development of a novel framework for urban energy efficiency that can encapsulate the clean energy transformation of the built environment. Using this framework, we propose to benchmark urban energy efficiency in SVCE territory by partnering with SVCE and leveraging its customer data. At the same time, the land use patterns of our cities have profound impacts on energy use in buildings and transportation. For instance, while compact cities might consume lesser energy on average than sprawling cities, they might not be able to deploy as much solar power due to space constraints. Land-use patterns will thus influence the integration of DER and electric vehicles into the grid, and there is a limited exploration of this phenomenon in prior research. We propose to address this need by exploring a range of scenarios for land use change at the parcel level in SVCE’s communities and modeling the consequent changes in energy use.
Customer Journey for Data Access
## Customer Journey: Data Access Process

### Manual Data Access
- Fill out paper data request form
- Get customer to physically sign form
- Submit form to utility (via Fax)
- Utility manually processes data
- Wait for utility to send data
- Receive and process data
- Give customer a quote

### PG&E SMD
- Register with PG&E
- PG&E connectivity test
- PG&E approves company
- Company sends data request
- Customer authorizes
- Company downloads data
- Give customer a quote

### SVCE and UtilityAPI
- Register with SVCE
- Company sends data request
- Customer authorizes
- Company downloads data
- Give customer a quote
Customer Journey: Time

**Manual Data Access**
- 2-12 Weeks per data transaction

**PG&E SMD**
- 1-3 Months for registration with PG&E
- 1-10 Min per data transaction

**SVCE and UtilityAPI**
- 30-90 Seconds per data transaction
Customer Journey: Soft Costs

Manual Data Access
$600-$1000 per transaction

PG&E SMD
$15-20,000 for onboarding
Free per transaction

SVCE and UtilityAPI
Free
Customer Journey: Pros & Cons

Paper Authorization Forms

Pros:
- Familiar challenge

Cons:
- Manual
- Long delays in processing data
- Error prone data
- Paper forms often rejected due to typos
- Unstructured Data Formats
- No bill data
- Each utility has a different process

PG&E SMD

Pros:
- Fast, fully automated
- Includes interval data
- Can be integrated into apps
- Standards based
- Ongoing and historical data

Cons:
- Requires technical expertise
- Long integration timeline
- No detailed bill data
- Slow technical support
- Not accessible to small businesses

SVCE and UtilityAPI

Pros:
- Fast, fully automated
- Instant registration
- No technical integration required
- Includes interval and bill data
- Can be used by small businesses
- Can be integrated into apps
- Same day technical
- Standards based
- Ongoing and historical data

Cons:
- Only available with SVCE
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
UTILITYAPI, INC. FOR
ENERGY DATA EXCHANGE PLATFORM PILOT

THIS AGREEMENT, is entered into this 12th day of June, 2019, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and UtilityAPI, Inc, a Delaware Corporation whose address is 1212 Broadway, 16th floor, Oakland, CA 94618 (hereinafter referred to as "Participant") (collectively referred to as the “Parties”).

RECEITALS:

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. Authority has launched an innovation pilot partnership program called Innovation Onramp in order to facilitate and support innovative research and the evaluation, testing, and implementation of innovative, emerging technologies and ideas, with the goal of accelerating decarbonization.

C. Participant has submitted a pilot project proposal to the Innovation Onramp program, pursuant to which Participant proposes to provide a drop-in data exchange platform that third parties can use to request and download customer utility bill and usage data. (the “Project”).

D. Participant possesses the skill, experience, ability, background, training and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

E. Authority and Participant desire to enter into an agreement to carry out the Project upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
The term of this Agreement shall commence on June 12, 2019, and shall terminate on April 12, 2020 or a cap of 20,000 data transactions (“Term”), unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED
Participant 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 PARTICIPANT
Participant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed two hundred and seventy-nine thousand dollars ($279,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.
4. **TIME IS OF THE ESSENCE**  
Participant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**  
Participant 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 Participant 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 Participant, 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 Participant’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 Participant, 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 Participant. Payments of the above items, if required, are the responsibility of Participant.

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**  
Participant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Participant’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. Participant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**  
A. **General Indemnification.** Participant shall, to the fullest extent allowed by law and without limitation of the provisions of this Agreement related to insurance, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, demands, damages, losses, costs, and expenses of any nature whatsoever (“Claims”), including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of, pertaining to, or related to the performance of this Agreement by Participant or Participant’s employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys’ fees of counsel of Authority’s choice, expert fees and all other costs and fees of litigation.
B. Intellectual Property Indemnification. Participant hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the Project and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as “IP Rights”), except as otherwise expressly provided by this Agreement. Participant warrants that the Equipment, the Project, and any related services to be provided pursuant to this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Participant shall indemnify, defend, and hold Authority, its members, officers, employees, and volunteers, harmless from and against any Claims by a third party that the Equipment, the Project, or any related services to be provided pursuant to this Agreement infringe or violate any third-part’s IP Rights, provided any such right is enforceable in the United States. 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.

C. The acceptance of the services by Authority shall not operate as a waiver of the rights of indemnification. The hold harmless and indemnification provisions of this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Claim.

D. The provisions of this Section shall survive the completion of the Project or termination of this Agreement.

10. INSURANCE:

A. General Requirements. On or before the commencement of the Term of this Agreement, Participant 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 Participant’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." Participant 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. Participant 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, Participant shall look solely to his/her/its insurance for recovery. Participant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Participant or Authority with respect to the services of Participant herein, a waiver of any right to subrogation which any such insurer of Participant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If Participant at any time during the Term should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Participant's name or as an agent of the Participant and shall be compensated by the Participant 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 Participant. Participant is advised to confer with Participant's insurance broker to determine adequate coverage for Participant.

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.

G. **Subcontractors.** Participant shall require all subcontractors to procure and maintain insurance policies subject to the requirements of Exhibit “D.” Failure of Participant to verify existence of subcontractor’s insurance shall not relieve Participant from any claim arising from subcontractor’s work on behalf of Participant.

11. **CONFLICT OF INTEREST**
Participant 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. Participant 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 Participant 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**
The Parties agree that the expertise and experience of Participant are material considerations for this Agreement. Participant 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. Consent to one assignment will not be deemed to be consent to any subsequent assignment. However, claims for money by Participant 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 Participant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Participant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Participant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Participant, 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 Participant 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 Participant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

Participant 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 Participant shall agree to be bound to Participant and Authority in the same manner and to the same extent as Participant is bound to Authority under this Agreement. Subcontractors shall agree to include these same provisions within any sub-subcontract. Participant shall provide a copy of the Indemnity and Insurance provisions of this Agreement to any subcontractor. Participant 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 Participant pursuant to or in connection with this Agreement, shall be the exclusive property of Authority. Participant 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. Participant may retain a copy of any Report furnished to the Authority pursuant to this Agreement.

B. All Reports prepared by Participant may be used by Authority in execution or implementation of: (1) The original Project for which Participant 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. Participant shall, at such time and in such form as Authority may require, furnish reports concerning the status of services required under this Agreement.

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

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

15. **RECORDS**

Participant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Participant 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 Participant receives final payment from Authority for all services required under this agreement.

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

16. **PARTY REPRESENTATIVES**

Aimee Bailey, Director of Decarbonization and Grid Innovation shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Lynne Wander, Chief Operating Officer shall represent Participant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

A. Participant 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 Confidential Information held by Authority or provided to Participant by Authority.

B. The term “Confidential Information” includes all information, documents, and materials owned by Authority or Participant, including technical, financial, business, or utility customers’ personal information which is not available to the general public, as well as information derived from such information, which is furnished or made available to Participant. Information received by Participant shall not be considered Confidential Information if: (i) it is or becomes available to the public through no wrongful act of Participant; (ii) it is already in the possession of Participant and not subject to any confidentiality agreement between the Parties; (iii) it is received from a third party without restriction for the benefit of Authority and without breach of this Agreement; (iv) it is independently developed by Participant; or (v) it is disclosed pursuant to a requirement of law, a duly empowered government agency, or a court of competent jurisdiction after due notice and an adequate opportunity to intervene is given to Authority, unless such notice is prohibited.

C. As practicable, Authority shall mark Confidential Information with the words “Confidential” or “Confidential Material” or with words of similar import, or, if that is not possible, Authority shall notify the Participant (for example, by cover e-mail transmitting an electronic document) that the material is Confidential Information. Authority’s failure, for whatever reason, to mark or notify Participant at the time the material is produced shall not take the material out of the coverage of this Agreement.

D. Participant will direct its employees, contractors, consultants, and representatives who have access to any Confidential Information to comply with the terms of this Section.

E. Upon termination or expiration of this Agreement, Participant shall, at Authority’s direction, either return or destroy all such Confidential Information and shall so certify in writing, provided, however, any Confidential Information (i) found in drafts, notes, studies, and other documents prepared by or for Authority or its representatives, or (ii) found in electronic format as part of Participant’s off-site or on-site data storage/archival process system, will be held by Participant and kept subject to the terms of this provision or destroyed at Participant’s option. The obligations of this provision will survive termination or expiration of this Agreement.
18. **DATA SECURITY**

If, pursuant to this Agreement, Authority shares with Participant personal information as defined in California Civil Code Section 1798.81.5(d) about a California resident (“Personal Information”), Participant shall maintain reasonable and appropriate security procedures to protect that Personal Information, and shall inform Authority immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. Participant shall not use Personal Information for direct marketing purposes without Authority’s express written consent. For purposes of this provision, security procedures are “reasonable and appropriate” when they (i) adequately address all reasonable foreseeable threats to Personal Information, (ii) are appropriate to the quantity, sensitivity, and type of Personal Information accessed and the way that information will be accessed, and (iii) comply with all laws, regulations, and government rules or directives applicable to the Participant in connection with its access of Personal Information.

19. **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: Aimee Bailey

**TO PARTICIPANT:**
Lynne Wander, Chief Operating Officer
UtilityAPI, Inc
1212 Broadway, Floor 16
Oakland, CA 94607

20. **TERMINATION**

In the event either Party fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, that Party shall be deemed in default in the performance of this Agreement (“Defaulting Party”). If the Defaulting Party fails to cure the default within 30 days of receipt of notice from the non-Defaulting Party, and in addition to any other remedy available to the non-Defaulting Party by law, the non-Defaulting Party may terminate the Agreement by giving the Defaulting Party written notice thereof, which shall be effective immediately. Each Party shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving thirty (30) calendar days' prior written notice to the other Party as provided herein. Upon receipt of any notice of termination by the Authority, Participant shall immediately discontinue performance.

Authority shall pay Participant for services satisfactorily performed up to the effective date of termination. If the termination is for cause, Authority may deduct from such payment the amount of actual damage, if any, sustained by Authority due to Participant’s failure to perform its material obligations under

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*Item 1f
Attachment 3*
this Agreement. Upon termination, Participant 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 Participant or given to Participant, in connection with this Agreement. Such materials shall become the property of Authority.

21. **COMPLIANCE**
   Participant shall keep informed of and comply with all applicable local, state and federal laws. Participant shall procure all applicable permits and licenses, pay all applicable charges and fees, and give all notices as may be required by law in the performance of services under this Agreement.

22. **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.

23. **ADVERTISEMENT**
   Participant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters, cards, news releases, annual reports, product packaging, print literature, websites, or other media of any kind pertaining to the services performed under this Agreement or using the name, trade name, trademarks, or service marks of or owned by Authority, unless prior written approval has been secured from Authority to do otherwise. Participant shall not represent, directly or indirectly, that any product or service has been approved or endorsed by Authority without prior written consent.

24. **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.

25. **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 Participant. In the event of a conflict between the terms of this Agreement and the exhibits hereto or Participant’s proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and Participant’s proposal, the exhibits shall control.

26. **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.

27. **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.

28. **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.

PARTICIPANT
UtilityAPI
By ___________________
Title ___________________
Date ___________________

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority
By ___________________
Title ___________________
Date ___________________

APPROVED AS TO FORM:
_________________________
Counsel for Authority

RECOMMENDED FOR APPROVAL
ATTEST:
_________________________
Name, Title
_________________________
Authority Secretary
Exhibit A
Scope of Services

The project is to deploy a data exchange platform for SVCE service territory, which would allow third parties to use to request and download customer utility bill and usage data. The overarching goal of the pilot is to demonstrate the potential of free, authorized access to standardized and automated energy usage data in accelerating the deployment of clean energy projects, while empowering customer choice and supporting local businesses. For the pilot, UtilityAPI will manage third party registration, data access authorizations, historical and ongoing data collection, and data cleaning and standardization to realize the data exchange platform. The platform includes an easy-to-use dashboard for small and local businesses, and a fully documented API for enterprise and app integration.

Set-up:

June:

Task 1: Create data request workflow for SVCE website (2 weeks)
Task 2: Create user experience for third-parties (2 months)
  Subtask 2.1 Data request workflow for current UtilityAPI customers
  Subtask 2.2 Data request workflow for other third-parties

July:

Continuation of Task 2

Task 3: Create repository and sync data with Calpine (dependent upon Calpine)
Task 4: Create authentication workflow for account holders

August:

Continuation of Task 4

Launch, Operations & Support:

September through a 6-month term:

Task 5: Launch & maintain platform
Task 6: Promotion activities
  Marketing by SVCE
  Marketing by UtilityAPI

Task 7: Ongoing support, including biweekly reporting and check in
**Exhibit B**  
**Schedule of Performance**

Participant shall perform the services so as to complete each Project Deliverable according to the schedule set forth below. The time to complete each Deliverable may be increased or decreased by mutual written agreement of the Project Representatives for both Participant and Authority, so long as all work is completed within the Term of the Agreement.

<table>
<thead>
<tr>
<th>Project Deliverables</th>
<th>Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliverable 1: Set up, Task 1 / Create data request workflow for SVCE website</td>
<td>July 1, 2019</td>
</tr>
<tr>
<td>Deliverable 2: Set up, Task 2/ Subtask 2.1 Data request workflow for current UtilityAPI customers</td>
<td>August 1, 2019</td>
</tr>
<tr>
<td>Deliverable 3: Set up, Task 3/ Create repository and sync data with Calpine</td>
<td>August 1, 2019</td>
</tr>
<tr>
<td>Deliverable 4: Set up, Task 2 / Subtask 2.2 Data request workflow for other third-parties</td>
<td>August 15, 2019</td>
</tr>
<tr>
<td>Deliverable 4: Set up, Task 4 / Create authentication workflow for account holders</td>
<td>August 23, 2019</td>
</tr>
<tr>
<td>Deliverable 6: Launch, Operations &amp; Support, Task 5 / Launch and maintain platform</td>
<td>Monthly for 6-month term starting at platform launch and beginning of software license</td>
</tr>
<tr>
<td>Deliverable 7: Launch, Operations &amp; Support, Task 6 &amp; 7 / Promotion activities &amp; Ongoing support</td>
<td>Monthly for 6-month term starting at platform launch and beginning of software license</td>
</tr>
</tbody>
</table>


**Exhibit C**  
**Compensation**

The compensation to be paid to Participant under this Agreement for all services described in Exhibit “A” shall not exceed a total of two hundred and seventy-nine thousand dollars ($279,000), as set forth below. Any work performed 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. No reimbursable expenses are contemplated as a part of this Agreement.

Participant shall perform the categories of work and complete the Deliverables as outlined and budgeted below. Authority’s Party Representative may approve in writing the transfer of budget amounts between any of the Deliverables below, provided that the total does not exceed the not-to-exceed amount above.

<table>
<thead>
<tr>
<th>Project Deliverables</th>
<th>Completion Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliverable 1: Set up, Task 1 / Create data request workflow for SVCE website</td>
<td>$26,000</td>
</tr>
<tr>
<td>Deliverable 2: Set up, Task 2 / Subtask 2.1 Data request workflow for current UtilityAPI customers</td>
<td>$26,000</td>
</tr>
<tr>
<td>Deliverable 3: Set up, Task 3 / Create repository and sync data with Calpine</td>
<td>$26,000</td>
</tr>
<tr>
<td>Deliverable 4: Set up, Task 2 / Subtask 2.2 Data request workflow for other third-parties</td>
<td>$26,000</td>
</tr>
<tr>
<td>Deliverable 5: Set up, Task 4 / Create authentication workflow for account holder</td>
<td>$13,000</td>
</tr>
<tr>
<td>Deliverable 6: Launch, Operations &amp; Support, Task 5 / Launch and maintain platform</td>
<td>$22,500 each month, not to exceed $135,000 in aggregate over 6-month term</td>
</tr>
<tr>
<td>Deliverable 7: Launch, Operations &amp; Support, Task 6 &amp; 7 / Promotion activities &amp; Ongoing Support</td>
<td>$4,500 each month, not to exceed $27,000 in aggregate over 6-month term</td>
</tr>
</tbody>
</table>

**Total**  
$279,000

**Invoicing**

In order to request payment, Participant shall submit invoices to the Authority upon completion of each Deliverable, 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).

Advances
Upon written request by Participant, the Authority may, in its sole discretion, distribute to Participant an advance or advances meeting the following requirements:

1. Participant demonstrates that such advance(s) is required up front in order to undertake the Deliverable.
2. Participant submits invoices and receipts supporting the expenditures of an advance within 60 days of the payment by Authority. If complete invoices and receipts are not provided within 60 days, no further advances will be given.
3. At no time shall the total of all advances exceed 25% of the total amount of compensation.
4. No advance shall be provided for the final 10% of the total amount of compensation.

Additional Services
Participant 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. Participant 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.

Participant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

1. **Workers’ Compensation:** Statutory coverage as required by the State of California.

2. **Commercial General 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 Participant in the amount of at least $1,000,000.

B. **ACCEPTABILITY OF INSURER:** All insurance coverage shall be provided through carriers with AM Best’s Key Rating Guide ratings of A-:VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all subcontractors of the Participant retained to perform the services under this Agreement will obtain and maintain, in full force and effect during the Term of this Agreement, identical insurance coverage.
To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1g: Receive the Automated Meter Infrastructure Audit Report from Abbott, Stringham and Lynch

Date: 6/12/2019

RECOMMENDATION
Receive the Independent Accountant’s Report on Applying Agreed-Upon Procedures with respect to complying with third party verification requirements as defined by California Public Utilities Commission (CPUC) in Decision 12-08-045 (the “Decision”) as it relates to Silicon Valley Clean Energy’s (SVCE) internal privacy and data security policies regarding “Covered Information” as defined in the Decision, for the period from inception of operations, April 1, 2017 through December 31, 2018.

AUDIT COMMITTEE RECOMMENDATION
The Audit Committee recommends the Board receive the Independent Accountant’s Report. At the June 5, 2019 meeting, the Audit Committee received a presentation by the Independent Auditor discussing the findings and the auditor’s opinion. The Audit Committee also received a draft of the report.

BACKGROUND
The Decision establishes privacy protections for customers of load serving entities, including Community Choice Aggregators (CCAs), as it relates to a CCA’s internal privacy and data security policies regarding Covered Information.

Covered Information is defined as any usage information obtained through the use of the capabilities of Advanced Metering Infrastructure when associated with any information that can reasonably be used to identify an individual, family, household, residence, or non-residential customer. Examples of usage information are customer names, addresses and electrical usage.

The Decision requires CCA’s to perform an Automated Meter Infrastructure (AMI) audit by an Independent Auditor every three years.

ANALYSIS & DISCUSSION
The Independent Accountants Report presents SVCE with no exceptions and results in SVCE receiving a “clean” audit.

STRATEGIC PLAN
This report supports the Information Technology and Customer Service goals of the strategic plan.

ALTERNATIVE
There is no alternative as this audit is a requirement of the CPUC.
FISCAL IMPACT
There is no fiscal impact with this report.

ATTACHMENTS
1. Independent Accountant’s Report on Applying Agreed-Upon Procedures
SILICON VALLEY CLEAN ENERGY AUTHORITY

INDEPENDENT ACCOUNTANT’S REPORT ON APPLYING AGREED-UPON PROCEDURES

REPORTING YEAR 2018
INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Board of Directors
Silicon Valley Clean Energy Authority
Sunnyvale, California

and

California Public Utilities Commission
San Francisco, California

We have performed the procedures enumerated below, which were agreed to by Silicon Valley Clean Energy Authority ("SVCE") and the California Public Utilities Commission ("CPUC") (the specified parties), solely to assist SVCE with respect to complying with third party verification requirements of Decision 12-08-045 (the "Decision") as it relates to SVCE’s internal privacy and data security policies regarding "Covered Information", as defined in the Decision, for the period from inception of operations, April 1, 2017, through December 31, 2018. SVCE’s management is responsible for its compliance with those requirements. The sufficiency of these procedures is solely the responsibility of the parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures enumerated below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings are as follows:

1) We obtained the following documents from SVCE:
   - List of all customers from which SVCE collected Covered Information
   - Latest privacy notice (version prior to December 31, 2018) provided to customers
   - Internal privacy and data security policies
   - Categories of agents, contractors, and other third parties to which SVCE disclosed Covered Information for a primary purpose
   - List of agents, contractors, and other third parties to which SVCE disclosed Covered Information for a secondary purpose, if any
   - List of disclosures pursuant to legal requests, if any
   - List of security breaches, if any

2) We performed the following procedures with respect to these documents:

   A. Data Security and Information Technology (IT) Environment and Controls:
      i. The internal and external security vulnerability scans were performed by third party IT Specialists to ascertain that SVCE implemented technical and physical safeguards to protect Covered Information from unauthorized access, destruction, use, modification, or disclosures. We obtained the work of the IT Specialists that reported the results of their procedures as follows:
         1. Based on the IT security vulnerability scans performed, the IT Specialists noted that SVCE implemented technical and physical safeguards to protect Covered Information from unauthorized access, destruction, use, modification, or disclosures. No exceptions were noted.
A. Data Security and Information Technology (IT) Environment and Controls (continued):

   ii. Ascertain that upon any breach affecting 1,000 or more customers, SVCE notified the CPUC within two weeks of the detection, or within one week of notification.
      1. Upon inquiry of SVCE’s management, management represented that SVCE did not have any breach affecting 1,000 or more customers during the period from inception of operations, April 1, 2017, through December 31, 2018. As such, this step was not applicable and was not performed.

B. Transparency:

   i. Ascertain that a privacy notice was provided to customers from which SVCE collected Covered Information.
      1. We noted that SVCE’s privacy notice is available at all times at https://www.svcleanenergy.org/customer-confidentiality. Furthermore, the link to this policy is included on each customer’s monthly utility bill on an annual basis. Any changes to this policy between notification periods will be communicated through SVCE’s website. No exceptions were noted.

   ii. We inspected the latest privacy notice and ascertained that it contained the language described in the Decision. No exceptions were noted.

C. Use and Disclosure:

   i. Ascertain that authorizations were obtained from customers for the disclosure of Covered Information to third parties for a primary purpose, other than to an entity exempted under Decision 12-08-045, Attachment B, 6(b) and 6(c).
      1. Upon inquiry of SVCE’s management, management represented that SVCE did not disclose Covered Information to third parties for a primary purpose, other than to an entity exempted under Decision 12-08-045, Attachment B, 6(b) and 6(c), during the period from inception of operations, April 1, 2017, through December 31, 2018. As such, this step was not applicable and was not performed.

   ii. Ascertain that authorizations were obtained from customers for the disclosure of Covered Information to third parties for a secondary purpose.
      1. Upon inquiry of SVCE’s management, management represented that SVCE did not disclose Covered Information to third parties for a secondary purpose during the period from inception of operations, April 1, 2017, through December 31, 2018. As such, this step was not applicable and was not performed.

   iii. Ascertain that a notice was provided to the applicable customer within seven days for the disclosure of Covered Information as a result of a subpoena or legal proceedings.
      1. Upon inquiry of SVCE’s management, management represented that SVCE did not disclose Covered Information to third parties as a result of a subpoena or legal proceedings during the period from inception of operations, April 1, 2017, through December 31, 2018. As such, this step was not applicable and was not performed.
D. Data Minimization:

i. Ascertain that Covered Information was maintained only for as long as reasonably necessary or as authorized by the CPUC to accomplish a specific primary purpose or for a specific secondary purpose authorized by the customers.

1. We noted that SVCE has in place records retention policies and procedures to ensure that the use and retention of Covered Information is minimized if followed. No exceptions were noted.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on SVCE’s compliance with the requirements of Decision 12-08-045. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to Silicon Valley Clean Energy Authority and the California Public Utilities Commission.

This report is intended solely for the information and use of the specified parties listed above, and is not intended to be and should not be used by anyone other than these specified parties.

April 23, 2019
Staff Report – Item 1h

To: Silicon Valley Clean Energy Board of Directors
From: Girish Balachandran, CEO

Item 1h: Receive the Annual Information Technology Audit Results
Date: 6/12/2019

RECOMMENDATION
Receive the results of the Information Technology (IT) annual audit.

AUDIT COMMITTEE RECOMMENDATION
The Audit Committee recommends the Board approve this report. At the June 5, 2019 meeting, the Audit Committee received a presentation from staff discussing the findings and recommendations.

BACKGROUND
In February 2019, Silicon Valley Clean Energy commissioned Greycastle for SVCE’s second IT Audit. The scope included providing a security assessment of SVCE’s computer network, security policies and security practices. Greycastle performed a business needs analysis that looked at the criticality of services, sensitivity of data, as well as current practices and procedures.

In addition, a network vulnerability scan was performed which looked at a broad range of IT topics from a security perspective to identify possible weaknesses and areas of vulnerability. This scan was an extensive probe of all SVCE systems visible on the internal network, and as viewed from the Internet. The goal of this scan was to uncover known vulnerabilities in all of SVCE’s network systems.

ANALYSIS & DISCUSSION
This report is a high-level snapshot of a comprehensive IT security audit. Detailed findings were not included in this report to preserve the integrity of SVCE’s security.

Results
Greycastle found several major areas of focus to improve the IT security at SVCE. The audit results and recommendations will be discussed in two parts: (1) Assessments and (2) security recommendations.

(1) Assessments
External Vulnerability – Performed assessment of critical resources within the network at SVCE. An external assessment is based on an uncredentialed scan of outwardly facing hosts and has the same perspective of publicly available resources as any other internet user, malicious or otherwise.

Results:
- SVCE was found to have a minimal footprint via the external network perimeter, with a low number of detected open ports and services
- Given the number and level of vulnerabilities, the aggregate external vulnerability severity rating for SVCE is LOW. This indicates a low likelihood of exploit or compromise through the external perimeter
Penetration Test - Performed on SVCE systems and assets. The purpose of the test was to identify vulnerabilities and determine the likelihood that corporate network assets could be compromised by simulating attacks and motives of cybercriminals. During this test, systems and assets were targeted using the methods most likely to be used by today’s cybercriminals.

Results:
- GreyCastle Security believes that the security controls tested as part of this engagement are aligned with industry best practices.
- Scans of external network assets returned few vulnerabilities overall
- Externally accessible hosts ran a minimal number of services and as a result, vulnerabilities reported by automated scanning tools were unable to be compromised in the time allotted
- Brute force attacks and other exploits launched at in-scope targets did not successfully compromise assets
- Overall rating for SVCE is LOW.

Internal Vulnerability – This assessment is based on a credentialed scan of hosts using root/administrator level accounts to more effectively enumerate vulnerabilities in operating systems, installed software and configuration settings. SVCE ran an initial scan in March 2019, allowed time for remediation and ran a second scan in May 2019.

Results:
SVCE received an overall security rating of HIGH (Critical being the worst) in the first scan early in the audit. GreyCastle classified the score as an “acceptable” score but identified several vulnerabilities which needed to be remediated. It is important to note these scans are a snapshot of time and having a clean (0) result is impossible to obtain as new threats are constantly evolving, but SVCE is striving to get as close to a perfect score as possible.

The final security scan that was ran in May 2019 and resulted in a MEDIUM rating showing that the most severe vulnerabilities have been remediated.

(2) Recommendations:
SVCE received several recommendations including:
- Consolidate amount of current policies
- Develop new policies following accepted strategy
- Strengthen vendor contracts
- Incident Response plan improvements
- Expand security awareness programs
- Strengthened password requirements

Conclusion
Greycastle was impressed with the aggressiveness and progress that SVCE has made to remediate and implement the security changes that were recommended. Greycastle commented its confidence that SVCE has a strong security foundation moving forward. SVCE will continue performing annual security scans and remediating issues as they arise. SVCE will continue to take a proactive approach in managing our IT security.

STRATEGIC PLAN
This report supports the Information Technology goals of the Strategic Plan.

ALTERNATIVE
There is no alternative to this report as SVCE is required to conduct an IT audit per the Information Technology Security Plan Policy (ITP5).

FISCAL IMPACT
There is no fiscal impact with this report.
Staff Report – Item 1i

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1i: Authorize the Chief Executive Officer to Execute Amended Engagement Letter Amending Scope of Work and Not-to-Exceed Amount with Keyes & Fox LLP

Date: 6/12/2019

RECOMMENDATION
Staff recommends that the Board authorize the Chief Executive Officer to execute the amended engagement letter, amending the scope of work and not-to-exceed amount to $114,000, with Keyes and Fox, LLP for regulatory and legislative legal counsel services.

BACKGROUND
In August 2018, SVCE and six other CCAs decided to participate jointly in PG&E’s 2019 Energy Resource Recovery Account (ERRA) Forecast proceeding (A.18-06-001). The ERRA forecast proceeding is a yearly proceeding that determines, among other significant items, PG&E’s generation rates and the PCIA for the following year. The group needed legal counsel for joint representation, and after considering a variety of options settled on Keyes & Fox, LLC (“K&F”). K&F is an Oakland-based legal firm specializing in energy law that was already providing regulatory and legislative counsel services to a number of CCAs in the Bay Area. SVCE entered into an initial contract with K&F for a DNE amount of $22,000, within the CEO’s limit of contract authorization.

The 2019 ERRA Forecast proceeding is still active, and we have been very happy with both the dynamic within our Joint CCA group and Keyes & Fox’s services and representation. Over the past six months, we have therefore expanded our joint effort to include other PG&E-specific proceedings, including the CPUC’s Investigation into PG&E’s Safety Culture (I.15-08-019), the 2020-2022 General Rate Case (A.18-12-009), and the 2018 ERRA Compliance proceeding (A.19-02-18). Each additional proceeding has increased the budget for our K&F contract with the CEO’s approval.

SVCE has engaged Keyes & Fox, LLP throughout the fiscal year. However, these two amendments to scope will put the aggregate spending for this vendor during the fiscal year to over $100,000 which now requires Board of Directors approval per the Purchasing Policy (FP6). The first is the next annual iteration of the original proceeding the group worked on together: PG&E’s 2020 ERRA forecast proceeding, which opened on June 1st, 2019. The second is a budget line for legislative consulting services. Apart from our joint regulatory work, SVCE staff have interacted with the K&F team on the legislative side in K&F’s capacity representing other CCAs there. K&F staff have provided high-quality legislative counsel services, and SVCE would like to establish the option of consulting with the K&F team in this area on legislative matters in the future.

The DNE amounts of the individual proceedings are below and detailed in the attached contract, for a total contract budget of $114,000.00.
### ANALYSIS & DISCUSSION
As you know, SVCE frequently collaborates with other CCAs on joint regulatory efforts in order to make efficient use of resources, pool CCA staff expertise, and provide a consistent public message where policy priorities are shared by all CCAs in the group. Collaboration is particularly effective on rate-setting proceedings, which typically involve extensive materials requiring review and questions of cost shift and customer indifference that are relevant to all CCAs. Moreover, as SVCE has matured and expanded our policy team, we have developed the bandwidth to be involved in important new proceedings where we previously had to rely on the efforts of other CCAs and hope their priorities aligned with SVCE’s. Increasing our regulatory portfolio has given our customers a voice in proceedings where hundreds of millions of dollars are at stake, but such participation does require increased resource investment from SVCE.

### STRATEGIC PLAN
Approving this contract will directly support Goal 8 of SVCE’s 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 will no longer be able to participate in the Joint CCA efforts on the critical rate-setting proceedings specified in this scope. This leaves us with two options. Either SVCE would have to stop participating in these proceedings entirely, which involves significant loss of visibility into future rates as well as opportunities to identify and prevent potential cost shifts onto SVCE customers, or participate separately from the Joint CCAs. The latter option is likely to be significantly more expensive than joint participation, because we would no longer be able to share the cost of regulatory counsel with six other CCAs.

### FISCAL IMPACT
The total budget request for these services is $114,000.

### ATTACHMENTS
1. Draft Amendment B with Keyes and Fox, LLC
2. Current Engagement Letter and Amendment A with Keyes and Fox, LLC
AMENDMENT “B” TO ENGAGEMENT LETTER BETWEEN
SILICON VALLEY CLEAN ENERGY AND KEYES & FOX LLP

This Amendment applies to that specific “Engagement Letter Between Keyes & Fox LLP and Silicon Valley Clean Energy” dated February 8, 2019 (“Agreement”), as amended via an Amendment “A” dated May 3, 2019, regarding legal representation before the California Public Utilities Commission in Application 18-06-001, Application 18-12-009, Investigation 15-08-019, Application 19-02-018, and any other matters K&F and SVCE both mutually agree to undertake. This Amendment is made to add a “Do-Not Exceed Amount” in Attachment B of the Agreement of “Twenty-Two Thousand Dollars ($22,000)” for Application 19-06-001 and “Ten Thousand Dollars ($10,000)” for Legislative Support, resulting in a total not to exceed amount of One Hundred Fourteen Thousand Dollars ($114,000). The new Attachment B to the Agreement, as modified by this Amendment, is attached hereto.

By: ______________________
Tim Lindl
Partner
Keyes & Fox LLP
Date: __6/5/2019________

By: ______________________
Girish Balachandran
Chief Executive Officer
Silicon Valley Clean Energy
Date: ______________________
### Attachment B

**Do-Not-Exceed Amounts**

<table>
<thead>
<tr>
<th>Proceeding or Legal Matter</th>
<th>Do-Not-Exceed Amount</th>
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<tr>
<td>Application 18-06-001</td>
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February 8, 2019

Silicon Valley Clean Energy
Girish Balachandran
Chief Executive Officer
333 W. El Camino Real, Suite 290
Sunnyvale, California 94087

RE: Engagement Letter Between Keyes & Fox LLP and Silicon Valley Clean Energy

Keyes & Fox LLP ("K&F") is delighted that Silicon Valley Clean Energy ("SVCE"), has decided to engage K&F to provide legal representation before the California Public Utilities Commission ("Commission") in Application 18-06-001, Application 18-12-009, Investigation 15-08-019, and any other matters K&F and SVCE both mutually agree to undertake (the "Legal Services"). This letter describes the basis of the attorney-client relationship between K&F and SVCE with respect to the Legal Services, along with an explanation of how K&F will bill for those services. The attached Joint Representation Agreements, Attachment C, set forth the manner in which K&F will provide the Legal Services to SVCE in relation to the other parties to those agreements (collectively, SVCE and the other parties are the "Joint Clients") and is hereby incorporated herein.

1. Scope of Engagement

Pursuant to this Engagement Letter, K&F shall provide SVCE with the Legal Services identified above. K&F will do its utmost to represent SVCE effectively, provide Legal Services in an efficient manner, and respond promptly to SVCE’s inquiries.

We have run a conflicts check as it relates to the proposed Legal Services, and we have not found any direct conflicts with undertaking them. If a conflict arises that may impact our ability to provide SVCE with effective representation, we will promptly bring that conflict to SVCE’s attention. If you are concerned about any relationship we might have with particular companies, organizations or individuals, please bring those concerns to our attention.

2. Confidentiality of Communications and Work Product

Generally, it is in SVCE’s interest to preserve confidentiality of all communications with K&F. If SVCE discloses any of our communications, it jeopardizes the privileged nature of the communications, so we believe it is advisable that SVCE take care not to disclose privileged information to third parties.
Through this Engagement Letter, SVCE authorizes K&F to engage in confidential communications with EQ Research LLC to obtain litigation support with respect to the Legal Services. K&F understands it is the intent of SVCE that all communications and work product that are developed by, or shared with, EQ Research LLC related to the Legal Services shall be confidential and subject to attorney-client privilege.

3. Fees, Costs, and Invoicing

By signing this Joint Representation Agreement, SVCE agrees to pay K&F for time and out-of-pocket expenses according to the terms set forth below.

a. Professional Fees

K&F will keep an hourly total of time spent on the Legal Services matters. Work will be performed at hourly rates according to the rates set forth in Attachment A to this Engagement Letter, which is incorporated by reference herein. Fees for time spent on a matter to which a Joint Representation Agreement in Attachment C applies will be divided on an equal pro rata basis among the Joint Clients at the end of the month. It is K&F’s policy to adjust hourly rates for all attorneys and staff at the beginning of the calendar year. Historically, rate increases have been between 5-8% per year. Rates quoted in Attachment A are 2019 rates. Our firm’s practice is to charge for travel time, as discussed in Attachment A.

Tim Lindl will be the lead K&F attorney providing the Legal Services to SVCE. Mr. Lindl may utilize services of other K&F attorneys and support staff in connection with this matter. By executing this Engagement Letter, you consent to Mr. Lindl serving as lead attorney in providing Legal Services and to his assignment, as necessary, of work on this matter to the attorneys or support staff listed in Attachment A.

This letter authorizes payment of fees up to the amounts listed in Attachment B, which is hereby incorporated herein, in connection with the specific dockets listed therein. Unless otherwise agreed to in writing, SVCE will not be obligated for fees in excess of those amounts for those specific dockets. SVCE and K&F will review any do-not-exceed amount listed in Attachment B upon the occurrence of (a) a material change in the scope of issues to be addressed over the course of the Legal Services, regardless of whether such change results in an updated or revised Scoping Memorandum, or (b) a request from either SVCE or K&F for such a review. Any such review may occur via electronic mail.

b. Expenses

Expenses may be incurred in performing the Legal Services. K&F will bill for all costs, disbursements, and expenses in addition to our hourly fees. Costs and expenses include costs for travel including mileage and parking, and similar expenses. Expenses shall be billed at actual cost.

c. Invoices and payments

K&F will invoice SVCE at the beginning of each month for Legal Services provided during the prior calendar month, including for SVCE’s pro rata portion of any fees for Legal
Services in a matter to which a Joint Representation Agreement in Attachment C applies. Fees for Legal Services will be earned as of the time of invoicing. Invoices shall list the matter worked on and provide information on the dates of service, time involved, attorney responsible, and activity undertaken. SVCE shall be responsible for payment of the total amount of its invoice. Invoices are due and payable within thirty (30) calendar days. Any unpaid amounts after thirty days will accrue interest at a rate of nine percent (9%) per annum.

4. Termination of K&F’s Representation

Either K&F or SVCE may terminate K&F’s representation of SVCE at any time and for any reason. At the time K&F’s representation of SVCE concludes, all unpaid fees and costs for K&F’s Legal Services become due and payable. If at that time SVCE does not request the return of files related to the Legal Services, K&F will retain such files for a period of three years, after which K&F may have the files destroyed.

5. Miscellaneous

This letter is the entire agreement between SVCE and K&F concerning the provision of Legal Services. It supersedes and replaces in its entirety those specific Engagement Letters between SVCE and K&F dated August 27, 2018 and January 18, 2019. This Engagement Letter and the scope of Legal Services provided under it may be amended from time to time by mutual agreement. California law will govern this agreement and any subsequent amendments.

6. Conclusion

If the terms of K&F’s representation as explained in this Engagement Letter are satisfactory, please execute a copy of this letter as indicated and return it to me. Please feel free to contact me if you have any questions.

We look forward to our representation of SVCE.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP
SVCE hereby authorizes K&F to represent its interests with respect to the Legal Services. SVCE acknowledges, by signing this letter, that it has had the opportunity to consult with other counsel about the consequences of this engagement and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Engagement Letter. This Engagement Letter shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until SVCE has returned a signed copy of this letter.

SILICON VALLEY CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Silicon Valley Clean Energy.

By: Girish Balachandran

Girish Balachandran
Title: Chief Executive Officer
Date: 3/1/2019
Attachment A

Rates and Other Terms

ATTORNEYS

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<tr>
<td>Kevin Fox</td>
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<td>Jason Keyes</td>
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<td>Jacob Schlesinger</td>
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<td>Tim Lindl</td>
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<td>Sheridan Pauker</td>
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NON-ATTORNEYS

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<td>Justin Barnes</td>
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<td>Laurel Passera</td>
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<td>Ben Inskeep</td>
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<td>Blake Elder</td>
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<td>Vanessa Luthringer</td>
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Travel Policy: Travel time is billed at the full hourly rate. Every effort will made to work productively on the Joint Clients’ matters during travel. If work is performed for another client during travel, the Joint Clients will not be billed for that time. All reasonable travel expenses are billable – hotel, airfare, car rental, meals, taxi, public transit, etc.

Administrative Work Policy: Reasonable time for filing and service is billed at regular billable rates.

Miscellaneous Expenses Policy: Expenses for postage, photocopying, printing, faxing and other minor expenses directly related to a matter are billable at cost.
Attachment B

Do-Not-Exceed Amounts

<table>
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Attachment C

Joint Representation Agreements
AMENDMENT “A” TO ENGAGEMENT LETTER BETWEEN SILICON VALLEY CLEAN ENERGY AND KEYES & FOX LLP

This Amendment applies to that specific “Engagement Letter Between Keyes & Fox LLP and Silicon Valley Clean Energy” dated February 8, 2019 ("Agreement") regarding legal representation before the California Public Utilities Commission in Application 18-06-001, Application 18-12-009, Investigation 15-08-019, and any other matters K&F and SVCE both mutually agree to undertake. This Amendment is made to add a “Do-Not Exceed Amount” in Attachment B of the Agreement of “Twenty Thousand Dollars ($20,000)” for “Application 19-02-018”, resulting in a total not to exceed amount of $82,000. The new Attachment B to the Agreement, as modified by this Amendment, is attached hereto.

By: ____________________________  By: ____________________________
Tim Lindl                                      Girish Balachandran
Partner                                        Chief Executive Officer
Keyes & Fox LLP                                Silicon Valley Clean Energy
Date: 4/26/2018                                       Date: 5/3/2019
**Attachment B**

**Do-Not-Exceed Amounts**

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<tr>
<td>Application 18-12-019</td>
<td>Thirty Thousand Dollars ($30,000.00)</td>
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<td>Investigation 15-08-019</td>
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</tr>
<tr>
<td>Application 19-02-018</td>
<td>Twenty Thousand Dollars ($20,000)</td>
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Staff Report – Item 1j

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 1j: Finance and Administration Committee Report

Date: 6/12/2019

No report as the Finance and Administration Committee has not met since January 25th, 2019. The next meeting of the group is scheduled for June 17th, 2019, noon, at the SVCE Office.
Staff Report – Item 1k

To: Silicon Valley Clean Energy Board of Directors
From: Girish Balachandran, CEO

Item 1k: Legislative Ad Hoc Committee Report
Date: 6/12/2019

No report as the Legislative Ad Hoc Committee has not met since April 24, 2019.
To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 2: CEO Report

Date: 6/12/2019

REPORT

SVCE Staff Update
SVCE will welcome Ian Williams, Power Resources Manager, on June 12th. Prior to joining SVCE, Ian worked as a senior power supply contract manager at Marin Clean Energy focusing on Renewable Portfolio Standard, integrated resource planning (IRP) modeling, portfolio optimization, Pacific Northwest hydroelectric resources, supplier outreach and supplier performance monitoring. Ian also worked for nine years on the Pacific Gas & Electric Energy Policy & Procurement team in a variety of roles including portfolio management, real-time asset management and CAISO market design project management. Ian holds a B.A. in economics from Harvard University.

Long-term Renewable RFP Update
The 2019 Monterey Bay Community Power (MBCP) and SVCE Request for Proposal (RFP) for Carbon-free Power Supply closed on May 17th, 2019. In total SVCE/MBCP received 186 offers from 36 developers to build 55 new renewable energy projects with capacity ranging from 6 megawatts (MW) to 300 MW. 90% of the offers were for solar projects for which most offered a battery energy storage system. Proposals were also received for small hydroelectricity, wind, and geothermal.

Working with Ascend Analytics the two CCAs are reviewing, evaluating and ranking all conforming offers. Top scoring offers will be modeled to determine project value (contract cost minus value of energy delivered), risk and how well the project meets each CCA’s load needs and ability to achieve California’s Renewable Portfolio Standard (RPS) requirements and long-term contracting mandates.

The two agencies intend to have a shortlist of developers identified by mid-to-late June 2019 and then proceed to negotiating power purchase agreements. Staff will return to the Board in August with an update on the shortlisted candidates and progress towards meeting the goal to execute power purchase agreements by the end of 2019.

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

1) Keyes & Fox: Engagement Letter; legal consulting for Applications 18-06-001, 18-12-009, and 15-08-019, not to exceed $62,000
2) Keyes & Fox: Amendment; legal representation before CPUC – Application 19-02-018, not to exceed $20,000
3) NewGen Strategies & Solutions: Advice and expert testimony in PG&E 2020-22, not to exceed $18,571
4) Vincent Dicarolis: Strategic marketing consultant services, not to exceed $15,000
Agenda Item: 2

Agenda Date: 6/12/2019

5) M. Cubed: Investigation of various issues relating to the 2018 ERRA Compliance filing, not to exceed $1,500
6) Crossborder Energy: Consultant and witness testimony in the PG&E 2020-22 general rate case, not to exceed $6,000

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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These agreements are included in the Board packet as Appendix A.

ATTACHMENTS
1. Decarb & Grid Innovation Programs Update, June 2019
2. Account Services & Community Relations Update, June 2019
4. Regulatory and Legislative Update, June 2019
1. SVCE/PCE Reach Code Update

Currently
- Individual city meetings with consultants underway
- Tool development to support cities (e.g. one-pager, talking points)
- Enhanced stakeholder engagement

Aug-Oct, 2019
- Cities engage stakeholders and submit for council review (w/ SVCE support)
- Vote on reach code for buildings and/or EV charging

Jan 1, 2020
- New codes in effect supporting economical, healthier and safer all-electric buildings and increased electric vehicle infrastructure
## 1. SVCE/PCE Reach Code Update (cont.)

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<td>Uninc. San Mateo County</td>
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</tbody>
</table>
2. EV Charging Infrastructure
Joint Action Plan

- Plan identified as 2019 priority in roadmap
- Held second stakeholder workshop on 5/31
- Development under way: identifying & prioritizing EVSE programs and activities
  - 665 customer survey responses received
  - 25+ industry/stakeholder survey responses and attendees at both first (4/25) and second (5/31) workshops
- On track for completion in June, Board update in August, program roll-out in fall
3. CALeVIP Update

- SVCE formed regional coalition to pursue state block grant funding from CEC
- Currently finalizing program requirements with coalition and CEC
- Legislative engagement to increase program funding
- Decision on funding from CEC expected end of June
4. Powerhouse SunCode Hackathon

- SVCE sponsored the SunCode hackathon, May 17-18
- SVCE provided a data set and challenged teams to develop solutions for retrofitting single family homes to electric
- Three of the four prize winners for the event were addressing the SVCE challenge area
5. Other Updates

- **All-Electric Showcase Grants**: expected launch in June
- **Heat Pump Water Heat Program**: on track for June launch
- **Virtual Power Plant Initiative**: updated discussion paper & refined program recommendations for SVCE on track to be finalized in June
- SVCE provided a **support letter to Stanford PhD candidate Rajintha Shivaram** for her application to National Science Foundation’s INTERN program, which would fund a non-academic internship with SVCE
- SVCE provided a **support letter to UtilityAPI** for two funding applications for potential future pilot work: one to U.S. DOE Solar Energy Technology Office & one to Elemental Excelerator
Account Services & Community Relations Update

June 2019
1. Outreach Events & Sponsorships

- Staff are hosting a series of regional workshops to help solar customers better understand Net Energy Metering bills.
- The workshops are also an opportunity to share more info about upcoming SVCE programs, and they have driven a lot of interest in the FutureFit Heat Pump Water Heater Program.
- Two additional workshops are being scheduled in Sunnyvale and Campbell for late-June.

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Description</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 6</td>
<td>9 AM – 3 PM</td>
<td>St. Joseph’s Energy Workshop - <em>tabling</em></td>
<td>Gilroy</td>
</tr>
<tr>
<td>May 8</td>
<td>12 - 1:30 PM</td>
<td>MidPen Housing Fountains – <em>presentation</em></td>
<td>Mountain View</td>
</tr>
<tr>
<td>May 22</td>
<td>11:45 AM – 12:30 PM</td>
<td>MidPen Housing Ginzton Terrace - <em>presentation</em></td>
<td>Mountain View</td>
</tr>
<tr>
<td>May 23</td>
<td>7 – 8 PM</td>
<td>Morgan Hill Solar NEM Workshop <em>(all South County NEM customers invited)</em></td>
<td>Morgan Hill Cultural &amp; Community Center</td>
</tr>
<tr>
<td>Jun. 5</td>
<td>7 – 8 PM</td>
<td>Mountain View Solar NEM Workshop <em>(Los Altos &amp; Los Altos Hills customers invited)</em></td>
<td>Mountain View Council Chambers</td>
</tr>
</tbody>
</table>
## 2. Customer Participation

<table>
<thead>
<tr>
<th></th>
<th>Upgrade</th>
<th>Opt Out</th>
<th>Opt Outs by Account Type</th>
<th>Total Opt Out, All Accounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>1,104</td>
<td>9,059</td>
<td>3.59%</td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td>2000</td>
<td>861</td>
<td>2.96%</td>
<td>3.52%</td>
</tr>
</tbody>
</table>
3. Community Outreach Grants

- Community Outreach Grants Mid-Point Reports
  - Over the course of six months, six community organizations have increased SVCE’s reach with community groups through in-person events and workshops as well as digital ads, newsletters, email blasts and social media posts

<table>
<thead>
<tr>
<th>In-person</th>
<th>Online</th>
</tr>
</thead>
<tbody>
<tr>
<td>65 events</td>
<td>54 posts and newsletter features</td>
</tr>
<tr>
<td>12,600+ customers reached</td>
<td>13,565 reach &amp; impressions</td>
</tr>
</tbody>
</table>

Outreach event at St. Joseph’s food pantry in Gilroy
3. Community Outreach Grants (cont’d.)

• Key Takeaways
  o General education and awareness is still very important
  o Some terms, such as carbon-free, emissions reductions and carbon footprint, do not resonate or translate well to other languages
  o For some communities, climate change is very low on their list of important issues

• What’s next:
  o Additional in-language workshops to provide general energy education, and specific outreach for SVCE’s FutureFit HPWH program

Presentation with interpretation to ESL students at Milpitas Adult Education
4. NEM Cash Outs

- Annual NEM cash out this year paid $616,446 to 2,221 customers
- Customer features coming soon featuring VTA and MidPen Housing
5. Member Agency Working Group Update

The May MAWG meeting covered the following:

• SVCE Update
  o Customer Resource Center RFI

• Programs Updates
  o Electric Vehicle Charging Initiative
    ▪ Confirm participation of additional member agency staff
  o Heat Pump Water Heater Program
    ▪ MAWG to receive communications support materials for program launch
  o All-Electric Design Awards
  o Reach Codes
    ▪ Ensure MAWG gets info quickly to support communications within city staff/council
6. Statewide TOU Transition Marketing

- Staff continues to monitor and participate in meetings regarding the statewide marketing campaigns for the TOU transition.
- These are samples of the marketing campaign currently active in the San Diego market and is what will be launched in our area mid-2020.

TOU CAMPAIGN SNAPSHOT*

* This is not inclusive of all versions and languages of assets. Just a high-level overview.
7. Media

Latest SVCE News

• Homestead High wins e-bike contest, *Los Altos Town Crier*, 05-08-2019

• A Bike to the Future article was featured in the following community paper briefs for the week of May 17:
  o *Cupertino Courier*
  o *Milpitas Post*
  o *Saratoga News*
  o *Sunnyvale Sun*

Industry News Mentions

• *California Aggregators To Seek 10 GW Of Clean Power By 2030*, *CleanTechnica*, 05-01-2019

• *Solar plus storage now a competitive option to replace fossil-fired peaking units*, *Institute for Energy Economics and Financial Analysis*, 05-09-2019
<table>
<thead>
<tr>
<th>JUNE 2019</th>
<th>JULY 2019</th>
<th>AUGUST 2019</th>
<th>SEPTEMBER 2019</th>
</tr>
</thead>
</table>
| **Board of Directors, June 12:** | **Board of Directors, July 10:** CANCELLED | **Board of Directors, Aug 14:**  
  Consent  
  Minutes  
  May/June 2019 Treasurer Report  
  Policy Updates  
  Notification of Proposed Amendments to Operating Rules and Regulations  
  SVCE Rates Update  
  RFP Update  
  Regular Calendar  
  Proposed FY 19/20 Budget  
  Time of Use Rates  
  Carbon-Free Portfolio Mix  
  Closed Session  
  CEO Review | **Board of Directors, Sept 11:**  
  Consent  
  Minutes  
  July 2019 Treasurer Report  
  Policy Updates  
  Approval of Amendments to Operating Rules and Regulations  
  Regular Calendar  
  Adoption of Proposed FY 19/20 Budget |
| Executive Committee, June 28:  
  SVCE Messaging  
  Amendments to Operating Rules and Regulations | Executive Committee, July 26: CANCELLED | Executive Committee, Aug 23:  
  Special Presentation on Specific Decarbonization Programs | Executive Committee, Sept. 27:  
  Special Presentation on Specific Decarbonization Programs |
| Finance and Administration Committee Meeting, June 17th:  
  Selection of Committee Chair  
  Bond Rating  
  Pre-pay options | | | |
The month of May was dominated by two themes in the policy arena: the first pulse of major legislative outreach in the 2019 session and new clarity on how the expansion of Direct Access authorized last year by SB 237 will unfold. Both set the stage, in opposite ways, for the rest of the summer.

Regulatory

Last month we discussed the Proposed Decision (PD) released 4/29/19 in the Direct Access proceeding (R.19-03-009). The PD split the 4,000 GWh increase in the DA cap into two 2000-GWh expansions, one on 1/1/2020 and the other on 1/1/2021. It also divided the statewide total into allocations for each IOU service territory as per the requirements of SB 237, with PG&E’s portion being about 1,800 GWh. After the PD was released, SVCE helped develop CalCCA comments and met with CPUC staff on three key issues: the compressed timeline of the first half of the expansion, which would interfere with the 2019 year-ahead Resource Adequacy (RA) compliance cycle for which all LSEs are already procuring capacity resources; the lack of CCA visibility into the DA waitlist, making it difficult to forecast and plan for the amount of load departure the expansion would bring to each CCA; and the imposition of a per-CCA cap on load departure associated with the expansion.

The day before the Commission voted on the PD, it released a redlined version with significant changes. The start of the expansion has been pushed back to January 1, 2021, allowing for the load migration associated with the expansion to be fully accounted for in the 2020 year-ahead RA compliance process. This is a significant improvement, as it will prevent SVCE from having to buy RA resources for the 10/31/19 compliance showing before we know how much load departure to expect from the expansion. However, the redlines did not address our concerns on waitlist visibility or adopt our proposed per-CCA cap. SVCE will receive notification of the amount of departing load from our service territory in September 2019. Phase 2 of this proceeding, which will produce a report exploring the possibility of full reopening of nonresidential direct access, will begin shortly and continue through the end of the year.

There were other developments on the regulatory front as well this month. SVCE is preparing for our first filing in PG&E’s 2020-2022 General Rate Case, with testimony due July 26th. Involvement in this proceeding is a long-term investment in a sound, equitable ratemaking foundation for the next few years and in prevention of cost shifts onto SVCE customers. We are also finishing our criteria pollutant analysis update to SVCE’s 2018 Integrated Resource Plan and beginning preparations for 2020’s version due next year. Finally, a Proposed Decision in Track 3 of the Resource Adequacy proceeding was released on May 24th, adopting flexible RA obligations for 2020 and local RA obligations for 2020-2022 and making further refinements to the program. The final stages of implementing the 2019 ERA Forecast proceeding, where the 2019 PCIA and PG&E generation rates were set, continue to wind down, while the new 2020 iteration of this proceeding opened on June 3rd.

Legislative

May 31st was the deadline for bills to pass their house of origin in the legislature, so we have officially passed the halfway point of the legislative session. As you likely recall, during the floor session in the two weeks leading up to the deadline we conducted our first big outreach push of the year in opposition to AB 56. AB 56 ultimately passed the Assembly floor and moved on to the Senate, but the silver lining is that all six of the Assemblymembers representing SVCE communities voted with us. Many thanks to everyone on the Board for their outreach contributions; they have put us in a good position to work
further with the author on the Senate side. As we move into the second half of the session, expect central procurement to continue as a major theme. In addition to further work on AB 56, we expect to need coverage of SB 350 by Senate Majority Leader Hertzberg, who has announced plans to amend language of this nature into his bill as well. The legislative ad hoc committee will be meeting in the coming weeks to plan priorities and strategy for the second half of the session.
Staff Report – Item 3

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 3: Adopt Resolution to Implement SVCE Generation Rate Changes Effective August 1, 2019

Date: 6/12/2019

RECOMMENDATION
Adopt Resolution 2019-11 authorizing the CEO to implement SVCE generation rate changes effective August 1, 2019, resulting in incremental revenue of $11.3-13.5M and utilizing an applicable SVCE discount to PG&E rates under the 'Discount Framework' described herein; the applicable discount is expected to be 3%, but may be modified per the Discount Framework to reflect the impact of actual versus currently-projected July 1 PG&E generation rate and PCIA changes.

EXECUTIVE COMMITTEE RECOMMENDATION
At the May 24, 2019 Executive Committee meeting, all committee members present (one member absent) unanimously supported staff's recommendation for a 3% discount to PG&E generation rates effective August 1, 2019, subject to the Discount Framework presented. The committee felt this option best balanced current regulatory and market risks, the need to build reserves and establish a credit rating, and impact to customer rates.

BACKGROUND
In April 2019, the SVCE Board approved two rate changes. The first was an average rate increase of 3% effective as of May 1st. This reflected a similar increase made by PG&E in March of 2019 and maintained SVCE's discount to PG&E at 6%, consistent with SVCE's discount in 2018.

The second approved rate change is to be made effective August 1st, 2019. Based on an anticipated significant lowering (described below) of PG&E rates on July 1, 2019, SVCE planned to make rate reductions, and reduce its discount relative to PG&E to 1%. Importantly, as PG&E’s actual 2019 rates were not known, the Board also requested the creation of a ‘discount framework’ (aka guard rails), to be approved by the Board in June, whereby the actual SVCE discount to be applied effective August 1st would depend on the actual changes to PG&E generation rates and PCIA effective July 1.

As of April, PG&E filings were indicating the likelihood of an average 1.5% increase in the PCIA, and an average decrease in generation rates of 6.5% effective July 1, 2019. The net effect of these changes, assuming SVCE’s discount remained unchanged at 6%, would be a 7% reduction in SVCE revenue. If SVCE lowered rates by 2%, and reduced its discount to 1%, net planned contributions to reserves would fall by 1% ($2.85M).

In May 2019, as a result of the finalized PCIA decision and new PG&E filings, there were major changes to the projections for July 1, 2019 PG&E rate and PCIA changes. The PCIA is now anticipated to increase by an average of 10.5%, and generation rates are projected to increase by an average of 4%. The total impact of these changes is very different than before – implying a net positive impact to SVCE revenues of 0.5% if SVCE were to maintain its discount at 6%.

Under these new assumptions, recommendations for establishing a discount level greater than the previously-approved 1% are outlined in the analysis below, and a ‘discount framework’ is presented to allow for
adjustment of the new discount level if actual PG&E generation and PCIA rates as of July 1, 2019 are different than these most recent projections.

**ANALYSIS & DISCUSSION**

Based on the updated projections for PG&E generation and PCIA rate changes for July 1, 2019, the table below outlines SVCE rate change options. At the 1% discount level as approved by the Board in April, SVCE would be increasing rates by an average of 8% effective August 1st, in addition to the 3% increase applied to SVCE rates on May 1st – a cumulative rate change of 11%. This would result in an increase of $16.8M in contribution to reserves over a six-month period relative to 2019 mid-year SVCE budget projections. Other SVCE discount options ranging from 2-6% are shown, along with corresponding rate change and reserve contribution impacts.

<table>
<thead>
<tr>
<th>SVCE Discount</th>
<th>SVCE Rate Change</th>
<th>Cumulative 2019 Rate Change</th>
<th>$ Above Mid-Year Projection</th>
</tr>
</thead>
<tbody>
<tr>
<td>1%</td>
<td>8.0%</td>
<td>11.0%</td>
<td>$16.8</td>
</tr>
<tr>
<td>2%</td>
<td>6.5%</td>
<td>9.5%</td>
<td>$14.6</td>
</tr>
<tr>
<td><strong>3%</strong></td>
<td><strong>5.0%</strong></td>
<td><strong>8.0%</strong></td>
<td><strong>$12.4</strong></td>
</tr>
<tr>
<td>4%</td>
<td>3.5%</td>
<td>6.5%</td>
<td>$10.2</td>
</tr>
<tr>
<td>5%</td>
<td>2.0%</td>
<td>5.0%</td>
<td>$8.0</td>
</tr>
<tr>
<td>6%</td>
<td>0.5%</td>
<td>3.5%</td>
<td>$5.8</td>
</tr>
</tbody>
</table>

At the present time, SVCE is facing significant uncertainties and risks. These include:
- Regulatory – PG&E restructuring, central buyer
- Power Supply – higher market prices for capacity and energy, underlying commodity volatility
- PG&E Bankruptcy – customer reserves, plan of reorganization
- Legislative – IOUs exit retail, central buyer
- Direct Access – 4,000 GWh expansion in 2020, potential further expansion
- PG&E Rates – generation and PCIA rates for 2019 remain to be finalized

Accordingly, 2019 is a critical year for managing risk, building reserves and working to obtain a credit rating. For a relatively new organization such as SVCE, a strong reserve position is especially important for obtaining a credit rating. In turn, a credit rating will help SVCE save money in the future, for instance in negotiating more favorable terms for new long-term renewable energy supply agreements.

To best balance the risks noted above with customer rate change impacts, staff recommends the 3% scenario as indicated on the table above. This increases the discount from the planned 1% to 3%, increases customer rates by an average of 5%, and results in an increase of $16.8M in contribution to reserves over a six-month period relative to 2019 mid-year SVCE budget projections.

**Discount Framework**

The 3% scenario recommended above assumes PG&E generation and PCIA rate changes projected as of May. In the event that PG&E’s actual July 1 rate changes are different than these projections, the Board requested at its April 2019 meeting that staff establish ‘guard rails’, a framework by which a recommended discount might be modified to reflect these differences. Staff proposes assessing the net rate impact to SVCE of the actual rates versus the projections, and then using this net rate impact to vary (if necessary) the actual discount applied by SVCE in the new August 1st rates.

As shown below, the net rate impact of PG&E rate changes to SVCE is a function of percentage changes in the PG&E generation rate, and the PCIA rate. Since the average PCIA rate is roughly equivalent to one-third of the
generation rate, the impact of PCIA rate changes is only one-third the impact of a change to the PG&E generation rate. And a positive percentage change in the PCIA rate negatively affects SVCE, so this value is subtracted from PG&E rate change percentage as shown below. Current PG&E generation and PCIA rate change projections for July 1 show a 0.5% positive impact to SVCE rates. But if actual rate changes vary from projections, the net rate impact to SVCE may vary, as shown below in the ‘Examples with Changes’.

\[
\text{Net SVCE Rate Impact from PG&E Gen & PCIA Changes} = \frac{\text{(PG&E Rate Change %) - (PCIA Rate Change %)}}{3}
\]

Current Example:

\[0.5\% = \frac{(+4\%) - (+10.5\%)}{3}\]

Examples with Changes:

\[-0.5\% \approx \frac{(+3\%) - (+10.5\%)}{3}\]

\[1.5\% \approx \frac{(+4\%) - (+7.5\%)}{3}\]

Actual percentage changes for PG&E generation and PCIA rates, to be made effective July 1, 2019, will be used to finalize the 3% discount to be applied to SVCE rates effective August 1, 2019. Should the actual net impact vary from projected, the discount percentage will be modified up or down to maintain the customer rate impact and contribution to reserves as shown below. This would be the case if the actual rate impact as calculated above falls outside the range of 0-1%.

### Discount Framework for Finalizing August 1 Rates

<table>
<thead>
<tr>
<th>Net Rate Impact PG&amp;E Gen &amp; PCIA (Range)</th>
<th>August 1 SVCE Discount</th>
<th>Average Aug 1 Rate Change</th>
<th>$ Above Mid-Year Projections</th>
</tr>
</thead>
<tbody>
<tr>
<td>more than 3%</td>
<td>6%</td>
<td>5%</td>
<td>$11.3 - $13.5M</td>
</tr>
<tr>
<td>2 to 3%</td>
<td>5%</td>
<td>5%</td>
<td>$11.3 - $13.5M</td>
</tr>
<tr>
<td>1 to 2%</td>
<td>4%</td>
<td>5%</td>
<td>$11.3 - $13.5M</td>
</tr>
<tr>
<td>0 to 1%</td>
<td>3%</td>
<td>5%</td>
<td>$11.3 - $13.5M</td>
</tr>
<tr>
<td>-1 to 0%</td>
<td>2%</td>
<td>5%</td>
<td>$11.3 - $13.5M</td>
</tr>
<tr>
<td>less than -1%</td>
<td>1%</td>
<td>5%</td>
<td>$11.3 - $13.5M</td>
</tr>
</tbody>
</table>

If the July 1 PG&E Net Rate Impact is different than anticipated . . . The Aug 1 SVCE Discount could be adjusted up or down, to maintain SVCE’s Aug 1 Rate Change and Revenue projections

### Rate Design and Update Methodology

Effective August 1st, 2019, SVCE plans to update all GreenStart generation rates to be exactly 3% (or discount as determined by the Discount Framework) below PG&E’s corresponding generation rate, including surcharges (PCIA and Franchise Fee). This rate design approach has been used since the launch of SVCE and has the advantages of comparability and ease of customer communications in that the generation cost savings will be set at 3% for all customers, rates and rate determinants.

To illustrate the rate design approach that will be used to calculate the actual rate for 2019, Table 1 below (using hypothetical rates) shows how rate determinant are priced for the E-19 rate schedule (utilized by large commercial customers). The PCIA and FFS surcharges are applied on a per kWh basis and the SVCE energy
charges are reduced to offset these charges. No additional PG&E surcharges apply to demand charges, so no adjustment is necessary for SVCE’s demand charges.

Table 1: Rate Design Example, Schedule E-19S

<table>
<thead>
<tr>
<th>Rate Determinant</th>
<th>PG&amp;E Generation</th>
<th>PCIA</th>
<th>FFS</th>
<th>SVCE GreenStart Generation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ENERGY CHARGE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>($/kWh)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Summer Peak</td>
<td>$0.12552 *0.97</td>
<td>-$0.01889</td>
<td>-$0.00064 = $0.10222</td>
<td></td>
</tr>
<tr>
<td>Part-Peak</td>
<td>$0.08501 *0.97</td>
<td>-$0.01889</td>
<td>-$0.00064 = $0.06293</td>
<td></td>
</tr>
<tr>
<td>Off-Peak</td>
<td>$0.05819 *0.97</td>
<td>-$0.01889</td>
<td>-$0.00064 = $0.03691</td>
<td></td>
</tr>
<tr>
<td>Winter Part-Peak</td>
<td>$0.07871 *0.97</td>
<td>-$0.01889</td>
<td>-$0.00064 = $0.05682</td>
<td></td>
</tr>
<tr>
<td>Off-Peak</td>
<td>$0.06423 *0.97</td>
<td>-$0.01889</td>
<td>-$0.00064 = $0.04277</td>
<td></td>
</tr>
<tr>
<td><strong>DEMAND CHARGE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>($/kW)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Summer Peak</td>
<td>$12.63 *0.97</td>
<td>N/A</td>
<td>N/A</td>
<td>= $12.25</td>
</tr>
<tr>
<td>Part-Peak</td>
<td>$3.12 *0.97</td>
<td>N/A</td>
<td>N/A</td>
<td>= $3.03</td>
</tr>
</tbody>
</table>

100% Renewable Energy Option

The GreenPrime rate for 2019, SVCE’s 100% renewable energy option, will remain unchanged from 2018. The charge is equivalent to the per unit cost difference between the default energy mix of 50% eligible renewable/carbon free energy and the 100% eligible renewable energy mix. This premium is calculated to be $0.008 per kWh, which is added to the otherwise applicable rate for the default GreenStart service offering.

Planned Timing and Approach for 2019 Rate Updates

If this recommendation is approved by the Board, SVCE rate tables will be updated as of August 1, 2019 to reflect a 3% discount across all rate schedules and billing determinants – with the SVCE discount percentage subject to the net impact of actual versus projected July 1, 2019 PG&E rate changes, and the discount framework described above.

**STRATEGIC PLAN**
Rate setting is directly supported by SVCE Strategic Plan Goal 2 – maintain competitive rates to acquire and retain customers.

**FISCAL IMPACT**
The fiscal impact of this recommendation is $11.3 - $13.5M in additional reserve contributions to SVCE between August 2019 and January 2020, relative to the mid-year 2019 budget.

**ATTACHMENT**
1. Resolution 2019-11, Approving Customer Generation Rates
SILICON VALLEY CLEAN ENERGY AUTHORITY
RESOLUTION NO. 2019-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY APPROVING CUSTOMER GENERATION RATES

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, at the June 8, 2016 Board of Directors Meeting, the Board adopted the policy that the Authority’s customer generation rates for the default service will be 1% lower than Pacific Gas & Electric’s generation rates in place as of January 2017; and the policy allows reexamination of the rates during the first two years of operation, provided significant deviations in market prices or other extraordinary circumstances mandate an adjustment to the rates; and

WHEREAS, SVCE has a need to adopt customer generation rates that are competitive and contribute to the Authority’s cash reserves to allow the Authority to respond to risk, and

WHEREAS, at its April 10, 2019 meeting, the Board adopted the 2019 Electric Generation Rates Schedule by Resolution No. 2019-06 subject to adjustment by the Chief Executive Officer when PG&E’s 2019 rates were finalized; and

WHEREAS, Staff is recommending an increase in the 2019 electric generation rates in order to achieve additional contributions to reserves of $11.3 million - $13.5 million and utilizing an applicable SVCE discount to PG&E generation rates under the ‘Discount Framework’ as described in more detail in the agenda report, and

WHEREAS, since PG&E will not issue its final customer generation rates until this summer, the Board of Directors desire to grant the Chief Executive Officer the authority to adjust the Authority’s current electric generation rates for its customers to generate additional contributions to reserves of $11.3 million - $13.5 million when PG&E finalizes its 2019 rates.

NOW THEREFORE, the Board of Directors of the Silicon Valley Clean Energy Authority does hereby resolve, determine, and order as follows:

Section 1. Upon the release of PG&E’s final customer generation rates, the Chief Executive Officer is hereby authorized to amend the Authority’s 2019 Electric Generation Rates Schedule adopted by Resolution No. 2019-06 to achieve an additional contribution to reserves of $11.3 million - $13.5 million.
Section 2. The Authority’s electric generation rates, as adjusted by the Chief Executive Officer pursuant to Section 1 above, shall become effective the later of August 1, 2019 or the first day of the month following thirty days after PG&E releases if final 2019 customer generation rates. The Authority’s adjusted electric generation rates shall be set forth in an Amended 2019 Electric Generation Rates Schedule. The Chief Executive Officer shall provide a copy of the Amended 2019 Electric Generation Rates Schedule to the Board of Directors at its first meeting after the 2019 electric generation rates are adjusted.

Section 3. Resolution No. 2019-06 is hereby rescinded on the date that the adjusted electric generation rates become effective as provided by Section 2 above.

PASSED AND ADOPTED this 12th day of June 2019, by the following vote:

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>NAME</th>
<th>AYE</th>
<th>NO</th>
<th>ABSTAIN</th>
<th>ABSENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Campbell</td>
<td>Director Gibbons</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Cupertino</td>
<td>Director Sinks</td>
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</tr>
<tr>
<td>City of Gilroy</td>
<td>Director Tovar</td>
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<td></td>
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<tr>
<td>City of Los Altos</td>
<td>Director Bruins</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Town of Los Altos Hills</td>
<td>Director Corrigan</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Town of Los Gatos</td>
<td>Director Sayoc</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>City of Milpitas</td>
<td>Director Nuñez</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Monte Sereno</td>
<td>Director Javed Ellahie</td>
<td></td>
<td></td>
<td></td>
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Andrea Pizano, Board Secretary
RESOLUTION 2019-11
Staff Report – Item 4

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 4: Approve Non-Standard Pricing Agreement Policy and Adopt Resolution Delegating Authority to the Chief Executive Officer to Negotiate Non-Standard Pricing Agreements for Eligible Large Commercial and Industrial Customers

Date: 6/12/2019

RECOMMENDATION
Staff recommends that the Board approve the Non-Standard Pricing Agreement Policy (Attachment 1) and adopt Resolution No. 2019-12, delegating authority to the Chief Executive Officer (“CEO”) to negotiate and execute non-standard pricing agreements with eligible commercial and industrial customers, provided that the pricing agreements meet the minimum requirements set forth in the Non-Standard Pricing Agreement Policy.

BACKGROUND
Senate Bill 237 re-opened the cap on Direct Access (“DA”) for commercial and industrial (“C&I”) customers. Historically, many large PG&E or CCA customers have been on a ‘waitlist’ to become DA customers, as associated energy pricing structures are typically lower-cost and more flexible. Yet until recent expansion of the DA cap, the DA program was fully subscribed and not open to new customers. New customers will now be eligible to move to DA beginning in 2021.

Large commercial and industrial (“C&I”) customers represent approximately one-third of SVCE’s overall load. Accordingly, losing large C&I customers to DA will mean measurable load loss for SVCE. Large C&I customers are critical partners in helping SVCE achieve its primary goals:

1) Reducing local GHG emissions through use of clean, carbon-free electricity, in line with member agency climate goals
2) Maintaining a strong financial foundation and competitive electricity prices
3) Enabling ongoing GHG reduction via electrification of transportation and the built environment, per SVCE’s Decarbonization Strategy and Programs Roadmap
4) Enabling re-investment in the local community

DA allocations are apportioned to customers on the waitlist via a lottery administered by PG&E. There are two lotteries: one for the existing 2019 waitlist and one for a new, 2020 waitlist. Each lottery awards approximately 940 GWh of Direct Access allocation to PG&E customers, across all load-serving entities in PG&E territory, for a total of 1,880 GWh worth of new Direct Access load.

PG&E has informed SVCE that 21 GWh of load is expected to depart via the 2019 waitlist and lottery. These customers are already in active dialogue with electricity service providers (ESPs). If this 21 GWh departs SVCE service, SVCE’s overall load would be be reduced by ~0.5%, and local emissions would increase by over 5,000 metric tons annually if these customers choose an electric service that is only minimally compliant with the State’s Renewable Portfolio Standard.

Customers are still actively signing up for the 2020 waitlist and lottery. In August, PG&E will inform these customers if they are eligible to depart. At this time, it is not known how much load will be eligible to depart from SVCE; it will depend upon the size of the 2020 waitlist, the number of SVCE customers on the waitlist,
and their success in the 2020 lottery. As such, the range of possible SVCE load loss is large – anywhere from zero to several hundred GWh annually.

All eligible customers must notify PG&E of their intent to pursue DA by September 3, 2019. PG&E will then notify SVCE by September 10, 2019, of the aggregate volumes these customers represent. SVCE will receive no further details on these customers or their identities. Customers have until February 3, 2020 to negotiate a contract with an ESP and submit their Direct Access Service Request ("DASR").

**ANALYSIS & DISCUSSION**

Retaining large C&I customers is essential to SVCE goals – to provide communities with carbon-free power at competitive rates, enable ongoing reductions in community-wide GHG emissions, and maintain a strong financial foundation. Because DA-eligible customers must decide if they are pursuing DA by September 3rd, 2019, SVCE must act quickly and responsively to engage and retain C&I customers.

SVCE understands that electricity costs are significant for our largest C&I customers, and historically, customers have saved money via the DA market. The Direct Access marketplace is highly competitive, offering more flexible or lower-cost pricing structures than offered by traditional load-serving entities. Remaining competitive with Direct Access providers will require that SVCE structure non-standard pricing agreements in a way that is highly responsive and protects confidential customer information. Non-standard pricing agreements may take several possible forms, including but not limited to:

- expanded discount relative to the standard SVCE tariff in exchange for a multi-year customer volume commitment
- providing a discount in the form of co-investment in designated products or services consistent with SVCE’s decarbonization strategy (e.g. EV charging infrastructure, load capacity, resiliency)
- providing generation service from specific renewable energy PPA’s,
- fixed or index-based pricing structures for a defined term and volume

Staff proposes to offer non-standard pricing agreements to eligible C&I customers, and recommends that any such pricing agreement, and eligible customers, adhere to a defined ‘Non-Standard Pricing Agreement Policy’. A non-standard pricing agreement will apply to electric generation services, and if applicable, may include consideration and valuation of supporting products or services. Under this policy, non-standard pricing agreements must:

1) **Have defined eligibility criteria, and be available to all customers meeting criteria**

   Staff proposes that the Non-Standard Pricing Agreement Policy apply exclusively to customers on large commercial and industrial rates with an annual load greater than 10GWh. This will encompass approximately 25-30 customers, and a total annual load of approximately 800 GWh, or 20% of SVCE’s annual load.

2) **Be cost-based and account for any volume and/or price risk**

   - Currently, SVCE sets rates at a discount to PG&E rates to ensure all customers benefit from lower-cost electricity. Staff proposes that any non-standard pricing agreement be set based upon SVCE’s...
underlying costs to serve the customer. Alternatively, a non-standard pricing agreement may be set to allow for customer flexibility (i.e., an “index” rate), and minimize SVCE exposure to market risks.

3) **Be priced to allow SVCE to cover variable costs and achieve some level of contribution to fixed cost and reserve margin, in conformance with SVCE’s financial objectives, Risk Management Policy and controls.**
   
   - SVCE’s variable costs include energy, RA, RECs and carbon-free attributes for each customer’s load. Fixed costs, which do not vary based upon load, include SVCE’s energy programs, personnel expenses, billing services and data management, among others.
   - Non-Standard Pricing Agreements must conform with SVCE’s financial objectives, Risk Management Policy and controls.

4) **Require a commitment level from the customer commensurate with non-standard pricing agreement**
   
   - SVCE currently sets rates one or more times a year. Under a non-standard pricing agreement, a large C&I customer may seek price certainty for a longer duration. To minimize exposure to increasing costs, staff may implement longer-duration hedges for energy and environmental attributes. Likewise, staff will require the customer to remain on the pricing agreement or with SVCE for the same duration.
   - For example, SVCE may offer a customer a fixed price for three years. In this instance, the customer would need to commit to remain with SVCE for three years.

5) **Meet SVCE’s carbon-free requirements**
   
   - As noted above, a primary driver of SVCE’s efforts to retain DA-eligible customers is to ensure that these customers continue to meet the climate goals agreed to by SVCE’s member cities. Unlike SVCE’s default service, typical ESP offerings are not carbon-free. Some C&I customers may choose 100% renewable energy offerings via the DA market; however, most are likely to opt for a product that meets only the minimum renewable content required under the state Renewable Portfolio Standard.
   - Accordingly, any non-standard pricing agreement offered to a C&I customer to encourage them to remain with SVCE must be a carbon-free product and be consistent with SVCE’s decarbonization strategy for power supply, transportation and the built environment.

As SVCE is a small organization serving over 270,000 accounts, non-standard pricing agreements will be limited to a small group of eligible customers, and will need to be straightforward to negotiate, implement and bill.

Under the current DA expansion, eligible C&I customers must decide by September 3rd, 2019 if they are pursuing DA and establish their DA provider and purchasing agreement by February 2020. Staff proposes that the Board adopt this Non-Standard Pricing Agreement Policy and delegate authority to the CEO to negotiate non-standard pricing agreements with the oversight of the Risk Oversight Committee. Delegation of authority in establishing Non-Standard Pricing Agreements is important because of the competitive need for responsiveness, and protection of customer-sensitive information.

**STRATEGIC PLAN**

Approval of the attached Resolution and Non-Standard Pricing Agreement Policy is in direct support of the Board approved Strategic Plan as follows:

- **Goal 2: Maintain competitive rates to acquire and retain customers**
  - Strategy 2.4: Examine customized rate options for large customers while meeting SVCE’s carbon and financial goals

- **Goal 11: Manage power supply resources and risks to financial and rate objectives**
  - 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

  Strategy 11.2: Manage market price, credit, load and supplier volume risk to meet rate and financial objectives
ALTERNATIVE
Alternatives include maintaining a standard tariff only or requiring BOD approval of any non-standard pricing agreement. Either of these approaches will limit SVCE’s ability to respond in a competitive and responsive fashion to customers planning to opt-out of SVCE for DA service.

FISCAL IMPACT
Staff does not yet know the number of customers or volume that will depart as a result of SB 237, nor which customers are expected to leave. At a minimum, SVCE expects 21 GWh (the volume from the 2019 waitlist) will depart, resulting in an annual revenue loss of approximately $1.5 million. Depending on lottery results, between zero and several hundred GWh could depart via the 2020 waitlist, representing a wide range of potential lost revenue, between $0-20+ million annually. The fiscal impact of establishing specific non-standard pricing agreements, if and when established, will be weighed against the associated financial and decarbonization benefits of retaining the customer in question.

ATTACHMENTS
1. Non-standard Pricing Agreement Policy
2. Resolution 2019-12, Delegating Authority to the Chief Executive Officer to Negotiate Non-Standard Pricing Agreements for Eligible Large Commercial and Industrial Customers
SILICON VALLEY CLEAN ENERGY AUTHORITY
NON-STANDARD PRICING AGREEMENT POLICY

When offering non-standard pricing agreements to eligible customers, SVCE adheres to a defined non-standard pricing agreement policy. A non-standard pricing agreement will apply to electric generation services, and if applicable, may include consideration and valuation of supporting products or services. Under this policy, the non-standard pricing agreement must:

1) apply exclusively to customers with annual load in SVCE’s service territory greater than 10GWh

2) be marginal cost-based and account for any volume and/or price risk

3) be priced to allow SVCE to cover variable costs and achieve some level of contribution to fixed cost and reserve margin, in conformance with SVCE’s financial objectives, Risk Management Policy and controls.

4) require a commitment level from the customer (e.g. volume, length of term) commensurate with the non-standard pricing agreement offered to the customer

5) meet SVCE’s carbon-free requirements, and be consistent with SVCE’s decarbonization strategy for power supply, transportation and the built environment
SILICON VALLEY CLEAN ENERGY AUTHORITY
RESOLUTION NO. 2019-12

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY DELEGATING AUTHORITY TO THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE NON-STANDARD PRICING AGREEMENTS FOR ELIGIBLE LARGE COMMERCIAL AND INDUSTRIAL CUSTOMERS

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, Silicon Valley Clean Energy launched service under a community choice aggregation program on April 3, 2017;

WHEREAS, commercial and industrial customers make up a substantial majority of SVCE’s electric load;

WHEREAS, commercial and industrial customers are critical partners in helping SVCE and its member agencies reduce carbon emissions and meet climate action planning goals;

WHEREAS, the state of California adopted new legislation to re-open the cap for Direct Access to the wholesale markets for commercial and industrial customers under SB 237 in September 2018;

WHEREAS, in the expanded Direct Access marketplace, current SVCE commercial and industrial customers may opt out to receive DA service under more flexible or lower-cost tariff structures;

WHEREAS, SVCE seeks to provide clean, carbon-free electricity services that meet customer needs, at rates that are competitive and contribute positively to SVCE’s financial position;

WHEREAS, the Direct Access marketplace is highly competitive, requiring that SVCE structure non-standard pricing agreement terms in a highly responsive, time-sensitive fashion;

WHEREAS, SVCE wishes to offer non-standard pricing agreements to retain eligible commercial and industrial accounts, under the terms of the attached ‘Non-Standard Pricing Agreement Policy’

WHEREAS, in order to expedite the approval of non-standard pricing agreements consistent with Direct Access marketplace requirements, the Board wishes to delegate to the Chief Executive Officer the authority to negotiate directly with eligible commercial and industrial accounts in accordance with the Board approved Non-Standard Pricing Agreement Policy.

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 negotiate and execute non-standard pricing agreements with eligible large commercial and industrial customers, provided that the pricing agreements meet the minimum requirements set forth in the Non-Standard Pricing Agreement Policy.
PASSED AND ADOPTED this 12th day of June 2019, by the following vote:

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Andrea Pizano, Board Secretary
To: Silicon Valley Clean Energy Board of Directors
From: Girish Balachandran, CEO

Item 5: Approve Amendments to SVCE Strategic Plan

Date: 6/12/2019

This item will be addressed in the form of a presentation to the Board of Directors. Attached is a draft copy of the strategic plan amendments (clean copy and redline) for the Board’s review.
**Strategic Plan – June 2019 (DRAFT)**

**Workplace**

Human capital is a successful organization’s greatest asset, and at SVCE we strive to build a highly talented and dedicated team that will ensure the success and prosperity of our organization. Valuing this team and nurturing its talent will require a start-up culture that supports creativity, open communication, and the free flow of ideas to spur innovation. We will provide an infrastructure within SVCE that supports and cultivates our employees through professional and personal development, recognizes and rewards their contributions to achieving our mission, and offers opportunities that position our people, as well as SVCE, for success. In attracting and maintaining skilled employees, SVCE will continue to provide a rewarding workplace experience.

**Goal 1: Build a high-performing team**

**Strategy 1.1:** Support health, wellness and a productive workplace

1.1.1) Promote healthy habits
1.1.2) At least once every two years, evaluate wellness benefits to industry benchmarks and make recommendations for improvement
1.1.3) Evaluate current facilities and recommend changes to promote a happy and productive workforce
1.1.4) Evaluate Human Resources Information Technology Software (HRIS) to streamline core functions

**Strategy 1.2:** Acknowledge high staff engagement and performance

1.2.1) Annually, update compensation schedule to account for cost of living adjustment.
1.2.2) Through an annual review process, compensate staff accordingly
1.2.3) Conduct a biennial compensation study and make necessary adjustments to ensure wage competitiveness

**Strategy 1.3:** Build an inclusive and fulfilling company culture

1.3.1) Monthly, arrange opportunities for staff to socialize in or outside of the office
1.3.2) Annually, sponsor family events (e.g. holiday celebration, summer picnic, etc.)
1.3.3) Promote team building through volunteer work
1.3.4) Maintain an open-door policy for CEO and directors
1.3.5) Maintain a monthly all-hands meeting

**Strategy 1.4:** Build an environment that encourages creativity and innovation
1.4.1) Support professional development
1.4.2) Encourage staff to attend conferences and networking events

**Strategy 1.5:** Provide effective and safe feedback processes
1.5.1) Research and develop an annual feedback process, promoting an open and safe performance assessment
1.5.2) Conduct an annual survey to measure employee engagement

**CUSTOMER AND COMMUNITY**

SVCE will use various channels and platforms to cultivate relationships with and bring customer value to all segments of the communities we serve. These channels include leveraging existing outlets established by our member agencies, partnering with commercial customers to enhance their community presence, and re-engaging with those who have opted out.

Partnerships with commercial customers are particularly important to building SVCE’s brand in a region known for innovation. Communicating our competitive rates and superior product in clear and accessible ways will strengthen customer loyalty and enhance our financial standing, enabling us to better serve our communities.

**Goal 2: Maintain competitive rates to acquire and retain customers**

**Strategy 2.1:** Provide carbon-free electricity to additional customers in the SVCE service area and increase market share

2.1.1) Communicate competitive rates to all customers
2.1.2) Annually, communicate rates and power content mix of the SVCE electric supply in a joint rate comparison mailer with PG&E
2.1.3) On an on-going basis, engage with selected prospective customers not currently served by SVCE to review options and benefits of service from SVCE
2.1.4) Examine customized rate options for large customers while meeting SVCE’s carbon and financial goals; establish SVCE margin analysis by customer class, and tools for evaluating customized rate options including targeted customer discounts and ‘green sleeve’ PPA arrangements
Goal 3: **Promote customer awareness**

**Strategy 3.1:** Build awareness and trust through continuous interaction with the SVCE community

3.1.1) Annually, provide SVCE update to member agency councils or at state of the city events highlighting SVCE and community activity related to electrification and decarbonization.

3.1.2) Annually, place booth/table at six or more regional events that emphasize energy efficiency, sustainability, and efficient use of natural resources

3.1.3) Sponsor community and industry events that align with SVCE’s sponsorship guidelines

3.1.4) Present to community groups, environmental organizations, trade allies, commercial customers, chambers, and neighborhood associations at their respective meetings

3.1.5) Organize and conduct monthly meetings of the Member Agency Working Group for SVCE member agency sustainability and communication staff and partner with them to disseminate information to the communities in the SVCE service area

**Strategy 3.2:** Organize quarterly meetings between commercial and industrial customers and various interest groups to promote renewable resources, decarbonization, and advanced technologies for energy storage

**Strategy 3.3:** Share SVCE and customer stories to build goodwill and awareness

3.3.1) Submit quarterly news features to all local papers

3.3.2) Write and promote customer profiles for related work and recognition already in the community

**Strategy 3.4:** Leverage partnerships with other Community Choice Aggregators (CCAs) to increase general CCA “brand recognition” among consumers

3.4.1) Promote the undertaking of joint marketing campaigns with CalCCA and other regional CCAs

3.4.2) Co-brand publicly visible energy service infrastructure

Goal 4: **Maintain customer service satisfaction**

**Strategy 4.1:** Monitoring
4.1.1) Track ongoing participation rate and opt out trends  
4.1.2) Track response rates to customer inquiries  

**Strategy 4.2:** Create a customer-centric culture  
4.2.1) Ensure that customer contact center reps are trained to deliver pleasant and effective customer experiences  
4.2.2) Randomly monitor and listen to calls, live or recorded, each quarter  
4.2.3) Monitor customer service statistics to ensure adherence to Service Level Agreements  
4.2.4) Offer a post-transaction survey to customers  

**Strategy 4.3:** Recognize GreenPrime customers’ added contribution to SVCE’s mission  
4.3.1) Maintain third party validation and marketplace recognition  

**DECARBONIZATION & GRID INNOVATION PROGRAMS**  
SVCE was founded to address climate change, the greatest existential threat of our time. We will play a vital role in this decades-long endeavor, with the ongoing support of our community and our Board. In addition to providing carbon-free electricity, we are reinvesting in our region and expanding our toolset for furthering emissions reductions by launching decarbonization and grid innovation programs. These programs represent the next stage in SVCE’s maturity and are the mechanism by which SVCE will further engage our communities to achieve our mission. We will leverage partnerships, prioritize innovation and use data science to manage and influence carbon-free energy use. We will embody the entrepreneurial and innovative spirit of the community in which we live and work, the spirit of Silicon Valley, to bend the carbon curve downwards and improve the lives of our community members.  

**Goal 5:** Work with the community to achieve energy and transportation GHG reductions of 30% from the 2015 baseline by 2021, 40% by 2025, and 50% by 2030  

**Strategy 5.1:** Collect and track GHG data for SVCE service territory to guide SVCE decarbonization activities  
5.1.1) Carry out an annual emissions inventory  
5.1.2) Use the updated emissions inventory to assess progress toward meeting SVCE-wide emissions reduction targets. Reassess targets, as needed  
5.1.3) Evaluate developing sector-specific objectives or targets (e.g. “25% of new construction all-electric by 2020”)
5.1.4) Support member agency and customer GHG accounting efforts (e.g. Power Content Label, emissions intensity, recognized certifications, etc.)

**Strategy 5.2:** Execute and maintain SVCE’s Decarbonization Strategy & Programs Roadmap (Please see the Decarb Roadmap for the comprehensive list of programs and strategies SVCE is pursuing) to achieve community-wide emissions reduction targets

5.2.1) Leverage external partnerships (CCAs, municipal utilities, etc.) where feasible for programmatic initiatives

5.2.2) Review and update the roadmap on an approximately annual basis, guided by comprehensive stakeholder input (community members, startups, non-profits, academia, corporations, etc.), updated emissions and market data, and initial program results

**Strategy 5.3:** Create an innovation-focused culture

5.3.1) Support staff training and use of concepts and tools to support innovation, such as design thinking, rapid iteration, and various brainstorming techniques

5.3.2) Strive to develop a reputation as an active partner in innovation amongst academia, accelerators/incubators, and other entities in the innovation ecosystem

5.3.3) Develop 2-5 year roadmap for priority innovation areas where innovation program activities should be focused

**Strategy 5.4:** Define, develop, maintain and leverage internal databases and tools to carry out high-impact analyses to support activities and functions across SVCE

5.4.1) Establish SVCE customer interval data analytics platform based on requirements developed from input across all functions at SVCE

5.4.2) Acquire, aggregate, and manage additional data sets with high potential for business insight (tax assessor data, EV adoption, etc.)

5.4.3) Develop visualization and other interpretation tools to facilitate distilling complex, data-intensive, and/or technical topics into informative graphics and actionable insight for broad audiences

**FINANCE AND FISCAL RESPONSIBILITY**
A respected financial ranking requires disciplined fiscal strategies and financially sound policies. SVCE is committed to managing its financial resources responsibly and setting a standard of transparency and accountability, ensuring efficiency and strong stewardship of the agency’s financial resources. At SVCE, our commitment to fiscal and operational excellence will ensure that all processes and operations are clearly defined and efficiently designed to align people, systems, and policies to maximize productivity and improve efficiency. Adhering to these policies and actively examining and assessing risk will earn us a high credit rating and a healthy position in delivering customer value.

**Goal 6: Commit to Excellence**

*Strategy 6.1:* Evaluate current systems, policies and processes to identify opportunities to optimize agency resources

6.1.1) Identify opportunities for collaboration internally between departments and externally with community partners
6.1.2) Optimize the business processes to maximize value to the community and realize cost-efficiency opportunities at both the department and agency levels
6.1.3) Define and implement project management processes and tools that meet the needs of the agency
6.1.4) Identify opportunities for eliminating redundancies by increasing automation and system functionality

**Goal 7: Achieve an investment grade credit rating by end of 2020**

*Strategy 7.1:* Update the cash reserves policy and monitor reserves to hedge unexpected variation in power supply costs, provide capital during economic downturns and mitigate sudden rate increases

7.1.1) Maintain pursuit of the liquidity target of 180 days of the following twelve months of projected operating expenses
7.1.2) Maintain a debt-to-equity ratio of 0.5 or less
7.1.3) Maintain rate competitiveness with PG&E
7.1.4) Develop and maintain risk management policies and controls with respect to power procurement

**Goal 8: Empower decision making with data**

*Strategy 8.1:* Integrate advances in information and systems technology to enhance the collection, structuring and analysis of data for decision-making and change management
8.1.1) Bi-annually update and present 5-year financial forecast to predict rate adjustments and financial risks
8.1.2) Assess agency budgeting and planning approach in order to define strategies and solutions that will advance strategic initiatives and strengthen financial sustainability
8.1.3) Build executive dashboards in order to utilize accurate and timely data in both operational and strategic decision-making
8.1.4) Evaluate data available in financial systems and other administrative systems to identify and address gaps between the data available and the data desired
8.1.5) Provide analysis and context to guide and inform decision making for our business partners

REGULATORY & LEGISLATIVE

The regulatory and legislative processes wield critical influence over SVCE’s ability to serve our customers and fulfill our core goals and mission. SVCE will actively engage with the regulatory and legislative communities in order protect the interests of our customers, enhance our ability to mitigate greenhouse gas emissions, and help build a regulatory framework that supports innovation and customer choice in an equitable and cost-effective manner while preserving reliability and universal access.

Goal 9:  Engage regulators and legislators in developing policy that protects CCA rights and facilitates CCA contributions to decarbonization, grid reliability, affordability, and social equity

Strategy 9.1:  Develop a voice and identity for SVCE in Sacramento that allows us to effectively shape a regulatory and legislative environment that supports SVCE’s existence and GHG mitigation efforts

9.1.1) Work with SVCE’s lobbyists to establish and strengthen relationships with key legislative decisionmakers
9.1.2) Leverage the voices of SVCE’s Board of Directors and other community leaders within SVCE’s territory by arranging for them to contact and meet with their legislators to discuss CCA issues
9.1.3) Engage in long-term legislative planning that facilitates efficient use of SVCE’s advocacy resources

Strategy 9.2:  Maximize the effectiveness of SVCE’s advocacy through collaboration with the California Community Choice Association (CalCCA) and other CCAs where appropriate
9.2.1) Where CalCCA and SVCE priorities are aligned, coordinate advocacy with CalCCA and contribute to CalCCA efforts in order to maximize efficiency of SVCE advocacy

9.2.2) Develop an understanding of where SVCE’s priorities differ from CalCCA’s in order to make strategic decisions about when to collaborate and when to work independently

9.2.3) Identify and collaborate with other CCAs who share SVCE’s policy priorities

9.2.4) Organize collaborative initiatives with other CCAs where possible in order to facilitate efficient expenditure of SVCE advocacy and policy resources

**Strategy 9.3:** Develop relationships with community stakeholder organizations that foster support for SVCE and decarbonization

9.3.1) Identify stakeholders whose goals and priorities align with SVCE’s and develop plans for outreach and relationship-building

9.3.2) Attend or cohost relevant community meetings and events to engage individual community leaders or groups

9.3.2) Include members of local stakeholder organizations in SVCE’s advocacy efforts by providing updates on key issues and encouraging them to contact legislators

**Strategy 9.4:** Provide thought leadership and policy development expertise to help advance California’s energy policy framework in a manner that supports SVCE’s values.

9.4.1) Contribute to CalCCA and CPUC working groups, public forums, and other processes in which stakeholders have the opportunity to actively shape regulatory and legislative policy

9.4.2) Ensure that the expertise of SVCE employees is given voice policymaking forums

9.4.3) Identify knowledge gaps in SVCE-relevant policymaking conversations and recruit consultants or other resources to help fill them

9.4.4) Where appropriate, work with other departments in SVCE to publish white papers, research articles, and other materials that help spread SVCE’s findings, ideas, and best practices

**POWER SUPPLY**

Navigating the world of wholesale power markets and state-mandated power mix and reliability requirements while fulfilling our commitment to sourcing 100% carbon free electricity requires a constant search for the right resources to meet
sustainability and value proposition goals. The threat of losing load to Direct Access presents new challenges and opportunities to enhance product offerings to meet SVCE’s decarbonization goals and our customers’ own environmental goals while considering financial and risk impacts. SVCE is committed to providing carbon free electricity through a balanced approach which considers cost, risk, long-term value and best-fit in meeting community goals.

Goal 10: Acquire sufficient bundled energy and renewable resources to achieve SVCE’s greenhouse gas reduction goals while exceeding California’s mandates

**Strategy 10.1:** On an annual basis, achieve 100% of California’s Renewable Portfolio Standard (RPS) and meet long-term procurement requirements.

10.1.1) For the upcoming calendar years (2020 and 2021), balance procurement of RPS resources with in-state bundled renewables (PCC1) and out-of-state bundled renewables (PCC2) taking into consideration availability, cost and carbon-free objectives

10.1.2) Procure sufficient long-term resources to achieve a minimum 65% of the mandated RPS through power purchase agreements for terms no less than ten years starting in 2021 for RPS Compliance Period 4 (2021-2024)

**Strategy 10.2:** Stagger and diversify renewable energy acquisitions to accommodate regulatory uncertainty, changes in load and supply price risks

10.2.1) Diversify price risk by contracting for a mix of fixed-price and index-plus REC structured RPS resources

10.2.2) Consider the impacts of Direct Access and/or load loss by diversifying term with a mix of short-term (less than 5 years) and longer term RPS resources

**Strategy 10.3:** Diversify the location and technology used when acquiring renewable resources to achieve least-cost, best-fit planning objectives, while improving reliability, matching energy delivery to load needs and minimizing emissions

10.3.1) Assess the value and risk of resource technology, baseload versus intermittent, storage and potential changes in technology

10.3.2) Consider location and expected generation value with consideration for time-of-delivery and uncertainty as part of the selection process

**Strategy 10.4:** Deploy storage to achieve renewable, carbon-free and resource adequacy objectives
10.4.1) At a minimum invest in storage capacity to meet California’s mandated energy storage requirement of 1% of SVCE’s 2020 peak load forecast by 2021
10.4.2) Consider the costs and benefits of storage when combined with intermittent renewable resources to enhance energy value and minimize renewable curtailments
10.4.3) Assess the merits of various storage technologies, configurations, sizes and contracting mechanisms including AC versus DC coupled, grid versus non-grid charging and lease versus owned
10.4.4) Consider stand-alone storage to meet grid reliability and resource adequacy needs

**Strategy 10.5:** Identify and pursue cost effective, local distributed energy resources to meet RPS and reliability needs

10.5.1) Assess technical, economic and market potential
10.5.2) Determine value of local distributed energy resources
10.5.3) Evaluate the use of feed-in-tariffs and/or other mechanisms to contribute towards local economic development.
10.5.4) Issue a distributed energy resource RFO for locally-sited renewable resources
10.5.5) Pursue behind-the-meter storage and demand response solutions to meet resource adequacy and resiliency

**Goal 11:** Acquire sufficient resources to ensure that 100% of SVCE’s energy needs are from carbon free resources

**Strategy 11.1:** Strike a balance between large hydro and renewable resources when considering cost to meet 100% of SVCE’s load with carbon-free resources

11.1.1) Short-term, continue to contract for large hydro resources through carbon-free adder plus energy index structure with a variety of suppliers
11.1.2) Explore longer-term large hydro opportunities including run-of-river projects and/or participating in a lay-off with existing hydro project owners
11.1.3) Execute the Western Base Resource contract with the Western Area Power Administration to receive a share of the output from the Central Valley Project

**Strategy 11.2:** Promote the expansion of the energy imbalance market to enhance the value of both in-state and out-of-state renewable and carbon-free resources and speed the timeline for achieving carbon neutrality
11.2.1) Support the CAISO’s effort to expand the energy imbalance market and other initiatives that promote the development and cost-effective integration of renewable resources throughout the western interconnected grid

**Goal 12: Manage power supply resources and risks to financial and rate objectives**

**Strategy 12.1:** Optimize existing resources to increase value to SVCE customers and evaluate opportunities to minimize cost of procuring and scheduling electricity and related products

12.1.1) Assess core procurement, scheduling, settlements and reporting functions and determine best use of in-house versus outsourced resources

12.1.2) Consider joint procurement for electricity and related services with other CCAs through the formation of a joint power agency and/or other arrangements

12.1.3) Explore opportunities to partner/procure energy and related services with publicly owned utilities

**Strategy 12.2:** Manage market price, credit, load and supplier volume risk to meet rate and financial objectives

12.2.1) Implement an energy risk management program consistent with the Board-approved Energy Risk Management Policy

12.2.2) Develop internal models to measure, monitor and report portfolio and net revenue risks

12.2.3) Evaluate hedging strategy and use of hedging products

12.2.4) Evaluate the use of off-the-shelf products for enhanced risk management analytics, contract management and portfolio optimization

12.2.5) Leverage the use of consultants to evaluate product offerings, strategies and optimization of supply resources

**INFORMATION TECHNOLOGY**

At SVCE, we take customer information, privacy, and security seriously. Our systems and processes follow best practices and industry standards. Performance metrics are in place to ensure resiliency and high system availability on standard and mobile platforms. Periodic upgrades to IT resources will ensure continued adherence to these high standards. This strategic plan provides the approach that SVCE is taking to address the challenges of delivering IT services in a dynamic
environment with new regulations and continuous advancements in science and technology.

**Goal 13:** Ensure SVCE’s Information Technology infrastructure is secure, reliable, and disaster resilient to provide 24/7/365 online access

**Strategy 13.1:** Deliver advanced capabilities to foster collaboration, knowledge management, and analytics

13.1.1) Ensure the availability of and access to information that enables departments to make timely, informed decisions by strengthening data and knowledge management approaches

13.1.2) Deploy a modernized IT infrastructure that enables seamless access to information resources

13.1.3) Develop metrics and communicate to management via a monthly Information Technology report to gauge the overall performance of the system

**Strategy 13.2:** Advance business management practices to transform service delivery

13.2.1) (IT Policy and Governance) Establish and employ streamlined policy and governance processes that align IT solutions with customer expectations and mission requirements

13.2.2) (IT Business Systems) Ensure efficient and effective performance of core business functions and enterprise services

**Strategy 13.3:** Improve mandates & IT audit compliance

13.3.1) Develop a strategy that includes a disaster recovery solution that provides business continuity for critical applications and vital records

13.3.2) Conduct an annual audit with an independent third party to determine the security of the system and correct any findings and consider implementing recommendations

13.3.3) Conduct a triennial AMI audit and report findings to the CPUC.

**Strategy 13.4:** Improve asset management

13.4.1) Leverage enterprise architecture and asset management tools to collect a complete inventory of assets and applications to enhance asset management

13.4.2) Evaluate available industry standard IT service frameworks and develop and implement a strategy in support of managing, maintaining, and applying IT governance over applications and technologies

**Strategy 13.5:** Reduce redundancy and promote consolidation
13.5.1) Streamline the procurement portfolio by performing strategic sourcing and category management.

13.5.2) Leverage enterprise architecture (EA) and business capability model to reduce infrastructure footprint.

13.5.3) Perform application rationalization to identify unused, redundant and out of date applications, and trim down the portfolio through application modernization and decommissioning.

**Strategy 13.6: Enhance cybersecurity compliance and operations**

13.6.1) Conduct highly effective incident response, insider threat detection, operational situational awareness, compliance, and to decrease the overall security risks to sensitive information and IT infrastructure.

13.6.2) Implement data loss prevention, multi-factor authentication, security incident/event management tools, and encryption at rest.

13.6.3) Implement continuous diagnostics and mitigation capabilities to identify cybersecurity risks on an ongoing basis and prioritize these risks based upon potential impacts.
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**Workplace**

Human capital is a successful organization’s greatest asset, and at SVCE we strive to build a highly talented and dedicated team that will ensure the success and prosperity of our organization. Valuing this team and nurturing its talent will require a start-up culture that supports creativity, open communication, and the free flow of ideas to spur innovation. We will provide an infrastructure within SVCE that supports and cultivates our employees through professional and personal development, recognizes and rewards their contributions to achieving our mission, and offers opportunities that position our people, as well as SVCE, for success. In attracting and maintaining skilled employees, SVCE will continue to provide a rewarding workplace experience.

**Goal 1: Build a high-performing team**

**Strategy 1.1:** Build an environment that encourages creativity and innovation

1.1.1) Support professional development by paying for memberships, conferences and other continuing education opportunities
1.1.2) Encourage staff to attend conferences and networking events

**Strategy 1.1:** Support health, wellness and a productive workplace

**Strategy 1.2:** Support employee health and wellness

1.2.1) Promote healthy habits
1.2.2) Provide at least once every two years, annually evaluate wellness benefits to industry benchmarks and make recommendations for flexible schedules to accommodate family needs
1.2.3) Evaluate current facilities and recommend changes to promote a happy and productive workforce
1.2.4) Evaluate Human Resources Information Technology Software (HRIS) to streamline core functions

1.2.2) 1.2.5)

**Strategy 1.3:** Acknowledge high staff engagement and performance Reward staff to keep them engaged

1.3.1) Annually, update compensation schedule to account for cost of living adjustment.
1.3.2) Through an annual review process, compensate staff accordingly
1.3.3) Conduct a biennial compensation study and make necessary adjustments to ensure wage competitiveness

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---Ensure a healthy and productive workplace

--- Evaluate current facilities and recommend changes to promote a happy and productive workforce
--- Evaluate Human Resources Information Technology Software (HRIS) to streamline core functions

**Strategy 1.3+: Strategy 1.4:** Build an inclusive and fulfilling company culture

1.3.1)1.4.1) Monthly, arrange opportunities for staff to socialize in or outside of the office
1.3.2)1.4.2) Annually, sponsor family events (e.g. holiday celebration, summer picnic, etc.)
1.3.3)1.4.3) Promote team building through volunteer work
1.4.4) Maintain an open-door policy for CEO and directors
1.3.4)1.4.5) Maintain a monthly all-hands meeting

**Strategy 1.5:** Build an environment that encourages creativity and innovation

1.5.1) Support professional development
1.5.2) Encourage staff to attend conferences and networking events

**Strategy 1.4+: Strategy 1.6:** Provide effective and safe feedback processes

1.4.1)1.6.1) Research and develop an annual feedback process, promoting an open and safe performance assessment
1.4.2)1.6.2) Conduct an annual survey to measure employee engagement

**Strategy 1.5:** Provide opportunities for cross-team interaction and collaboration

1.5.1) Establish a monthly all-hands meeting

**Strategy 1.6:** Reward staff to keep them engaged

1.6.1) Annually, update compensation schedule to account for cost of living adjustment. Conduct a biennial compensation study and make necessary adjustments to ensure wage competitiveness
1.6.2) Continue to provide competitive benefits
1.6.3) Ensure that staff has the tools necessary to effectively do the job

**CUSTOMER AND COMMUNITY**

SVCE will use various channels and platforms to cultivate relationships with and bring customer value to all segments of the communities we serve. These channels include leveraging existing outlets established by our member agencies, partnering with commercial customers to enhance their community presence, and re-engaging with those who have opted out.

Partnerships with commercial customers are particularly important to building SVCE’s brand in a region known for innovation. Communicating our competitive rates and superior product in clear and accessible ways will strengthen customer loyalty and enhance our financial standing, enabling us to better serve our communities.

Aligning customer programs to the SVCE mission is paramount to the design and execution of these programs. Decarbonization and electrification are front and center in developing strategic programs to lower greenhouse gases and curbing climate change.

**Goal 2: Maintain competitive rates to acquire and retain customers**

**Strategy 2.1:** Provide carbon-free electricity to additional customers in the SVCE service area and increase market share

2.1.1) Communicate competitive rates to all customers

2.1.2) Annually, communicate rates and power content mix of the SVCE electric supply in a joint rate comparison mailer with PG&E

2.1.3) On an on-going basis, engage with selected prospective customers not currently served by SVCE to review options and benefits of service from SVCE

2.1.4) Examine customized rate options for large customers while meeting SVCE’s carbon and financial goals; establish SVCE margin analysis by customer class, and tools for evaluating customized rate options including targeted customer discounts and ‘green sleeve’ PPA arrangements

**Goal 3: Benchmark Promote customer awareness in 2019 and establish goals**

**Strategy 3.1:** Update baseline customer awareness measure and build a trusted brand
3.1.1) Conduct customer survey in 2019
3.1.2) Develop customer segmentation model and personas
3.1.3) Establish ongoing goals and communications plan for awareness

**Strategy 3.2:** Strategy 3.1: Build awareness and trust through continuous interaction with the SVCE community

3.2.1) Annually, provide SVCE update to member agency councils or at state of the city events highlighting SVCE and community activity related to electrification and decarbonization.

3.2.2) Annually, place booth/table at six or more regional events that emphasize energy efficiency, sustainability, and efficient use of natural resources.

3.2.3) Sponsor community and industry events that align with SVCE’s sponsorship guidelines.

3.1.4) Create a Speakers Bureau to present to community groups, environmental organizations, trade allies, commercial customers, chambers, and neighborhood associations at their respective meetings.

3.3.1) Organize and conduct monthly meetings of the Member Agency Working Group for SVCE member agency sustainability and communication staff and partner with them to disseminate information to the communities in the SVCE service area.

3.3.2) Organize quarterly meetings between commercial and industrial customers and various interest groups to promote renewable resources, decarbonization, and advanced technologies for energy storage.

**Strategy 3.3:** Strategy 3.2: Share SVCE and customer stories to build goodwill and awareness

3.2.1) Submit quarterly news features to all local papers.

3.2.2) Write and promote customer profiles for related work and recognition already in the community.

**Strategy 3.4:** Leverage the SVCE member agencies’ sustainability and communication staff to disseminate information to the communities in the SVCE service area.

4.3.1) Organize and conduct monthly meetings of the Member Agency Working communication staff.

4.3.2) Organize quarterly meetings between commercial and industrial customers and various interest groups to promote renewable
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resources, decarbonization, and advanced technologies for energy storage

Strategy 3.5 - Strategy 3.3: Leverage partnerships with other Community Choice Aggregators (CCAs) to increase general CCA “brand recognition” among consumers

3.5.1) 3.3.1) Promote the undertaking of joint marketing campaigns with Peninsula Clean Energy CalCCA and other regional CCAs

3.5.2) 3.3.2) Co-brand publicly visible energy service infrastructure

Goal 4: Maintain Benchmark customer service satisfaction

Strategy 4.1: Monitoring Establish measurement methodology and baseline

4.1.1) Develop methodology in 2019
Track ongoing participation rate and opt out trends

4.1.2) Establish baseline in 2019
Track response rates to customer inquiries

Strategy 4.2: Create a customer-centric culture

4.2.1) Ensure that customer contact center reps are trained and to deliver pleasant and effective customer experiences

4.2.2) Randomly monitor and listen to calls, live or recorded, each quarter

4.2.3) Monitor customer service statistics to ensure adherence to Service Level Agreements

4.2.4) Offer a post-transaction survey to customers

Strategy 4.3: Recognize GreenPrime customers’ added contribution to SVCE’s mission

4.3.1) Recognize customers participating in the GreenPrime program

4.3.2) Maintain third party validation and marketplace recognition

Strategy 5.4: Establish SVCE customer resource center

5.4.1) Develop initial requirements for SVCE web based knowledge center to support customer awareness, education and action with respect to electrification and decarbonization

5.4.2) Develop pilot implementation

Strategy 5.5: Establish SVCE customer interval data analytics platform

5.5.1) Develop initial requirements for SVCE customer data to support future program activity, e.g. TOU incentives and targeted outreach

5.5.2) Develop pilot implementation
DECARBONIZATION & GRID INNOVATION PROGRAMS

SVCE was founded to address climate change, the greatest existential threat of our time. We will play a vital role in this decades-long endeavor, with the ongoing support of our community and our Board. In addition to providing carbon-free electricity, we are reinvesting in our region and expanding our toolset for furthering emissions reductions by launching decarbonization and grid innovation programs. These programs represent the next stage in SVCE’s maturity and are the mechanism by which SVCE will further engage our communities to achieve our mission. We will leverage partnerships, prioritize innovation and use data science to manage and influence carbon-free energy use. We will embody the entrepreneurial and innovative spirit of the community in which we live and work—in, the spirit of Silicon Valley, to bend the carbon curve downwards and improve the lives of our community members.

Goal 5: Work with the community to achieve energy and transportation GHG reductions of 30% from the 2015 baseline by 2021, 40% by 2025, and 50% by 2030

Strategy 5.1: Collect and track Utilize local GHG data for SVCE service territory and key ‘clean electric’ operating measures to guide SVCE decarbonization program activities

5.1.1) Document 2015 baseline GHG inventory data related to energy and transportation for the SVCE service territory, by July 2018
5.1.2) Identify and document common Climate Action Plan (CAP) goals and measurement methods relevant to SVCE, and quantify penetration of related ‘clean electric’ infrastructure by July 2018
5.1.1) Establish and document an initial set of SVCE ‘clean electric’ operating metrics and targets, where related to an SVCE program by July 2018
5.1.2) Use the updated emissions inventory to assess progress toward meeting SVCE-wide emissions reduction targets. Reassess targets, as needed
5.1.3) Evaluate developing sector-specific objectives or targets (e.g. “25% of new construction all-electric by 2020”)
5.1.4) Support local member agency and customer GHG accounting efforts and customer GHG accounting (e.g. Power Content Label, emissions intensity, recognized certifications, etc.)
Establish execute and maintain an SVCE’s Decarbonization Strategy & Programs (Please see the Decarb Roadmap for the comprehensive list of programs and strategies SVCE is pursuing.) to achieve community-wide emissions reduction targets

5.1.5) Leverage external partnerships (CCAs, municipal utilities, etc.) where feasible for programmatic initiatives

**Strategy 5.2:** Execute the programs and strategies identified and adopted in the Decarb Roadmap to achieve community-wide emissions reduction targets

- Leverage external partnerships (CCAs, municipal utilities, etc.) where feasible for programmatic initiatives

5.2.1) Establish high-level evaluation criteria and weighting to assess relative program impact and value

5.2.2) Identify and document candidate programs that promote decarbonization via improved energy efficiency and/or fuel switching to clean electricity

5.2.3) Confirm top-ranked programs for detailed development and launch in 2019

5.2.4) 5.1.6) Establish process and mechanisms for ongoing stakeholder input and review

- Review and update the roadmap on an approximately annual basis, guided by comprehensive stakeholder input (community members, startups, non-profits, academia, corporations, etc.), updated emissions and market data, and initial program results

**Strategy 5.2:** Create an innovation-focused culture

5.2.1) Support staff training and use of concepts and tools to support innovation, such as design thinking, rapid iteration, and various brainstorming techniques

5.2.2) Strive to develop a reputation as an active partner in innovation amongst academia, accelerators/incubators, and other entities in the innovation ecosystem

5.2.3) Develop 2-5 year roadmap for priority innovation areas to focus where innovation program activities should be focused

- Develop and conduct SVCE programs that promote decarbonization via grid innovation and fuel switching to clean electricity

5.2.5) Support initial programs

5.2.6) Engage 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).

5.2.7) Engage industry partners (e.g., startups, corporations, academia) in designing innovative grid technology programs that provide value to customers and help enable further grid decarbonization.

**Strategy 5.4:** Establish SVCE customer resource center

5.4.1) Develop initial requirements for SVCE web-based knowledge center to support customer awareness, education and action with respect to electrification and decarbonization

5.4.2) Develop pilot implementation

**Strategy 5.3:** Define, develop, maintain and leverage internal databases and tools to carry out high-impact analyses to support activities and functions across SVCE

5.3.1) Establish SVCE customer interval data analytics platform based on requirements developed with input from across all functions at SVCE

5.3.1) 5.5.1) Develop initial requirements for SVCE customer data to support future program activity, e.g., TOU incentives and targeted outreach

5.3.2) 5.5.2) Acquire, aggregate, and manage additional data sets with high potential for business insight (tax assessor data, EV adoption, etc.)

5.3.3) Develop visualization and other interpretation tools to facilitate distilling complex, data-intensive, and/or technical topics into informative graphics and actionable insight for broad audiences.

**FINANCE AND FISCAL RESPONSIBILITY**

A respected financial ranking requires disciplined fiscal strategies and financially sound policies. SVCE is committed to managing its financial resources responsibly.
and setting a standard of transparency and accountability, ensuring efficiency and strong stewardship of the agency’s financial resources. At SVCE, our commitment to fiscal and operational excellence will ensure that all processes and operations are clearly defined and efficiently designed to align people, systems, and policies to maximize productivity and improve efficiency. Adhering to these policies and actively examining and assessing risk will earn us a high credit rating and a healthy position in delivering customer value.

**Goal 6: Commit to Excellence**

**Strategy 6.1:** Evaluate current systems, policies and processes to identify opportunities to optimize agency resources

6.1.1) Identify opportunities for collaboration internally between departments and externally with community partners

6.1.2) Optimize the business processes to maximize value to the community and realize cost-efficiency opportunities at both the department and agency levels

6.1.3) Define and implement project management processes and tools that meet the needs of the agency

6.1.4) Identify opportunities for eliminating redundancies by increasing automation and system functionality

**Goal 6: Goal 7: Achieve an investment grade credit rating by end of 2020**

**Strategy 6.1: Strategy 7.1:** Develop and maintain comprehensive policies for the governance of SVCE financials. Update the cash reserves policy and monitor reserves to hedge unexpected variation in power supply costs, provide capital during economic downturns and mitigate sudden rate increases

6.1.1) 7.1.1) Develop and report on SVCE dashboards that include key financial metrics. Maintain pursuit of the liquidity target of 180 days of the following twelve months of projected operating expenses

6.1.2) 7.1.2) Develop an annual budget and update mid-fiscal year. Maintain a debt-to-equity ratio of 0.5 or less

6.1.3) 7.1.3) Bi-Annually, develop 5-year financial forecasts to predict rate adjustments or financial risks. Maintain rate competitiveness with PG&E

6.1.4) 7.1.4) Frequently monitor discretionary expenses (non-power supply) to ensure that they remain within 5% of budget.
and maintain risk management policies and controls with respect to power procurement

**Strategy 6.2:** Establish a Cash Reserves Policy to hedge unexpected variation in power supply costs, provide capital during economic downturns and mitigate against rate increases

6.2.1) Update Cash Reserves Policy by July 2019
6.2.2) Establish retail rates a minimum of 1% below PG&E’s rates
   Establish a range of 90 to 270 expense coverage days with a reserves target of 180 expense coverage days
6.2.3) Maintain a debt-to-equity ratio of 0.5 or less

**Goal 7: Goal 8:** Target rates at 1–3%, or more, below the surrounding investor-owned utility

**Empower decision making with data**

**Strategy 7.1:**
Integrate advances in information and systems technology to enhance the collection, structuring and analysis of data for decision-making and change management

7.1.1) Annually, identify major shifts in key cost components and recommend an approach to minimize risks associated with those shifts
7.1.2) Bi-annually update and present 5-year financial forecast to predict rate adjustments and financial risks
7.1.3) Build executive dashboards in order to utilize accurate and timely data in both operational and strategic decision-making
7.1.4) Evaluate data available in financial systems and other administrative systems to identify and address gaps between the data available and the data desired

7.1.5) Provide analysis and context to guide and inform decision making for our business partners

**REGULATORY & LEGISLATIVE**

The regulatory and legislative processes wield critical influence over SVCE’s ability to serve our customers and fulfill our core goals and mission. SVCE will actively engage with the regulatory and legislative communities in order protect the interests of our customers, enhance our ability to mitigate greenhouse gas emissions, and help build a regulatory framework that supports innovation and
customer choice in an equitable and cost-effective manner while preserving reliability and universal access.

**Goal 8: Goal 9:** Engage regulators and legislators in developing policy that protects CCA rights and facilitates CCA contributions to decarbonization, grid reliability, affordability, and social equity

**Strategy 8.1:** Use strategic lobbying to Develop a voice and identity for SVCE in Sacramento that allows us to effectively shape a regulatory and legislative environment that supports SVCE’s existence and GHG mitigation efforts

8.1.1) Coordinate with CalCCA lobbyists to maximize legislators’ awareness of CCA issues
8.1.2) Leverage the voices of SVCE’s Board of Directors and other community leaders within SVCE’s territory by arranging for them to contact and meet with their legislators to discuss CCA issues
8.1.3) Ensure that climate and CCA stewardship are part of the conversation during local elections for municipal and state legislative positions

**Strategy 9.1:** Engage in long-term legislative planning that facilitates efficient use of SVCE’s advocacy resources

**Strategy 8.2:** Build the California Community Choice Association (CalCCA) into a stable, resilient institution and a respected political brand that can advocate for SVCE values statewide

8.2.1) Identify opportunities for CalCCA to grow or improve its operations, and help develop CalCCA’s institutional goals and vision. Where CalCCA and SVCE priorities are aligned, coordinate advocacy with CalCCA and contribute to CalCCA efforts in order to maximize efficiency of SVCE advocacy
8.2.2) Support CalCCA staff in facilitating and hosting CalCCA conference calls and meetings. Develop an understanding of where SVCE’s priorities differ from CalCCA’s in order to make strategic decisions about when to collaborate and when to work independently
8.2.3) Contribute to the development of protocols and procedures governing CalCCA’s activities

**Strategy 9.2:** Maximize the effectiveness of SVCE’s advocacy through collaboration with the California Community Choice Association (CalCCA) and other CCAs where appropriate

9.2.1) Identify opportunities for CalCCA to grow or improve its operations, and help develop CalCCA’s institutional goals and vision. Where CalCCA and SVCE priorities are aligned, coordinate advocacy with CalCCA and contribute to CalCCA efforts in order to maximize efficiency of SVCE advocacy
9.2.2) Support CalCCA staff in facilitating and hosting CalCCA conference calls and meetings. Develop an understanding of where SVCE’s priorities differ from CalCCA’s in order to make strategic decisions about when to collaborate and when to work independently
9.2.3) Contribute to the development of protocols and procedures governing CalCCA’s activities

**Strategy 9.3:** Identify and collaborate with other CCAs who share SVCE’s policy priorities
8.2.4) 9.2.4) Contribute to orientation, mentoring, and knowledge transfer for new CalCCA members. Organize collaborative initiatives with other CCAs where possible in order to facilitate efficient expenditure of SVCE advocacy and policy resources.

8.2.5) Author comments, testimony, articles for the media, and other documents under the CalCCA name as needed until CalCCA staff can take over this function.

8.2.6) Facilitate SVCE Board participation in CalCCA advocacy activities in order to maximize advocacy efficiency and effectiveness.

**Strategy 8.3: Strategy 9.3:** Develop relationships with community stakeholder organizations that foster support for SVCE and decarbonization.

9.3.1) Attend or cohost relevant community meetings and events to engage individual community leaders and groups. Identify stakeholders whose goals and priorities align with SVCE’s and develop plans for outreach and relationship-building.

9.3.2) Attend or cohost relevant community meetings and events to engage individual community leaders or groups.

9.3.2) Include Encourage members of local stakeholder organizations to assist in SVCE’s advocacy efforts by providing updates on key issues and encouraging them to contact legislators.

**Strategy 8.4: Strategy 9.4:** Conduct research that quantifies CCA contributions to decarbonization and other core policy goals, and documents the benefits CCA members receive under CCA operation. Provide thought leadership and policy development expertise to help advance California’s energy policy framework in a manner that supports SVCE’s values.

8.4.1) 9.4.1) Annually, use data collected during SVCE operations to provide quantitative evidence of the qualitative benefits of CCA membership (e.g., rate stability, carbon savings, community engagement, etc.) Contribute to CalCCA and CPUC working groups, public forums, and other processes in which stakeholders have the opportunity to actively shape regulatory and legislative policy.

8.4.2) 9.4.2) Publish results in peer-reviewed journals or industry publications where they can be seen and shared. Ensure that the expertise of SVCE employees is given voice in policymaking forums.

9.4.3) Share results with other CCAs and encourage them to do the same in order to identify best practices and opportunities for improvement. Identify knowledge gaps in SVCE-relevant policymaking conversations and recruit consultants or other resources to help fill them.
Where appropriate, work with other departments in SVCE to publish white papers, research articles, and other materials that help spread SVCE’s findings, ideas, and best practices.

**POWER SUPPLY**

Navigating the world of wholesale power markets and state-mandated power mix and reliability requirements while fulfilling our commitment to sourcing 100% carbon free electricity requires a constant search for the right resources to meet sustainability and value proposition goals. The threat of losing load to Direct Access presents new challenges and opportunities to enhance product offerings to meet SVCE’s decarbonization goals and our customers’ own environmental goals while considering financial and risk impacts. SVCE is committed to providing carbon free electricity through a balanced approach which considers cost, risk, long-term value and best-fit in meeting community goals and competitive acquisition, while supporting regionalization and expanding the California Independent System Operator (CAISO) to improve access to more carbon free resources.

**Goal 9:Goal 10:** Annually, acquire sufficient bundled energy and renewable type 1 resources (PCC1) to achieve SVCE’s greenhouse gas reduction goals while exceeding California’s mandates of 100% of California’s Renewable Portfolio Standard (RPS) regardless of the allowance that the state makes for type 2 or type 3 renewables.

**Strategy 9.1:** Stagger acquisitions to accommodate regulatory uncertainty, changes in load and supply price risks. On an annual basis, achieve 100% of California’s Renewable Portfolio Standard (RPS) and meet long-term procurement requirements.

9.1.1) For the upcoming calendar years (2020 and 2021), balance procurement of RPS resources with in-state bundled renewables procure 100% of RPS through (PCC1) and out-of-state bundled renewables (PCC2) taking into consideration availability, cost and carbon-free objectives.

9.1.2) Procure sufficient long-term resources to achieve a minimum 65% of the mandated RPS through power purchase agreements for terms no less than ten years starting in 2021 for RPS Compliance Period 4 (2021-2024).

**Strategy 10.2:** Stagger and diversify renewable energy acquisitions to accommodate regulatory uncertainty, changes in load and supply price risks.

10.2.1) Diversify price risk by contracting for a mix of fixed-price and index-plus REC structured RPS resources.
10.2.2) Consider the impacts of Direct Access and/or load loss by diversifying term with a mix of short-term (less than 5 years) and longer term RPS resources

**Strategy 9.2+Strategy 10.3:** Diversify the location and technology used when acquiring renewable resources to achieve least-cost, best-fit planning objectives, while improving reliability, matching energy delivery to load needs and minimizing emissions. Use technologies to meet RPS needs

10.3.1) Assess the value and risk of diversifying resource technology, baseload versus intermittent, storage and potential changes in technology

9.2.1) 10.3.2) Consider location and expected generation value with consideration for time-of-delivery and uncertainty as terms as part of the selection process

9.2.2) Invest in storage capacity to meet California’s mandated energy storage requirement of 1% of SVCE’s 2020 peak load forecast by 2021

**Strategy 10.4:** Deploy storage to achieve renewable, carbon-free and resource adequacy objectives

10.4.1) At a minimum invest in storage capacity to meet California’s mandated energy storage requirement of 1% of SVCE’s 2020 peak load forecast by 2021

10.4.2) Consider the costs and benefits of storage when combined with intermittent renewable resources to enhance energy value and minimize renewable curtailments

10.4.3) Assess the merits of various storage technologies, configurations, sizes and contracting mechanisms including AC versus DC coupled, grid versus non-grid charging and lease versus owned

10.4.4) Consider stand-alone storage to meet grid reliability and resource adequacy needs

**Strategy 9.3+Strategy 10.5:** Identify and pursue cost effective, local distributed energy resources to meet RPS and reliability needs

9.3.1) 10.5.1) Assess technical, economic and market potential

9.3.2) 10.5.2) Determine value of local distributed energy resources

9.3.3) 10.5.3) Evaluate the use of feed-in-tariffs and/or other mechanisms to contribute towards local economic development.

10.5.4) Issue a distributed energy resource RFO for locally-sited renewable resources
9.3.4) 10.5.5) Pursue behind-the-meter storage and demand response solutions to meet resource adequacy and resiliency

**Goal 10:** Acquire sufficient resources to ensure that 100% of SVCE’s energy needs are from carbon free resources

**Strategy 11.1:** Strike a balance between large hydro and renewable resources when considering cost to meet 100% of SVCE’s load with carbon-free resources

11.1.1) Short-term, continue to contract for large hydro resources through carbon-free adder plus energy index structure with a variety of suppliers

11.1.2) Explore longer-term large hydro opportunities including run-of-river projects and/or participating in a lay-off with existing hydro project owners

11.1.3) Execute the Western Base Resource contract with the Western Area Power Administration to receive a share of the output from the Central Valley Project

**Strategy 10.2:** Promote regionalization and the expansion of the energy imbalance market to enhance the value of both in-state and out-of-state renewable and carbon-free resources and speed the timeline for achieving carbon neutrality

10.2.1) Support the CAISO’s effort to expand the energy imbalance market and other initiatives the CAISO’s effort to establish a western wide balancing authority and that promote the development and cost-effective integration of renewable resources throughout the western interconnected grid

10.2.2) Conduct a study to compare the value of investing in-state versus out-of-state for renewable resources by March 2018

**Goal 12:** Manage power supply resources and risks to financial and rate objectives

**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

11.1.1) Assess core procurement, scheduling, settlements and reporting functions and determine best use of in-house versus outsourced resources

11.1.2) Consider joint procurement for electricity and related services with other CCAs through the formation of a joint power agency and/or other arrangements
12.1.3) Explore opportunities to partner/procure energy and related services with publicly owned utilities

**Strategy 11.2+Strategy 12.2:** Manage market price, credit, load and supplier volume risk to meet rate and financial objectives

- 12.2.1) Implement an energy risk management program consistent with the Board-approved Energy Risk Management Policy
- 12.2.2) Develop internal models to measure, monitor and report portfolio and net revenue risks
- 12.2.3) Evaluate hedging strategy and use of hedging products
- 12.2.4) Evaluate the use of off-the-shelf products for enhanced risk management analytics, contract management and portfolio optimization
- 12.2.5) Leverage the use of consultants to evaluate product offerings, strategies and optimization of supply resources

**INFORMATION TECHNOLOGY**

At SVCE, we take customer information, privacy, and security seriously. Our systems and processes follow best practices and industry standards. Performance metrics are in place to ensure resiliency and high system availability on standard and mobile platforms. Periodic upgrades to IT resources will ensure continued adherence to these high standards. This strategic plan provides the approach that SVCE is taking to address the challenges of delivering IT services in a dynamic environment with new regulations and continuous advancements in science and technology.

**Goal 12: Goal 13:** SVCE’s Information Technology infrastructure must be secure, reliable, and disaster resilient to provide 24/7/365 online access

**Strategy 12.1.+Strategy 13.1:** Deliver advanced capabilities to foster collaboration, knowledge management, and analytics

- 12.1.1) Enhance collaboration across departments through digital solutions to inform and engage internal and external audiences
- 13.1.1) Ensure the availability of and access to information that enables departments to make timely, informed decisions by strengthening data and knowledge management approaches
- 12.1.3) Implement quality management processes to baseline, and begin routine reporting on the performance of projects, key metrics
13.1.2) Deploy a modernized IT infrastructure that enables seamless access to information resources

13.1.3) Develop metrics and communicate to management via a monthly Information Technology report to gauge the overall performance of the system

**Strategy 12.2:** Provide a robust and secure IT infrastructure that supports on-demand access to information

12.2.1) Deploy a modernized IT infrastructure that enables seamless access to information resources

12.2.2) Protect the integrity of the department’s information and IT assets by strengthening our cybersecurity posture

12.2.3) (Cloud Computing) Drive centralized and streamlined cloud adoption to meet the business needs of the department

12.2.4) SVCE will administer an internal security audit of the system on a monthly basis. SVCE will conduct an annual audit with an independent third party to determine the security of the system and correct any findings and consider implementing recommendations

12.2.5) Provide 24/7/365 continuous support, 100% system reliability and 0% data breaches by third parties

**Strategy 13.2:** Advance business management practices to transform service delivery

13.2.1) (IT Policy and Governance) Establish and employ streamlined policy and governance processes that align IT solutions with customer expectations and mission requirements

12.3.2) (IT Human Capital Management) Build, develop, and retain a talented, diverse IT workforce

13.2.23) (IT Business Systems) Ensure efficient and effective performance of core business functions and enterprise services

**Strategy 13.3:** Improve mandates & IT audit compliance

13.3.1) Develop a strategy that includes a disaster recovery solution that provides business continuity for critical applications and vital records

13.3.2) SVCE will conduct an annual audit with an independent third party to determine the security of the system and correct any findings and consider implementing recommendations

13.3.3) SVCE will conduct a triennial AMI audit and report findings to the CPUC.

**Strategy 13.4:** Improve asset management
13.4.1) Leverage enterprise architecture and asset management tools to collect a complete inventory of assets and applications to enhance asset management
13.4.2) Evaluate available industry standard IT service frameworks and develop and implement a strategy in support of managing, maintaining, and applying IT governance over applications and technologies

**Strategy 13.5:** Reduce redundancy and promote consolidation
13.5.1) Streamline the procurement portfolio by performing strategic sourcing and category management.
13.5.2) Leverage enterprise architecture (EA) and business capability model to reduce infrastructure footprint
13.5.3) Perform application rationalization to identify unused, redundant and out of date applications, and trim down the portfolio through application modernization and decommissioning

**Strategy 13.6:** Enhance cybersecurity compliance and operations
13.6.1) Enhance and strengthen the Cybersecurity program to conduct highly effective incident response, insider threat detection, operational situational awareness, compliance, and to decrease the overall security risks to sensitive information and IT infrastructure
13.6.2) Implement data loss prevention, multi-factor authentication, security incident/event management tools, and encryption at rest
13.6.3) Implement continuous diagnostics and mitigation capabilities to identify cybersecurity risks on an ongoing basis and prioritize these risks based upon potential impacts
Staff Report – Item 6

To: Silicon Valley Clean Energy Board of Directors
From: Girish Balachandran, CEO

Item 6: Executive Committee Report

Date: 6/12/2019

The Executive Committee met on May 24, 2019 and this item will be addressed as an oral report to the Board.
Staff Report – Item 7

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Item 7: Audit Committee Report

Date: 6/12/2019

The Audit Committee met on June 5, 2019 and this item will be addressed as an oral report to the Board.
Silicon Valley Clean Energy
Board of Directors Meeting

June 12, 2019

Appendix A

Power Resource Contracts Executed by CEO
EEI MASTER POWER PURCHASE AND SALE AGREEMENT
SHORT TERM SALES CONFIRMATION
BETWEEN
PACIFIC GAS AND ELECTRIC COMPANY
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY, A CALIFORNIA JOINT POWERS
AUTHORITY

This confirmation ("Confirmation") confirms the transaction ("Transaction") between Pacific Gas and Electric Company, a California corporation, but limited for all purposes hereunder to its electric procurement and electric fuels functions ("Seller", "PG&E" or "Party B"), and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer" or "Party A"), each individually a "Party" and together the "Parties", effective as of the Execution Date, for the sale and purchase of the Product defined herein.

Except as otherwise expressly stated herein, this Confirmation is subject to, and incorporates by reference with the same force and effect as if set forth herein, all of the terms and provisions of the Parties’ EEI Master Power Purchase and Sale Agreement, together with the Cover Sheet, dated as of 10/25/2017 (collectively, "Master Agreement"), and the corresponding Collateral Annex and Paragraph 10 to the Collateral Annex thereto. Such Collateral Annex and Paragraph 10 to the Collateral Annex shall be referred to collectively herein as the "Collateral Annex". The Master Agreement and the Collateral Annex shall be referred to collectively herein as the "EEI Agreement". The EEI Agreement and this Confirmation shall be referred to collectively herein as the "Agreement."

Capitalized terms used but not defined in this Confirmation shall have the meanings ascribed to them in the EEI Agreement, the RPS (defined herein), or the Tariff (defined herein). If there is a conflict between the terms in this Confirmation and those in the EEI Agreement, this Confirmation shall control.

[Standard contract terms and conditions shown in shaded text are those that "may not be modified" per CPUC Decisions ("D.") 07-11-025; D.10-03-021, as modified by D.11-01-025; and D.13-11-024.]

<table>
<thead>
<tr>
<th>Seller:</th>
<th>Pacific Gas and Electric Company, limited for all purposes hereunder to its electric procurement and electric fuels functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Pacific Gas and Electric Company, limited for all purposes hereunder to its electric procurement and electric fuels functions (&quot;Seller&quot; or &quot;Party B&quot;)</td>
</tr>
<tr>
<td>Contact Information:</td>
<td></td>
</tr>
<tr>
<td>All Notices:</td>
<td>P.O. Box 770000, Mail Code N12E San Francisco, CA 94177 Attn: Candice Chan Director, Energy Contract Management &amp; Settlements Phone: (415) 973-7780 E-mail: <a href="mailto:CWW9@pge.com">CWW9@pge.com</a></td>
</tr>
<tr>
<td>Buyer:</td>
<td>Silicon Valley Clean Energy Authority, a California joint powers authority</td>
</tr>
<tr>
<td>Name:</td>
<td>Silicon Valley Clean Energy Authority, a California joint powers authority (&quot;Buyer&quot; or &quot;Party A&quot;)</td>
</tr>
<tr>
<td>Contact Information:</td>
<td></td>
</tr>
<tr>
<td>All Notices:</td>
<td>333 W El Camino Real, Suite 290 Sunnyvale, CA 94087 Attn: Monica Padilla, Director of Power Resources Phone: (408) 721-5301 x1009 Email: <a href="mailto:monica.padilla@svcleanenergy.org">monica.padilla@svcleanenergy.org</a></td>
</tr>
</tbody>
</table>
### Invoices:

**Attn:** Amol Patel  
**Senior Manager, Electric Settlements**  
**Phone:** (415) 973-6510  
**Email:** AXPX@pge.com

**Attn:** Power Supply Group  
**Phone:** (408) 721-5301  
**Email:** SVCEpowersettlements@svcleanenergy.org

### Scheduling:

**Attn:** Day-Ahead Scheduling  
**Phone:** (415) 973-6222  
**Email:** DAEnergy@pge.com

**Attn:** Z-Global  
**Phone:** (916) 985-9461  
**Email:** christine@zglobal.biz

### Payments:

**Attn:** Amol Patel  
**Senior Manager, Electric Settlements**  
**Phone:** (415) 973-6510  
**Email:** AXPX@pge.com

**Attn:** Finance Group  
**Phone:** (408) 721-5301  
**Email:** SVCEpowersettlements@svcleanenergy.org

### Wire Transfer:

<table>
<thead>
<tr>
<th>BNK:</th>
<th>ABA:</th>
<th>ACCT:</th>
<th>Duns:</th>
<th>Federal Tax ID Number:</th>
</tr>
</thead>
</table>

**Attn:** Finance Group  
**Phone:** (408) 721-5301  
**Email:** SVCEpowersettlements@svcleanenergy.org

### Credit and Collections:

**Attn:** Manager, Credit Risk Management  
**Phone:** (415) 972-5188  
**Email:** PGERiskCredit@pge.com

**Attn:** Finance Group  
**Phone:** (408) 721-5301  
**Email:** SVCEpowersettlements@svcleanenergy.org

### Collateral:

**Attn:** Finance Group  
**Phone:** (408) 721-5301  
**Email:** SVCEpowersettlements@svcleanenergy.org

### Defaults:

With additional Notices of an Event of Default or Potential Event of Default to:

Pacific Gas and Electric Company  
77 Beale Street, Mail Code B30A  
San Francisco, CA 94105  
**Attn:** Legal Department  
**Email:** JTHQ@pge.com

With additional Notices of an Event of Default or Potential Event of Default to:

**Address:**  
**Attn:** Stephen Hall  
**Email:** steve@hallenergylaw.com
## ARTICLE 1
### COMMERCIAL TERMS

<table>
<thead>
<tr>
<th>Seller: PACIFIC GAS AND ELECTRIC COMPANY, limited for all purposes hereunder to its electric procurement and electric fuels functions</th>
<th>Buyer: SILICON VALLEY CLEAN ENERGY AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Product:</strong></td>
<td>The Product shall consist of Electric Energy and associated Green Attributes from the Project, as further described and subject to the provisions herein.</td>
</tr>
<tr>
<td><strong>Project:</strong></td>
<td>All Product sold hereunder shall be generated from one or more facilities, listed in Appendix A to this Confirmation or identified pursuant to Section 8.2 herein, each meeting the requirements set forth in 6.1 (collectively, the “Project”). Seller shall have sole discretion throughout the Term to designate and re-designate, as applicable, the Project by selecting one or more of the facilities from Appendix A or pursuant to Section 8.2 herein. Buyer shall not be entitled to, and shall not receive, any amount of Green Attributes produced by the Project that is in excess of the Total Quantity. Buyer shall not be entitled to, and shall not receive, any amount of Electric Energy produced by the Project that is in excess of the Energy Quantity.</td>
</tr>
</tbody>
</table>
| **Quantity:** | (a) For Green Attributes: “Total Quantity”, with respect to an applicable year, shall be equal to those volumes of Green Attributes specified for that applicable year in the Delivery Term Quantity Schedule set forth below and shall be conveyed during the Green Attributes Delivery Period to Buyer as provided herein. 
(b) For Electric Energy: “Energy Quantity”, with respect to an applicable year, shall be equal to those volumes of Electric Energy specified for that applicable year in the Delivery Term Quantity Schedule set forth below and shall be delivered during the Energy Delivery Period to Buyer as provided herein. |

### Delivery Term Quantity Schedule

<table>
<thead>
<tr>
<th>Year</th>
<th>Green Attributes (MWh)</th>
<th>Electric Energy (MWh)</th>
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<thead>
<tr>
<th>Energy Price:</th>
<th>The Energy Price shall mean the Index Price for each MWh of Delivered Energy delivered to Buyer under this Agreement.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Green Attributes Price:</th>
<th>The Green Attributes Price shall mean, with respect to an applicable year, that price in dollars for each MWh of Green Attributes conveyed to Buyer under this Agreement, as specified in the table below.</th>
</tr>
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</table>
### Appendix A

**EXECUTION VERSION**

<table>
<thead>
<tr>
<th>Year</th>
<th>Green Attributes Price ($)</th>
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**Term of Transaction:**

Except as otherwise provided herein, the term of the Transaction shall commence upon the Execution Date and shall continue until the end of the Delivery Term and the satisfaction of all other obligations of the Parties under this Agreement ("Term").

This Confirmation, and the Transaction and Term hereunder, shall terminate early in the event of a failure to satisfy the Green Attributes Condition Precedent defined below or as otherwise provided in the Agreement.

Termination because of a failure to satisfy the Green Attributes Condition Precedent shall terminate all of the Parties’ obligations under the Confirmation as of the Transaction Termination Date as provided in Section 4.2, except for the Parties’ confidentiality obligations under Article 9 herein.

**Credit Requirements:**

(a) This Confirmation’s credit requirements for the Electric Energy portion of the Product shall be governed by the EEI Agreement.

(b) This Confirmation’s credit requirements for the Green Attributes portion of the Product shall apply as specified below:

(i) If the EEI Agreement has a Collateral Annex, then the Exposure Amount for the Green Attributes portion of the Product shall be equal to the product of the following: (I) fifteen percent (15%), multiplied by (II) the volume of the undelivered Green Attributes, multiplied by (III) the Green Attributes Price.

(c) Notwithstanding anything to the contrary contained in the EEI Agreement, if the conditions in subsections (i) and (ii) below are satisfied during the Delivery Term, then this Confirmation’s credit requirements for the Green Attributes portion of the Product under Section (b) above shall not apply for that time period during which all such conditions are satisfied::

(i) Buyer’s customers are Pacific Gas and Electric Company’s distribution or transmission customers and Pacific Gas and Electric Company is the billing agent for those customers; and

(ii) Pacific Gas and Electric Company is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Buyer’s retail electric customers.

If at any time during the Term, one or more of the conditions in subsections (i) and (ii) in this Section (c) is no longer satisfied and Seller has provided Buyer with written notice of such failure to satisfy ("Condition Notice"), then Buyer shall comply with the credit requirements of Section (b) above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

(d) Section 8.1 of the EEI Agreement, entitled “Party A Credit Protection”, and all corresponding provisions of (i) the Cover Sheet to Section 8.1 of the EEI Agreement and (ii) the Collateral Annex with respect to such Section 8.1 and the applicable provisions thereto of Paragraph 10 to the Collateral Annex do not apply to this Confirmation.
<table>
<thead>
<tr>
<th><strong>Delivery Term:</strong></th>
<th>The “Delivery Term” shall consist of both the Energy Delivery Period and the Green Attributes Delivery Period.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Energy Delivery Period:</strong></td>
<td>Subject to the satisfaction, or waiver in writing by both Parties, of the Green Attributes Condition Precedent, the “Energy Delivery Period” shall (1) commence as of the later of 01/01/2020 and that date upon which CPUC Approval occurs, and (2) end on the earlier of the conclusion of hour ending 2400 (PPT) on 12/31/2020 and that date upon which the amount of Electric Energy delivered by Seller satisfies the Energy Quantity.</td>
</tr>
<tr>
<td><strong>Green Attributes Delivery Period:</strong></td>
<td>Subject to the satisfaction, or waiver in writing by both Parties, of the Green Attributes Condition Precedent, the “Green Attributes Delivery Period” shall commence on the first day that Seller conveys Green Attributes to Buyer and shall end on that date upon which the amount of Green Attributes conveyed to Buyer satisfies the Total Quantity. Seller shall convey Green Attributes to Buyer in the form of WREGIS Certificates. Seller shall transfer WREGIS Certificates into Buyer’s WREGIS account in an amount required to satisfy the Total Quantity.</td>
</tr>
<tr>
<td><strong>Delivery Point:</strong></td>
<td>The “Delivery Point” shall be any of the following as selected by Seller in its discretion: NP15, SP15, and/or ZP26. Buyer shall take possession of Electric Energy from the Project at the applicable Delivery Point selected by Seller.</td>
</tr>
<tr>
<td><strong>Scheduling Obligations:</strong></td>
<td>Seller, or a qualified third party designated by Seller, shall act as Scheduling Coordinator for the Project. Buyer hereby authorizes Seller, or its third party Scheduling Coordinator designee, to deliver the Electric Energy to the CAISO at the Delivery Point as an agent on Buyer’s behalf.</td>
</tr>
<tr>
<td><strong>Condition Precedent to the Green Attributes Obligations:</strong></td>
<td>Notwithstanding any other provision of this Confirmation to the contrary, all of the Parties’ obligations except for the Parties’ confidentiality obligations under Article 9 herein, are conditioned upon Seller’s receipt, or the Parties’ written waiver, of CPUC Approval as defined below (“Green Attributes Condition Precedent”).</td>
</tr>
</tbody>
</table>

**ARTICLE 2  DEFINITIONS**

2.1 “Balancing Authority” has the meaning set forth in the CAISO Tariff.

2.2 “Balancing Authority Area” has the meaning set forth in the CAISO Tariff.

2.3 “Broker or Index Quotes” means quotations solicited or obtained in good faith from (a) regularly published and widely-distributed daily forward price assessments from a broker that is not an Affiliate of either Party and who is actively participating in markets for the relevant Products or (b) end-of-day prices for the relevant Products published by exchanges which transact in the relevant markets.

2.4 “Business Day” means all calendar days other than those days on which the Federal Reserve member banks in New York City are authorized or required by law to be closed, and shall be between the hours of 8:00 a.m. and 5:00 p.m. Pacific Prevailing Time for the relevant Party’s principal place of business where the relevant Party, in each instance unless otherwise specified, shall be the Party
from whom the Notice, payment or delivery is being sent and by whom the Notice or payment or delivery is to be received.

2.5 "CAISO" means the California Independent System Operator Corporation or any successor entity performing similar functions.

2.6 "CAISO Grid” has the same meaning as “CAISO Controlled Grid” as defined in the CAISO Tariff.

2.7 "California Renewables Portfolio Standard” or “RPS” means the renewable energy program and policies established by California State Senate Bills 1078, X1 - 2 and 350, codified in California Public Utilities Code Sections 399.11 through 399.32 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

2.8 "CARB" means the California Air Resources Board or its successor agency.

2.9 "CEC” means the California Energy Commission or its successor agency.

2.10 "Contract Price” means the Energy Price plus the Green Attributes Price.

2.11 “CPUC” means the California Public Utilities Commission or its successor entity.

2.12 “CPUC Approval” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

(a) approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer's administration of the Agreement; and

(b) finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable.

For the purpose of this Section 2.12, a CPUC Energy Division disposition which contains such findings, or deems approved an advice letter requesting such findings, shall be deemed to satisfy the CPUC decision requirement set forth above.

Also, for the purpose of this Section 2.12 only, the references therein to “Buyer” shall mean “Seller”.

2.13 “Credit Rating” means, with respect to any entity, (a) the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements), or (b) 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.

2.14 "Delivered Energy" means the Electric Energy from the Project that is delivered by Seller to Buyer at the Delivery Point.

2.15 "Electric Energy" means three-phase, 60-cycle alternating current electric energy measured in MWh and net of auxiliary loads and station electrical uses (unless otherwise specified).

2.16 "Eligible Renewable Energy Resource" or "ERR" has the meaning set forth in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25741, as either code provision is amended or supplemented from time to time.

2.17 "Execution Date" means the latest signature date found on the signature page of this Agreement.

2.18 "Force Majeure" means an event or circumstance which prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the Execution Date, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (a) the loss of Buyer's markets; (b) Buyer's inability economically to use or resell the Product purchased hereunder; (c) the loss or failure of Seller's supply unless caused by a force majeure event at the Project; or (d) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the two foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred.

2.19 "Governmental Authority" means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

2.20 "Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by Law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere\(^1\); (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state Law, if applicable.

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\(^1\) Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.
and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local Law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Electric Energy. Green Attributes do not include (i) any Electric Energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

2.21 “Index Price” means the Trading Hub price (as defined in the CAISO Tariff) associated with the Delivered Energy to the Delivery Point for each applicable hour as published by the CAISO on the CAISO website or any successor thereto, unless a substitute publication and/or index is mutually agreed to by the Parties.

2.22 “Law” means any statute, law, treaty, rule, regulation, CEC guidance document, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective after the Execution Date; or any binding interpretation of the foregoing. For the purposes of the definition of “CPUC Approval” in Section 2.12 and Sections 6.1(a), 6.1(b) and 8.3(b) in this Confirmation, the term “law” shall have the meaning set forth in this definition.

2.23 “Letter of Credit” means an irrevocable, non-transferable, standby letter of credit the form of which shall be substantially as contained in Appendix B to this Agreement; provided that, if the issuer is a U.S. branch of a foreign commercial bank, the intended beneficiary may require changes to such form; and the issuer must be a Qualified Institution on the date of delivery of the Letter of Credit to the Secured Party. In case of a conflict of this definition with any other definition of “Letter of Credit” contained in the EEI Agreement or any exhibit or annex thereto, this definition shall supersede any such other definition for purposes of the Transaction to which this Agreement applies.

2.24 “Market Quotation Average Price” means the arithmetic mean of the quotations solicited in good faith from not less than three (3) Reference Market-Makers (as hereinafter defined); provided, however, that the Party obtaining the quotes shall use reasonable efforts to obtain good faith quotations from at least five (5) Reference Market-Makers and, if at least five (5) such quotations are obtained, the Market Quotation Average Price shall be determined by disregarding the highest and lowest quotations and taking the arithmetic mean of the remaining quotations. The quotations shall be based on the offers to sell or bids to buy, as applicable, obtained for transactions substantially similar to each Terminated Transaction. The quote must be obtained assuming that the Party obtaining the quote will provide sufficient credit support for the proposed transaction. Each quotation shall be obtained, to the extent reasonably practicable, as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the Party obtaining the quotations and in accordance with the Notice provided pursuant to Section 5.2 of the EEI Agreement, which designates the
Early Termination Date. If fewer than three quotations are obtained, it will be deemed that the Market Quotations Average Price in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined. For purposes of this Section 2.24, “Reference Market-Maker” means a leading dealer in the relevant market selected by a Party determining its exposure in good faith from among dealers of the highest credit standing which satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit.

2.25 “Notice” means written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail). The contacts table of this Confirmation contains the names and addresses to be used for Notices.

2.26 “Qualified Institution” means either a U.S. commercial bank, or a U.S. branch of a foreign bank acceptable to the Beneficiary Party in its sole discretion; and in each case such bank must (i) have a Credit Rating of at least: (a) “A-, with a stable designation” from S&P and “A3, with a stable designation” from Moody’s, if such bank is rated by both S&P and Moody’s; or (b) “A-, with a stable designation” from S&P or “A3, with a stable designation” from Moody’s, if such bank is rated by either S&P or Moody’s, but not both, even if such bank was rated by both S&P and Moody’s as of the date of issuance of the Letter of Credit but ceases to be rated by either, but not both of those ratings agencies, and (ii) have assets of at least $10 billion US Dollars.

2.27 “Real-Time Market” has the meaning set forth in the Tariff and shall include any market that CAISO may establish prior to or during the Term that clears at an interval between the Day-Ahead Market and the Real-Time Market.

2.28 “Renewable Energy Credit” or “REC” has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time or as further defined or supplemented by Law.

2.29 “Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases for delivery at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (a) costs reasonably incurred by Buyer in purchasing such substitute Product and (b) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or absent a purchase, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

2.30 “Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells any Product not received by Buyer, deducting from such proceeds any (a) costs reasonably incurred by Seller in reselling such Product and (b) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or absent a sale, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, further, that in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner
whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

2.31 "Tariff" means the CAISO Fifth Replacement FERC Electric Tariff and protocol provisions, including any CAISO-published procedures or business practice manuals, as they may be amended, supplemented or replaced (in whole or in part) from time to time.

2.32 "Transactions" as used in the EEI Agreement shall mean the "Transaction" as defined in the preamble above.

2.33 "WREGIS" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

2.34 "WREGIS Certificate" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

2.35 "WREGIS Operating Rules" means the operating rules and requirements adopted by WREGIS.

ARTICLE 3
CONVEYANCE OF ELECTRIC ENERGY AND GREEN ATTRIBUTES

3.1 Seller’s Delivery of Electric Energy.

Subject to the terms and conditions of this Agreement, beginning on the first day of the Energy Delivery Period and continuing until the last day of the Energy Delivery Period, Seller shall deliver and sell, and Buyer shall purchase and receive, the Delivered Energy.

3.2 Seller’s Conveyance of Green Attributes.

(a) Green Attributes. Subject to the terms and conditions of this Agreement, beginning on the first day of the Green Attributes Delivery Period and continuing until the last day of the Green Attributes Delivery Period, Seller shall convey and sell, and Buyer shall purchase and receive, those Green Attributes associated with the Delivered Energy.

(i) Seller represents and warrants that Seller holds the rights to such Green Attributes from the Project and Seller agrees to convey such Green Attributes to Buyer as included in the delivery of the Product from the Project subject to the terms and conditions of this Agreement.

(ii) As set forth above, Seller shall convey only that amount of Green Attributes required to meet the Total Quantity and shall do so only during the Green Attributes Delivery Period.

(b) The Green Attributes in the amount of the Total Quantity shall be deemed to be conveyed to and received by Buyer under this Confirmation as set forth herein. During the Green Attributes Delivery Period, Seller shall convey to Buyer the Green Attributes associated with the Delivered Energy within: twenty-five (25) Business Days following the occurrence of both (I) the deposit into Seller’s WREGIS account of the WREGIS Certificates for the Green Attributes for the applicable Calculation Period and (II) Buyer’s payment of the Monthly Cash Settlement Amount in accordance with Article 5 herein. Seller shall transfer such WREGIS Certificates in an amount equivalent to the Total Quantity to
Buyer’s WREGIS account such that all right, title and interest in and to the WREGIS Certificates shall transfer from Seller to Buyer.

ARTICLE 4
CPUC FILING AND APPROVAL

4.1 Filing for CPUC Approval.

Within sixty (60) days after the Execution Date, Seller shall file with the CPUC a request for CPUC Approval. Buyer shall use commercially reasonable efforts to support Seller in obtaining CPUC Approval. Seller shall have no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Confirmation or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party. Notwithstanding anything to the contrary in the Confirmation, Seller shall not have any obligation or liability to Buyer or any third party for any action or inaction of the CPUC or other Governmental Authority affecting the approval or status of this Confirmation as a transaction eligible for portfolio content category 1, as defined in California Public Utilities Code Section 399.16(b)(1).

4.2 Termination Right and Transaction Termination Date.

In the event that: (a) the CPUC issues a final and non-appealable order not approving this Agreement in its entirety, (b) the CPUC issues a final and non-appealable order which contains conditions or modifications unacceptable to either Party, or (c) approval by the CPUC has not been received by Seller on or before sixty (60) days from the date on which Seller files for CPUC Approval, then either Party may, in its sole discretion, elect to terminate this Agreement upon Notice to the other Party provided in accordance with Article 10.7 of the EEI Agreement. Such Notice shall become effective one (1) Business Day after its provision. The effective date of the Notice shall constitute the “Transaction Termination Date”. Any termination elected and noticed in accordance with this Section 4.2 shall terminate all of the Parties’ rights and obligations under the Agreement as of the Transaction Termination Date, except for the Parties’ confidentiality obligations under Article 9 herein.

4.3 Effect of Termination.

Any termination properly exercised by a Party under Section 4.2 shall be without liability or obligation, except for the Parties’ confidentiality obligations under Article 9 herein, and shall have no effect on the status of the EEI Agreement.

ARTICLE 5
COMPENSATION

5.1 Calculation Period.

The “Calculation Period” shall be each calendar month or portion thereof that Delivered Energy was conveyed to Buyer and for which associated Green Attributes will be transferred to Buyer under this Confirmation as described in Section 3.2(b).

5.2 Monthly Cash Settlement Amount.

Buyer shall pay Seller the Monthly Cash Settlement Amount, in arrears, for each Calculation Period. The “Monthly Cash Settlement Amount” for a particular Calculation Period shall be equal to the sum of (a) plus (b) minus (c), where:
Appendix A

EXECUTION VERSION

(a) equals the sum, over all hours of the Calculation Period, of the applicable Energy Price for each hour of Delivered Energy, multiplied by the quantity of Delivered Energy during that hour; and

(b) equals the Green Attributes Price multiplied by the quantity of Green Attributes (in MWhs) that will be conveyed as described in Section 3.2(b) and that are associated with the Delivered Energy in the Calculation Period; and

(c) equals the sum, over all hours of the Calculation Period, of the applicable Energy Price for each hour of Delivered Energy, multiplied by the quantity of Delivered Energy during that hour.

5.3 Payment Date.

Notwithstanding anything to the contrary in Article Six of the EEI Agreement, payment of each Monthly Cash Settlement Amount by Buyer to Seller under this Confirmation shall be due and payable four (4) calendar months following the applicable Calculation Period and on or before the later of: (a) the twentieth (20th) day of the month in which the Buyer receives from Seller an invoice for the Calculation Period to which the Monthly Cash Settlement Amount pertains, and (b) ten (10) days following the date of Buyer’s receipt of an invoice issued by Seller for such applicable Calculation Period; provided that, if such payment due date is not a Business Day, then on the next Business Day. Payment to Seller shall be made by wire transfer pursuant to the Notices section of this Agreement.

5.4 Invoices.

The invoice shall include a statement detailing the amount of Delivered Energy, and associated Green Attributes, transferred to Buyer during the applicable Calculation Period. For purposes of this Confirmation, Buyer shall be deemed to have received an invoice upon Buyer’s receipt by e-mail of such invoice in PDF format from Seller. Invoices to Buyer shall be sent by email to: [Buyer to insert]

ARTICLE 6
REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 Seller’s Representations, Warranties, and Covenants.

(a) Seller Representations and Warranties. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

(b) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
Appendix A

EXECUTION VERSION

(c) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract:

(i) For the avoidance of doubt, the term “contract” as used in the immediately preceding paragraph means this Confirmation.

(ii) For further clarity, the phrase “first delivery” as used in the immediately preceding paragraph means the first date of the Green Attributes Delivery Period.

(d) In addition to the foregoing, Seller warrants, represents and covenants, as of the Execution Date and throughout the Delivery Term, that:

(i) Seller has the contractual rights to sell all right, title, and interest in the Product required to be delivered hereunder;

(ii) Seller has not sold the Product required to be delivered hereunder to any other person or entity;

(iii) Seller is a “forward contract merchant” within the meaning of the United States Bankruptcy Code (as in effect as of the Execution Date of this Confirmation);

(iv) at the time of delivery, all rights, title, and interest in the Product required to be delivered hereunder are free and clear of all liens, taxes, claims, security interests, or other encumbrances of any kind whatsoever;

(v) Seller shall not substitute or purchase any Product from any generating resource other than the Project or the market for delivery hereunder; and

(vi) the facility(s) designated by Seller as the Project and all electrical output from the facility(s) designated as the Project are, or will be, by the first date of the Green Attributes Delivery Period, registered with WREGIS as RPS-eligible.

(e) As of the Execution Date and throughout the Energy Delivery Period, Seller represents, warrants and covenants that the Project meets the criteria in either (A) or (B):

(A) The Project either has a first point of interconnection with a California balancing authority, or a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area; or

(B) The Project has an agreement to dynamically transfer electricity to a California balancing authority.

(f) If and to the extent that the Product sold by Seller is a resale of part or all of a contract between Seller and one or more third parties, Seller represents, warrants and covenants that the resale complies with the following conditions in (i) through (iv) below as of the Execution Date and throughout the Energy Delivery Period:

(i) The original upstream third party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1)(A);
(ii) This Agreement transfers only Electric Energy and Green Attributes that have not yet been generated prior to the commencement of the Energy Delivery Period;

(iii) The Delivered Energy transferred hereunder is transferred to Buyer in real time; and

(iv) If the Project has an agreement to dynamically transfer electricity to a California balancing authority, the transactions implemented under this Agreement are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement.

6.2 To the extent a change in Law occurs after the Execution Date that causes the representations, warranties, and/or covenants in Section 6.1 or this Section 6.2 that continue beyond the Execution Date to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in Law.

6.3 "Commercially reasonable efforts" as set forth in this Article 6 and as applicable to Seller only shall not require Seller to incur out-of-pocket expenses in excess of twenty-five thousand dollars ($25,000.00) in the aggregate during the Term.

6.4 The Parties agree that the following sections of the EEI Agreement shall not be applicable to this Confirmation or Transactions hereunder: Sections 5.1(d), 5.1(e), 5.1(f), 10.2(v) and 10.2(vi). Notwithstanding anything to the contrary contained herein, with respect to Seller: Buyer acknowledges and agrees that the existence or continuation of Seller being Bankrupt is not an Event of Default with respect to Seller under this Agreement (including pursuant to Section 5.1(g) of the EEI Agreement) and does not entitle Buyer to terminate this Agreement solely because of such existence or continuation.

ARTICLE 7
TERMINATION AND CALCULATION OF TERMINATION PAYMENT

In the event this Transaction becomes a Terminated Transaction pursuant to Section 5.2 of the EEI Agreement, then the Settlement Amount with respect to this Transaction shall not be calculated in accordance with the EEI Agreement, but instead shall be calculated as follows:

The Non-Defaulting Party shall determine its Gains and Losses by determining the Market Quotation Average Price for the Terminated Transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts, to obtain the Market Quotation Average Price with respect to the Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for the Terminated Transaction in a commercially reasonable manner by calculating the arithmetic mean of the quotes of at least three (3) Broker or Index Quotes based on the offers to sell or bids to buy, as applicable, obtained for transactions substantially similar to the Terminated Transaction. Such Broker or Index Quotes must be obtained assuming that the Party obtaining the quote will provide sufficient credit support for the proposed transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts to obtain at least three (3) such Broker or Index Quotes with respect to the Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner by reference to information supplied to it by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information; provided, however, that such third parties shall not be Affiliates of either Party. Only in the event the Non-
Defaulting Party is not able, after using commercially reasonable efforts, to obtain such third party information, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner using relevant market data it has available to it internally.

**ARTICLE 8**

**GENERAL PROVISIONS**

8.1 **Buyer Audit Rights.**

In addition to any audit rights provided under the EEI Agreement, Seller shall, during the Term as may be requested by Buyer, provide documentation (which may include, for example, meter data as recorded by a meter approved by the Project’s governing Balancing Authority) sufficient to demonstrate that the Product has been conveyed and delivered to Buyer.

8.2 **Facility Identification.**

Seller shall have sole discretion throughout the Term to designate and re-designate, as applicable, the Project by selecting one or more of the facilities from Appendix A or by identifying one or more facilities as provided herein. If Seller determines that any Product to be delivered in a calendar month shall be from a facility or facilities other than those in Appendix A, then Seller shall provide Notice to Buyer identifying the facility or facilities that constitute the Project within three (3) Business Days prior to the delivery of Electric Energy from such facility or facilities in such calendar month.

8.3 **Governing Law.**

(a) Notwithstanding any provision to the contrary in the EEI Agreement, the Governing Law applicable to this Agreement shall be as set forth herein. This Section 8.3 does not change the Governing Law applicable to any other confirmation or transaction entered into between the Parties under the EEI Agreement.

(b) **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.

For the purposes of Section 8.3(b) above, the words “party” and “parties” shall have the meaning ascribed to them in the preamble of this Confirmation, and the word “agreement” shall mean the term “Agreement” as defined in the preamble of this Confirmation.

**ARTICLE 9**

**CONFIDENTIALITY**

9.1 The confidentiality provisions in Section 10.11 of the EEI Agreement shall apply herein, except that each of Buyer and Seller may disclose the following information regarding this Confirmation:

(a) Party names;
(b) Resource(s);
(c) Term;
(d) Project name, location(s), and information in Appendix A;
(e) Capacity of each facility designated as the Project;
(f) The fact that a facility designated as the Project is on-line and delivering;
(g) Delivery Point;
(h) The quantity of Product expected or actually delivered under this Confirmation; and
(i) Information provided by Seller pursuant to Section 8.1 of this Confirmation

9.2 Except for disclosures to comply with any applicable regulation, rule, or order of the CPUC, Federal Energy Regulatory Commission, CEC, or other Governmental Authorities, each Party shall provide Notice of any disclosure made pursuant to this Article 9 to the other Party.
ACKNOWLEDGED AND AGREED TO BY EACH PARTY'S DULY AUTHORIZED REPRESENTATIVE OR OFFICER:

PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, limited for all purposes hereunder to its electric procurement and electric fuels functions.

SILICON VALLEY CLEAN ENERGY, a California joint powers authority, by its duly authorized officers

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Signature: ___________________________  Signature: ___________________________
Name: _______________________________  Name: _______________________________
Title: ________________________________  Title: ________________________________
Date: ________________________________  Date: ________________________________

PG&E 2019 Bundled RPS Energy Sale
Short-Term RPS Sale Confirmation
# APPENDIX A to
EEI Master Power Purchase and Sale Agreement
Short Term Sales Confirmation

## PROJECT

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</tbody>
</table>
APPENDIX B

FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [insert issue date]  Applicant: [Insert name and address of Applicant]

Beneficiary: Pacific Gas and Electric Company
77 Beale Street, Mail Code B28L
San Francisco, CA 94105
Attention: Credit Risk Management

Letter of Credit Amount: [insert amount]

Expiry Date: [insert expiry date]

Ladies and Gentlemen:

By order of [insert name of Applicant] (“Applicant”), we hereby issue in favor of Pacific Gas and Electric Company (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 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. “Pursuant to the terms of that certain EEI Power Purchase and Sale Agreement (the “Agreement”), dated [insert date of the Agreement], between Beneficiary and [insert name of Seller under the Agreement], or any Confirmation thereunder or related thereto, Beneficiary is entitled to draw under Letter of Credit No. [insert number] amounts owed by [insert name of Seller under the Agreement] under the Agreement; or

   B. “Letter of Credit No. [insert number] will expire in thirty (30) days or less and [insert name of Seller under the Agreement] has not provided replacement security acceptable to 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; and
4. The Expiry Date of this Letter of Credit shall be automatically extended without a written amendment hereto for a period of one (1) 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 extend the Expiry Date of 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 in case of an interruption of our business as stated below), at our offices at [insert issuing bank’s address for drawings].

All demands for payment shall be made by presentation of original drawing documents and a copy of this Letter of Credit; or by facsimile transmission of documents to [insert fax number], Attention: [insert name of issuing bank’s receiving department], with original drawing documents and a copy of this Letter of Credit to follow by overnight mail. If presentation is made by facsimile transmission, 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 presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the sixth (6th) 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, if they are presented within thirty (30) days after the resumption of our business, and will 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: __________________________
    Authorized Signature

Name: __________________________ [print or type name]

Title: __________________________ [print or type title]

[Note: All pages must contain the Letter of Credit number and page number for identification purposes.]
APPENDIX B
FORM OF LETTER OF CREDIT
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. XXXXX.

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER

BY: ______________________ NAME AND TITLE
TRANSACTION CONFIRMATION
Resource Contingent Bundled Renewable Energy (“PCC1”) Resale

This Transaction Confirmation (this “Confirmation”) is entered into this 1st day of June, 2019 (“Effective Date”), by and between Silicon Valley Clean Energy Authority, a California Joint Powers Authority (“Buyer” or “SVCEA”) and Shell Energy North America (US), L.P. (“Shell Energy”), each referred to herein individually as a “Party” and collectively as the “Parties”, regarding the purchase and sale of the Product (as defined below) under the terms and conditions herein. Capitalized terms used in this Confirmation and not defined herein have the meaning assigned thereto in the Master Agreement or Schedule R (each as defined below). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.”

Seller: Shell Energy
Buyer: SVCEA (WREGIS Account Holder Name: Silicon Valley Clean Energy Authority)

Master Agreement: This Confirmation shall be governed by the terms and conditions of the Master Power Purchase and Sale Agreement between the Parties dated effective November 28, 2016. This Confirmation incorporates Schedule R of the WSPP Agreement promulgated by WSPP, Inc. as amended from time to time, (“Schedule R”). The Master Agreement, including Schedule R, shall govern this REC Transaction, except as modified in this Confirmation. References herein to sections in Schedule R shall appear, for example, as “Section R-2.3.4”. References in Schedule R to “Renewable Energy Facility” shall be interpreted as references to a Project (as defined below in this Confirmation).

Product: As used herein, “Product” shall mean Portfolio Content Category 1 (“PCC1”) - Resource Contingent Bundled RECs consisting of Energy produced hourly by the Projects that is simultaneously bundled with the RECs generated therefrom under the Applicable Program that together qualify as a Resource Contingent Bundled REC as described in Section R-2.3.4 of Schedule R.

Environmental Attributes: The only Environmental Attributes conveyed under this Confirmation as part of the Product are Program Attributes under the Applicable Program, which for purposes of this Confirmation is the California Renewables Portfolio Standard (as defined in the Definitions section hereof).

Project: As used herein “Project” shall mean any facility qualifying as an ERR (as defined in Special Provision (A)(1) below.

Contract Quantity: 

Contract Price: The price for each MWh of Product delivered to Buyer (the “Contract Price”), conveyed to Buyer or Buyer’s Designee, as applicable, in accordance with the terms of this Confirmation shall be as follows.

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Contract Price per MWh (i.e. per REC)</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>
**Delivery Period:** Beginning, with the Effective Date and continuing through December 31, 2020 (also referred to as the “Delivery Term” in Sections A(1) and A(3) of the Special Provisions below), and continuing through the completion of the transfer of all RECs to Buyer through WREGIS and the payment of amounts due pursuant to this Confirmation.

**Delivery Point:** California ISO

**Scheduling:** Seller will perform all scheduling and tagging requirements as may be applicable to the transaction contemplated hereunder. These services will be performed consistent with all applicable California ISO and WECC Scheduling Protocols. If applicable, Seller shall be the electricity importer for purposes of California Global Warming Solutions Act, California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, also referred to as Cap and Trade Regulations.

**REC Transfer:** Via WREGIS

**Settlements and Payment:** Seller shall deliver the Product by (a) delivering Energy to the California ISO on behalf of Buyer at the Delivery Point in accordance with the California ISO requirements and procedures and (b) transferring the RECs, with associated NERC e-Tags (if any) through WREGIS, to Buyer’s (or Buyer’s Designee’s) designated WREGIS account(s). California ISO shall pay Seller directly for the Energy portion of the Product in accordance with the California ISO requirements and procedures and Buyer shall not be required to pay any additional amount to Seller in respect of such Energy. Buyer shall pay the Contract Price to Seller on or before the later of (i) the twenty-fifth (25th) day of the month or (ii) ten (10) days following receipt of Seller’s invoice, subsequent to the transfer of the RECs.

**Supporting Data:** In the event that the Product being transferred from Seller to Buyer originates from a Project(s) from outside of the state of California, Seller shall provide Buyer a reconciliation consisting of hourly meter data, tag data and associated calculations, lesser of each by hour, for each vintage month of RECs delivered to Buyer under this Confirmation.

**Change in Law Provisions:** The REC Transaction under this Confirmation is Regulatorily Continuing as defined in Section R-5.2.2(b) of Schedule R, requiring that Seller make commercially reasonable efforts to obtain compliance with Changes in Law in the designated Applicable Program, provided that the costs for which shall not be greater than $10,000.00 during the Delivery Period.

**Compliance with RPS:** Seller represents and warrants to Buyer that the purchase and sale of Product pursuant to this Confirmation is a resale and meets the following additional requirements:

i. The original upstream third party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1)(A);

ii. this Confirmation transfers only Energy and RECs that have not yet been generated prior to the effective date of this Confirmation;

iii. in connection with the transfer of the Energy and associated RECs that comprise the Product purchased and sold under this Confirmation the Energy transferred by this Confirmation is transferred to Buyer in real-time via sale by Seller to, and purchase by Buyer from, the California ISO; and

iv. if applicable, the California Renewables Portfolio Standard-eligible energy is scheduled from one or more eligible renewable energy resource that are not interconnected to a California balancing authority into a California balancing authority without substituting electricity from another source, and the original hourly or subhourly schedule is maintained.
SPECIAL PROVISIONS:

A.  Non-Modifiable Standard Terms and Conditions

(1) Eligibility: Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC 6, Non-Modifiable. (Source: D.07-11-025, Attachment A.) D.08-04-009]

(2) Applicable Law: 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. [STC 17, Non-Modifiable. (Source: D.07-11-025, Attachment A) D.08-04-009]

(3) Transfer of Renewable Energy Credits: Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC REC-1, Non-modifiable. D.11-01-025]

(4) Tracking of RECs in WREGIS: Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. [STC REC-2, Non-modifiable. D.11-01-025]

B.  Additional Terms and Conditions

(1) Seller Representations and Warranties: Seller represents and warrants:

(a) Seller has not sold the Product to be transferred to Buyer to a third party; and

(b) the Energy component of the Product produced by a Project and purchased by Seller for resale to Buyer hereunder is not being sold by Seller back to the Project or Project owner.

(2) Buyer Representations and Warranties. Buyer represents and warrants that Buyer has taken all necessary steps to establish a WREGIS account to receive the RECs to be transferred from Seller to Buyer prior to the first delivery under this Confirmation.

(3) Review. To monitor compliance with this Confirmation, each Party reserves the right to review during normal business hours and at its own expense, for up to two (2) years following delivery of the Product, and with reasonable advance notice to the other Party and to the extent that such other Party is in possession of such information reasonably required to verify that the Product sold under this Confirmation was not otherwise sold by Seller to a third party. Any claim that Product sold under this Confirmation was sold by Seller to a third party is waived if not brought within such two (2) year period referred to in the preceding sentence.

(4) Mutual Representations and Warranties. The Parties agree this Confirmation constitutes a sale of a nonfinancial commodity for deferred shipment or delivery that the parties intend to be physically settled and is excluded from the term “swap” as defined in the Commodity Exchange Act under 7 U.S.C. § 1a(47) and related rules. During the Delivery Period, each Party represents and warrants to the other that: (i) it is an “eligible commercial entity” and an “eligible contract participant” within the meaning of United States Commodity Exchange Act §§1a(17) and 1a(18), respectively, and this Transaction has been subject to individual negotiation by the Parties.
(5) **Data Privacy.** The Parties may provide each other with information related to an identified or identifiable individual ("Personal Data"), the processing and transfer of which will be done in accordance with applicable data protection law.

**DEFINITIONS/INTERPRETATIONS:**

For purposes of this Confirmation, the following definitions and rules of interpretations shall apply:

"California Renewables Portfolio Standard" means the renewable energy program and policies, codified in California Public Utilities Code Sections 399.11 through 399.32 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

“CEC” means the California Energy Commission or its regulatory successor.

“CPUC” means the California Public Utilities Commission or its regulatory successor.

“FERC” means the Federal Energy Regulatory Commission or its regulatory successor.

“STC” stands for Standard Terms and Conditions of the CPUC relating to purchase and sales of the Product.

“WECC” means the Western Electricity Coordinating Council or its successor organizations.

“WREGIS” means the Western Renewable Energy Generation Information System or its successor systems.

Notwithstanding anything contained in the Master Agreement to the contrary, this Confirmation shall only be effective when executed by both Parties. Please sign and return by facsimile to Shell Energy at (713) 767-5414.

IN WITNESS WHEREOF, the Parties have signed this Confirmation effective as of the Transaction Date.

---

**Silicon Valley Clean Energy Authority**

**By:**

**Girish Bala Chandra**

**Title:** CEO

**Shell Energy North America (US), L.P.**

**By:**

**John W. Pillion**

**Title:** Confirmations Team Lead
CONFIRMATION

Reference:
Master Power Purchase and Sale Agreement ✓
Between Direct Energy Business Marketing, LLC ("Seller")
And
Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer")✓
dated November 28, 2016
Transaction Date: May 23, 2019 (the "Effective Date") ✓

RECITALS:

WHEREAS, pursuant to California Public Utilities Code Sections 366.1, et. seq., Buyer has been registered as a Community Choice Aggregator (the "CCA");

WHEREAS, Buyer is a California joint powers authority, which has established Silicon Valley Clean Energy for purposes of delivering CCA service to certain customers located within the County of Santa Clara;

WHEREAS, pursuant to California Public Utilities Code Section 366.2, Buyer submitted Buyer's CCA Implementation Plan and Statement of Intent ("Implementation Plan") to the CPUC;

WHEREAS, the CPUC certified the Implementation Plan on September 27, 2016;

WHEREAS, Seller and Buyer desire to set forth the terms and conditions pursuant to which Seller shall supply the Product to Buyer, and Buyer shall take and pay for such supply of Product subject to satisfaction of the conditions herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements in this Confirmation and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. DEFINITIONS. Any capitalized terms used in this Confirmation but not otherwise defined below shall have the meaning ascribed to such term in the Master Agreement:

   "ACS" means "asset-controlling supplier" as that term is defined in the Cap and Trade Regulations.

   "Applicable Law" means any statute, law, treaty, rule, tariff, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, or any binding interpretation of the foregoing, as any of them is amended or supplemented from time to time, that apply to either or both of the Parties, the Project(s), or the terms of the Agreement.

   "Buyer Facilities" has the meaning set forth in Section 10 hereof.
“CAISO” means the California Independent System Operator Corporation or the successor organization to the functions thereof.

“CAISO Tariff” means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), 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.


“Cap and Trade Regulations” means the Mandatory Greenhouse Gas Emissions Reporting and California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations (California Code of Regulations Title 17, Subchapter 10, Articles 2 and 5 respectively) promulgated by the California Air Resources Board of the California Environmental Protection Agency pursuant to the California Global Warming Solutions Act of 2006.

“Carbon Free Energy” means Energy deliveries from Carbon Free Sources.

“Carbon Free Source” means any energy source, except for nuclear-powered generation assets, that is located within the WECC and that is considered by the State of California to have zero Greenhouse Gas emissions in accordance with the Cap and Trade Regulations. Carbon Free Source does not include any Category 3 Renewables, ACS resources or any energy source with an e-tag with a source point associated with a nuclear or coal-fired generating facility.

“Category 1 Renewable” means Renewable Energy that satisfies the requirements of Section 399.16(b)(1) of the California Public Utilities Code, as applicable to the REC Vintage transferred hereunder.

“Category 2 Renewable” means Renewable Energy that satisfies the requirements of Section 399.16(b)(2) of the California Public Utilities Code, as applicable to the REC Vintage transferred hereunder.

“Category 3 Renewable” means the Renewable Energy Credits that satisfy the requirements of Section 399.16(b)(3) of the California Public Utilities Code, as applicable to the REC Vintage transferred hereunder.

“CEC” means the California Energy Commission.

“Change in Law” has the meaning set forth in Section 2.2 hereof.
“Commercially Reasonable Efforts” for the purposes of this Confirmation, “commercially reasonable efforts” or acting in a “commercially reasonable manner” shall not require a Party to undertake extraordinary or unreasonable measures.

“Compliance Obligation” has the meaning set forth by the Cap and Trade Regulations.

“CPUC” means the California Public Utilities Commission.

“Customers” means the residential, commercial, industrial, and all other retail end use customers that have not opted out of the Silicon Valley Clean Energy Program, as designated from time to time by Buyer as being served by Buyer within the jurisdictional boundaries of the County of San Mateo.

“Delivery Period” shall be the period beginning on the Start Date and ending on the End Date, as set forth in Section 3 below.

“Delivery Point” has the meaning set forth in Section 4 hereof.

“Effective Date” has the meaning set forth in the Reference Section at the beginning of this Confirmation.

“Eligible Renewable Energy Resource” or “ERR” means an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16.

“Energy” means electrical energy, measured in MWh.

“Energy Contract Price” means the price ($/MWh) to be paid by Buyer to Seller for the Energy Contract Quantity delivered hereunder, as set forth on Exhibit A.

“Energy Contract Quantity” means the quantity of Energy set forth in Exhibit A, which will be delivered to the CAISO by Seller and scheduled with Buyer as an IST.

“Exhibits” shall be those certain Exhibits, which are attached hereto and made a part hereof.

“FERC” means the Federal Energy Regulatory Commission.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States.

“Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, or the CAISO or any other transmission authority, having or asserting jurisdiction over a Party or the Agreement.

“Implementation Plan” has the meaning set forth in the Recitals hereof.

“Inter-SC Trade” or “IST” has the meaning set forth in CAISO Tariff.
“Green-e Eligible” applies to renewable energy certificates that meet the eligibility requirements of the applicable Green-e Energy National Standard as of the Effective Date as set forth at www.green-e.org.

“Mandatory Reporting Rule” means the regulations entitled Mandatory Greenhouse Gas Emissions Reporting set forth in Article 2 of Subchapter 10 of Title 17 of the California Code of Regulations.

“MW” means megawatt.

“MWh” means megawatt-hour.

“PG&E” means the Pacific Gas and Electric Company, its successors and assigns.

“Product” shall have the meaning set forth in Section 2.1 below.

“Project” shall mean the Eligible Renewable Energy Resource(s) used to provide Renewable Energy hereunder.

“Prudent Industry Practices” means any of the practices, methods, techniques and standards (including those that would be implemented and followed by a prudent operator of generating facilities similar to the Project(s) in the United States during the relevant time period) that, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result, giving due regard to manufacturers’ warranties and recommendations, contractual obligations, the requirements or guidance of Governmental Authority, including CAISO, Applicable Law, the requirements of insurers, good business practices, economy, efficiency, reliability, and safety. Prudent Industry Practice shall not be limited to the optimum practice, method, technique or standard to the exclusion of all others, but rather shall be a range of possible practices, methods, techniques or standards.

“REC Vintage” means the date of Energy generation found on a WREGIS Certificate.


“Renewable Energy Contract Price” shall mean the price ($/REC) to be paid by Buyer to Seller for Renewable Energy delivered hereunder, as set forth on Exhibit B.

“Renewable Energy Contract Quantity” shall mean the quantity of RECs to be delivered by Seller to Buyer hereunder, as set forth on Exhibit B.

“Renewable Energy Credits” or “REC” has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision D.08-08-028, as applicable to the specific REC Vintage(s) transferred hereunder.
“RPS Adjustment” means the reduction in the Compliance Obligation of an electricity importer authorized by and calculated in accordance with section 95852 (b)(4) of the Cap and Trade Regulations and section 95111(b)(5) of the Mandatory Reporting Rule.

“Security Documents” has the meaning set forth in the Master Agreement.

“Silicon Valley Clean Energy Program” means the community choice aggregation program operated by Buyer.

“Specified Sources of Power” means electricity that is traceable to a specific generation source by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity has been sold once and only once.

“Tariff” means the tariff and protocol provisions, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” as amended, supplemented or replaced by CAISO from time to time.

“Unspecified Sources of Power” means electricity that is not traceable to a specific generation source by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity has been sold once and only once.

“WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

“WREGIS Certificate” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS.

2. PRODUCT.

2.1 Seller Delivery Obligation. Throughout the Delivery Period, Seller shall sell and deliver or make available, or cause to be sold and delivered or made available to Buyer, the “Product,” which is comprised of one or more of the following:

(a) the quantity of Energy specified in Section 7.1;

(b) the quantity of Renewable Energy specified in Section 7.2; and

(c) the quantity of Carbon Free Energy specified in Section 7.3.

2.2 Change in Law.

If due to any action by the CPUC or any Governmental Authority, or any change in Applicable Law (a “Change in Law”) occurring after the Effective Date that results in material changes to Buyer’s or Seller’s obligations with regard to the Products sold hereunder and that has the effect of changing the transfer and sale procedure
set forth in this Confirmation so that the implementation of this Confirmation becomes impossible or impracticable, or otherwise modifies the California RPS or language required to conform to the California RPS, the Parties shall work in good faith to try and revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of Products sold hereunder or Buyer’s compliance with California RPS obligations in order to maintain the original intent of the Parties under this Confirmation. In the event the Parties cannot reach agreement on any such amendments to this Confirmation within 60 days following the Change in Law, to the extent practicable and lawful, Seller shall perform its obligations hereunder with regard to any Product hereunder or compliance with California RPS obligations in accordance with the Applicable Law immediately prior to the Change in Law; provided, however, that notwithstanding the foregoing or anything to the contrary herein, Seller shall not be obligated to perform any obligation hereunder to the extent that doing so would cause Seller to be materially adversely affected. These Change in Law provisions are independent of those set forth in the RPS Standard Terms and Conditions below and in Section 2.8.

2.3 RPS Standard Terms and Conditions.

**STC 6: Eligibility**

Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Period of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

**STC REC-1: Transfer of Renewable Energy Credits**

Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Period of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
STC REC-2: Tracking of RECs in WREGIS

Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under this contract.

2.4 No New Construction Without Environmental Review. To the extent that Seller constructs any new facilities to meet its supply obligation hereunder, Seller covenants and agrees that the construction and operation of such facility(ies) will be in accordance with any and all Applicable Law.

2.5 Resources. For Renewable Energy and Carbon Free Energy delivered under this Confirmation, Seller shall use Specified Sources of Power. For other Energy deliveries, if any, Seller may use Unspecified Sources of Power to provide the required Energy hereunder; provided that any Energy delivered under this Confirmation (including incremental energy associated with Category 2 Renewable products) shall not be procured from unit-specific sources that are nuclear or coal-fired resources. The Energy supplied in connection with any Renewable Energy shall comply with applicable California RPS requirements for such Product.

2.6 Delivery of WREGIS Certificates. Throughout the Delivery Period, following generation of the Renewable Energy by the Project(s), Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with the Renewable Energy Contract Quantity are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard for Buyer. Prior to the start of each calendar quarter, Seller shall provide Buyer with an indicative, non-binding forecast of the amount of RECs it expects to deliver during such calendar quarter. Such indicative, non-binding forecast shall also identify, if known to Seller, the Eligible Renewable Energy Resource(s) that Seller expects to generate the RECs.

Seller shall comply with all Applicable Law, including, without limitation, the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. The Parties acknowledge and agree that, as of the Effective Date, the WREGIS Certificates associated with the Renewable Energy Contract Quantity for a month are not available for transfer to Buyer until approximately ninety (90) days after the end of such month. Seller shall transfer such WREGIS Certificates in a timely manner after such WREGIS Certificates are available for transfer to Buyer for Buyer's sole benefit.

Upon receiving written or electronic confirmation from WREGIS that a transfer order has been initiated by Seller, Buyer shall confirm such transfer order in WREGIS within fourteen (14) days to the extent that the WREGIS Certificates included in such transfer conform to the specifications reflected in this Confirmation. In the event that certain WREGIS Certificates fail to conform to the
specifications reflected in this Confirmation, Buyer shall be entitled to reject the transfer of any non-conforming WREGIS Certificates and Seller shall promptly replace the non-conforming WREGIS Certificates with an equivalent amount of WREGIS Certificates of the same REC Vintage and that meet the specifications reflected in this Confirmation; provided, however, that if replacement WREGIS Certificates are not immediately available, Seller may provide replacements once available, but in any event shall provide replacement WREGIS Certificates to Buyer within ninety (90) days after Seller’s rejection of such non-conforming WREGIS Certificates.

Upon either Party’s receipt of notice from WREGIS that a transfer of WREGIS Certificates was not recognized, that Party will immediately notify the other Party, providing a copy of such notice, and both Parties will cooperate in-taking such actions as are necessary and commercially reasonable to cause such transfer to be recognized and completed. Each Party agrees to provide copies of its records to the extent reasonably necessary for WREGIS to verify the accuracy of any fact, statement, charge or computation made pursuant hereto if requested by the other Party.

2.7 Retirement of RECs. To facilitate compliance with obligations of suppliers of Renewable Energy as first deliverers of electricity, as defined in Title 17, California Code of Regulations (“CCR”) Section 95802, to comply with mandatory greenhouse gas reporting requirements in Title 17 CCR Section 95101 with respect to such Renewable Energy, Buyer agrees to retire the RECs purchased from Seller hereunder for each renewable generation period in accordance with Title 17 CCR Section 95852(b)(3)(D).

2.8 RPS Adjustment. The Parties acknowledge that the RPS Adjustment is currently applicable to the Category 2 Renewable Product. In the event that the regulatory requirements for application of the RPS Adjustment change after the Effective Date and such change causes an increase in the greenhouse gas emissions intensity associated with the Category 2 Renewable Product, the Parties agree to discuss in good faith amendments to this Transaction to mitigate the increase in the greenhouse gas emissions intensity. In the event that the Parties are unsuccessful in revising or amending this Transaction or unable to agree upon a mutually acceptable resolution within thirty (30) days after the request of either Party to amend the Transaction pursuant to this Section 2.8 by either Party, either Party may, by written notice to the other, immediately terminate the undelivered portion of Renewable Energy Contract Quantities of Category 2 Renewable Product without penalty, termination payment or liability of either Party.

3. DELIVERY PERIOD. This Confirmation shall be in full force and effect as of the Effective Date. The terms set forth herein shall apply from the Start Date through the End Date, which entire period will comprise the Delivery Period. This Confirmation shall terminate on the date on which both Parties have completed the performance of their obligations hereunder, unless earlier terminated pursuant to the terms hereof.
Appendix A

4. **DELIVERY POINT.**

<table>
<thead>
<tr>
<th>Product</th>
<th>Delivery Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Renewable Energy</td>
<td>A California Balancing Authority</td>
</tr>
<tr>
<td>Carbon Free Energy</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

5. **SCHEDULING.** Inter-SC Trades will not be scheduled as part of this transaction.

6. **PRICING.**

6.1 **Energy Contract Price and Payment.** For each month during the Delivery Period, Buyer will pay Seller an amount equal to the Energy Contract Quantity delivered and scheduled in accordance with this Confirmation multiplied by the Energy Contract Price specified in Exhibit A.

6.2 **Renewable Energy Contract Price and Payment.** For each month during the Delivery Period, Buyer will pay Seller an amount equal to: a) the applicable Renewable Energy Contract Price as specified in Exhibit B multiplied by the portion of the Renewable Energy Contract Quantity transferred from Seller to Buyer through WREGIS during such month plus b) the Day-Ahead LMP at the Delivery Point for each MWh of the Renewable Energy Contract Quantity delivered and scheduled in accordance with this Confirmation in such month.

6.3 **Carbon Free Energy Price and Payment.** For each month during the Delivery Period, Buyer will pay Seller an amount equal to the Carbon Free Energy Contract Quantity delivered in such month multiplied by the Carbon Free Energy Price specified in Exhibit C plus b) the Day-Ahead LMP at the Delivery Point for each MWh of the Carbon Free Energy Contract Quantity delivered and scheduled in accordance with this Confirmation in such month.

7. **CONTRACT QUANTITIES.**

7.1 **Energy.** Energy Contract Quantities and the Energy Contract Prices pursuant to this Confirmation relate to the quantities set forth in Exhibit A.

7.2 **Renewable Energy.** Renewable Energy Contract Quantities and Renewable Energy Contract Prices pursuant to this Confirmation relate to the quantities set forth in

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Exhibit B. The Renewable Energy sold by Seller to Buyer shall also include any and all Renewable Energy Credits associated with such Renewable Energy.

7.3 Carbon Free Energy. Carbon Free Energy Contract Quantities and Carbon Free Energy Prices pursuant to this Confirmation relate to the quantities set forth in Exhibit C.

8. MONTHLY BILLING SETTLEMENT.

8.1 Collection of Customer Payments. In accordance with the Security Documents, Buyer shall direct PG&E to deposit into a lockbox account, all of the proceeds of all of the Customer account receipts (net of the amounts to be paid to PG&E) received from the sale of the Product to the Customers. Seller shall receive, in accordance with the Security Documents, payments for its invoices due and payable, and after Seller’s invoice is paid and agreed to reserves have been funded, the amounts remaining in such lockbox shall be immediately released to Buyer or its designee in accordance with the Security Documents. The Parties agree that the lockbox account shall be in the name of Buyer, and any interest earned thereon shall accrue to Buyer, as more fully set forth in the Security Documents.

8.2 Monthly Invoice Timeline. Seller agrees to use commercially reasonable efforts to deliver each monthly invoice to Buyer not later than the fifteenth (15th) day of each month for the previous calendar month. The Parties hereby agree that all invoices under this Confirmation shall be due and payable on the twenty-fifth (25th) day of the month following the month in which Seller delivered such invoice, provided that if such day is not a Business Day, then such invoice will be due and payable on the next Business Day that occurs after the twenty-fifth (25th) day of the month.

9. COMPLIANCE REPORTING. Buyer shall be responsible for submitting compliance reports to the CPUC and/or other Governmental Authorities on behalf of Silicon Valley Clean Energy and will require resource information, electronic tagging information, and other documentation to be provided by Seller. Seller shall provide all reasonable information to Buyer necessary for Buyer to timely comply with periodic compliance reporting requirements and as otherwise required by Applicable Law with respect to any Product.

10. NO RESTRICTION. Nothing in this Confirmation shall limit Buyer’s ability to develop its own generation facilities (“Buyer Facilities”) or prevent Buyer from purchasing energy from other parties or Seller from selling energy to other parties.

11. STANDARD OF CARE AND GOOD FAITH. When performing its obligations hereunder, Seller shall act in good faith and shall perform all work in a manner consistent with Prudent Utility Practices.

12. SECURITY PROVISIONS.

12.1 Compliance with Security Documents. During the entire period that this Confirmation remains in effect, Buyer shall comply with the Security Documents.
DIRECT ENERGY BUSINESS MARKETING, LLC

Sign: [Signature]
Print: [Print Name]
Title: [Title]

Darron Giron
Senior Director, Product Control

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

Sign: [Signature]
Print: [Print Name]
Title: [Title]

Girish Balachandran
CEO
Upon the occurrence of an Event of Default (after giving effect to any applicable cure periods) by Buyer under any Security Document or a termination of any Security Document by Seller due to Buyer’s failure to perform in accordance with the terms thereof, such event shall constitute an Event of Default of Buyer in accordance with Article Five of the Master Agreement and Buyer shall therefore be the ‘Defaulting Party’ with regard to such failure to perform.

12.2 **Buyer Reporting Requirements.** During the entire period this Confirmation remains in effect, Buyer shall provide Seller with the report(s) required below and shall also provide Seller with any clarifications requested regarding such report(s) and such other information that Seller reasonably requests regarding Buyer’s financial performance, Buyer’s performance of its obligations under this Confirmation or any Security Document or the ongoing viability of the CCA.

(a) **Annual Reports.** The following report shall be provided by Buyer to Seller not later than 180 days following the end of Buyer’s fiscal year, shall be with regard to such previous fiscal year and shall be as follows: Buyer’s financial reports consisting of, at a minimum, statement of revenues, expenses and changes in fund net assets, statement of net assets, and statement of cash flows on a consolidating basis (as applicable), each as prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant.

This Confirmation is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated November 28, 2016 (the “Master Agreement”) between Buyer and Seller, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement. This Confirmation and the Master Agreement, including any appendices, exhibits or amendments thereto, shall collectively be referred to as the “Agreement.”

<table>
<thead>
<tr>
<th>This Confirmation is subject to the Exhibits identified below and that are attached hereto:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A – Energy Contract Quantity and Price Schedule</td>
</tr>
<tr>
<td>Exhibit B – Renewable Energy Contract Quantity and Price Schedule</td>
</tr>
<tr>
<td>Exhibit C – Carbon Free Energy Contract Quantity and Price Schedule</td>
</tr>
</tbody>
</table>
Exhibit A

Energy Contract Quantity and Price Schedule

The Energy Contract Quantity is 0 MWhs.
Exhibit B

Renewable Energy Contract Quantity and Price Schedule

<table>
<thead>
<tr>
<th>Year</th>
<th>REC Contract Quantity</th>
<th>REC Contract Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Category 1 Renewable</td>
<td>Category 1 Renewable</td>
</tr>
<tr>
<td></td>
<td>$/MWh</td>
<td>$/MWh</td>
</tr>
</tbody>
</table>

The renewable energy must be generated from a Green-e Eligible solar resource.
Exhibit C

Carbon Free Energy Contract Quantity and Price Schedule

The Carbon Free Energy Contract Quantity is 0 MWhs.
CONFIRMATION

Reference:
Master Power Purchase and Sale Agreement
Between Direct Energy Business Marketing, LLC ("Seller")
And
Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer")
dated November 28, 2016
Transaction Date: May 9, 2019 (the "Effective Date")

RECITALS:

WHEREAS, pursuant to California Public Utilities Code Sections 366.1, et. seq., Buyer has been registered as a Community Choice Aggregator (the "CCA");

WHEREAS, Buyer is a California joint powers authority, which has established Silicon Valley Clean Energy for purposes of delivering CCA service to certain customers located within the County of Santa Clara;

WHEREAS, pursuant to California Public Utilities Code Section 366.2, Buyer submitted Buyer's CCA Implementation Plan and Statement of Intent ("Implementation Plan") to the CPUC;

WHEREAS, the CPUC certified the Implementation Plan on September 27, 2016;

WHEREAS, Seller and Buyer desire to set forth the terms and conditions pursuant to which Seller shall supply the Product to Buyer, and Buyer shall take and pay for such supply of Product subject to satisfaction of the conditions herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements in this Confirmation and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. DEFINITIONS. Any capitalized terms used in this Confirmation but not otherwise defined below shall have the meaning ascribed to such term in the Master Agreement:

   "ACS" means "asset-controlling supplier" as that term is defined in the Cap and Trade Regulations.

   "Applicable Law" means any statute, law, treaty, rule, tariff, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, or any binding interpretation of the foregoing, as any of them is amended or supplemented from time to time, that apply to either or both of the Parties, the Project(s), or the terms of the Agreement.

   "Buyer Facilities" has the meaning set forth in Section 10 hereof.
“CAISO” means the California Independent System Operator Corporation or the successor organization to the functions thereof.

“CAISO Tariff” means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), 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.


“Cap and Trade Regulations” means the Mandatory Greenhouse Gas Emissions Reporting and California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations (California Code of Regulations Title 17, Subchapter 10, Articles 2 and 5 respectively) promulgated by the California Air Resources Board of the California Environmental Protection Agency pursuant to the California Global Warming Solutions Act of 2006.

“Carbon Free Energy” means Energy deliveries from Carbon Free Sources.

“Carbon Free Source” means any energy source, except for nuclear-powered generation assets, that is located within the WECC and that is considered by the State of California to have zero Greenhouse Gas emissions in accordance with the Cap and Trade Regulations. Carbon Free Source does not include any Category 3 Renewables, ACS resources or any energy source with an e-tag with a source point associated with a nuclear or coal-fired generating facility.

“Category 1 Renewable” means Renewable Energy that satisfies the requirements of Section 399.16(b)(1) of the California Public Utilities Code, as applicable to the REC Vintage transferred hereunder.

“Category 2 Renewable” means Renewable Energy that satisfies the requirements of Section 399.16(b)(2) of the California Public Utilities Code, as applicable to the REC Vintage transferred hereunder.

“Category 3 Renewable” means the Renewable Energy Credits that satisfy the requirements of Section 399.16(b)(3) of the California Public Utilities Code, as applicable to the REC Vintage transferred hereunder.

“CEC” means the California Energy Commission.

“Change in Law” has the meaning set forth in Section 2.2 hereof.
"Commercially Reasonable Efforts" for the purposes of this Confirmation, "commercially reasonable efforts" or acting in a "commercially reasonable manner" shall not require a Party to undertake extraordinary or unreasonable measures.

"Compliance Obligation" has the meaning set forth by the Cap and Trade Regulations.

"CPUC" means the California Public Utilities Commission.

"Customers" means the residential, commercial, industrial, and all other retail end use customers that have not opted out of the Silicon Valley Clean Energy Program, as designated from time to time by Buyer as being served by Buyer within the jurisdictional boundaries of the County of San Mateo.

"Delivery Period" shall be the period beginning on the Start Date and ending on the End Date, as set forth in Section 3 below.

"Delivery Point" has the meaning set forth in Section 4 hereof.

"Effective Date" has the meaning set forth in the Reference Section at the beginning of this Confirmation.

"Eligible Renewable Energy Resource" or "ERR" means an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16.

"Energy" means electrical energy, measured in MWh.

"Energy Contract Price" means the price ($/MWh) to be paid by Buyer to Seller for the Energy Contract Quantity delivered hereunder, as set forth on Exhibit A.

"Energy Contract Quantity" means the quantity of Energy set forth in Exhibit A, which will be delivered to the CAISO by Seller and scheduled with Buyer as an IST.

"Exhibits" shall be those certain Exhibits, which are attached hereto and made a part hereof.

"FERC" means the Federal Energy Regulatory Commission.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States.

"Governmental Authority" means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, or the CAISO or any other transmission authority, having or asserting jurisdiction over a Party or the Agreement.

"Implementation Plan" has the meaning set forth in the Recitals hereof.

"Inter-SC Trade" or "IST" has the meaning set forth in CAISO Tariff.
"Mandatory Reporting Rule" means the regulations entitled Mandatory Greenhouse Gas Emissions Reporting set forth in Article 2 of Subchapter 10 of Title 17 of the California Code of Regulations.

"MW" means megawatt.

"MWh" means megawatt-hour.

"PG&E" means the Pacific Gas and Electric Company, its successors and assigns.

"Product" shall have the meaning set forth in Section 2.1 below.

"Project" shall mean the Eligible Renewable Energy Resource(s) used to provide Renewable Energy hereunder.

"Prudent Industry Practices" means any of the practices, methods, techniques and standards (including those that would be implemented and followed by a prudent operator of generating facilities similar to the Project(s) in the United States during the relevant time period) that, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result, giving due regard to manufacturers’ warranties and recommendations, contractual obligations, the requirements or guidance of Governmental Authority, including CAISO, Applicable Law, the requirements of insurers, good business practices, economy, efficiency, reliability, and safety. Prudent Industry Practice shall not be limited to the optimum practice, method, technique or standard to the exclusion of all others, but rather shall be a range of possible practices, methods, techniques or standards.

"REC Vintage" means the date of Energy generation found on a WREGIS Certificate.


"Renewable Energy Contract Price" shall mean the price ($/REC) to be paid by Buyer to Seller for Renewable Energy delivered hereunder, as set forth on Exhibit B.

"Renewable Energy Contract Quantity" shall mean the quantity of RECs to be delivered by Seller to Buyer hereunder, as set forth on Exhibit B.

"Renewable Energy Credits" or "REC" has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision D.08-08-028, as applicable to the specific REC Vintage(s) transferred hereunder.

"RPS Adjustment" means the reduction in the Compliance Obligation of an electricity importer authorized by and calculated in accordance with section 95852 (b)(4) of the Cap and Trade Regulations and section 95111(b)(5) of the Mandatory Reporting Rule.

"Security Documents" has the meaning set forth in the Master Agreement.
“Silicon Valley Clean Energy Program” means the community choice aggregation program operated by Buyer.

“Specified Sources of Power” means electricity that is traceable to a specific generation source by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity has been sold once and only once.

“Tariff” means the tariff and protocol provisions, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” as amended, supplemented or replaced by CAISO from time to time.

“Unspecified Sources of Power” means electricity that is not traceable to a specific generation source by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity has been sold once and only once.

“WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

“WREGIS Certificate” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS.

2. **PRODUCT.**

2.1 **Seller Delivery Obligation.** Throughout the Delivery Period, Seller shall sell and deliver or make available, or cause to be sold and delivered or made available to Buyer, the “Product,” which is comprised of one or more of the following:

- (a) the quantity of Energy specified in Section 7.1;
- (b) the quantity of Renewable Energy specified in Section 7.2; and
- (c) the quantity of Carbon Free Energy specified in Section 7.3.

2.2 **Change in Law.**

If due to any action by the CPUC or any Governmental Authority, or any change in Applicable Law (a “Change in Law”) occurring after the Effective Date that results in material changes to Buyer’s or Seller’s obligations with regard to the Products sold hereunder and that has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the implementation of this Confirmation becomes impossible or impracticable, or otherwise modifies the California RPS or language required to conform to the California RPS, the Parties shall work in good faith to try and revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of Products sold hereunder or Buyer’s compliance with California RPS obligations in order to maintain the original intent.
of the Parties under this Confirmation. In the event the Parties cannot reach agreement on any such amendments to this Confirmation within 60 days following the Change in Law, to the extent practicable and lawful, Seller shall perform its obligations hereunder with regard to any Product hereunder or compliance with California RPS obligations in accordance with the Applicable Law immediately prior to the Change in Law; provided, however, that notwithstanding the foregoing or anything to the contrary herein, Seller shall not be obligated to perform any obligation hereunder to the extent that doing so would cause Seller to be materially adversely affected. These Change in Law provisions are independent of those set forth in the RPS Standard Terms and Conditions below and in Section 2.8.

2.3 RPS Standard Terms and Conditions

STC 6: Eligibility

Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Period of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

STC REC-1: Transfer of Renewable Energy Credits

Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Period of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

STC REC-2: Tracking of RECs in WREGIS

Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under this contract.
2.4 **No New Construction Without Environmental Review.** To the extent that Seller constructs any new facilities to meet its supply obligation hereunder, Seller covenants and agrees that the construction and operation of such facility(ies) will be in accordance with any and all Applicable Law.

2.5 **Resources.** For Renewable Energy and Carbon Free Energy delivered under this Confirmation, Seller shall use Specified Sources of Power. For other Energy deliveries, if any, Seller may use Unspecified Sources of Power to provide the required Energy hereunder; provided that any Energy delivered under this Confirmation (including incremental energy associated with Category 2 Renewable products) shall not be procured from unit-specific sources that are nuclear or coal-fired resources. The Energy supplied in connection with any Renewable Energy shall comply with applicable California RPS requirements for such Product.

2.6 **Delivery of WREGIS Certificates.** Throughout the Delivery Period, following generation of the Renewable Energy by the Project(s), Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with the Renewable Energy Contract Quantity are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard for Buyer. Prior to the start of each calendar quarter, Seller shall provide Buyer with an indicative, non-binding forecast of the amount of RECs it expects to deliver during such calendar quarter. Such indicative, non-binding forecast shall also identify, if known to Seller, the Eligible Renewable Energy Resource(s) that Seller expects to generate the RECs.

Seller shall comply with all Applicable Law, including, without limitation, the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. The Parties acknowledge and agree that, as of the Effective Date, the WREGIS Certificates associated with the Renewable Energy Contract Quantity for a month are not available for transfer to Buyer until approximately ninety (90) days after the end of such month. Seller shall transfer such WREGIS Certificates in a timely manner after such WREGIS Certificates are available for transfer to Buyer for Buyer’s sole benefit.

Upon receiving written or electronic confirmation from WREGIS that a transfer order has been initiated by Seller, Buyer shall confirm such transfer order in WREGIS within fourteen (14) days to the extent that the WREGIS Certificates included in such transfer conform to the specifications reflected in this Confirmation. In the event that certain WREGIS Certificates fail to conform to the specifications reflected in this Confirmation, Buyer shall be entitled to reject the transfer of any non-conforming WREGIS Certificates and Seller shall promptly replace the non-conforming WREGIS Certificates with an equivalent amount of WREGIS Certificates of the same REC Vintage and that meet the specifications reflected in this Confirmation; provided, however, that if replacement WREGIS Certificates are not immediately available, Seller may provide replacements once available, but in any event shall provide replacement WREGIS Certificates to
Buyer within ninety (90) days after Seller’s rejection of such non-conforming WREGIS Certificates.

Upon either Party’s receipt of notice from WREGIS that a transfer of WREGIS Certificates was not recognized, that Party will immediately notify the other Party, providing a copy of such notice, and both Parties will cooperate in taking such actions as are necessary and commercially reasonable to cause such transfer to be recognized and completed. Each Party agrees to provide copies of its records to the extent reasonably necessary for WREGIS to verify the accuracy of any fact, statement, charge or computation made pursuant hereto if requested by the other Party.

2.7 Retirement of RECs. To facilitate compliance with obligations of suppliers of Renewable Energy as first deliverers of electricity, as defined in Title 17, California Code of Regulations ("CCR") Section 95802, to comply with mandatory greenhouse gas reporting requirements in Title 17 CCR Section 95101 with respect to such Renewable Energy, Buyer agrees to retire the RECs purchased from Seller hereunder for each renewable generation period in accordance with Title 17 CCR Section 95852(b)(3)(D).

2.8 RPS Adjustment. The Parties acknowledge that the RPS Adjustment is currently applicable to the Category 2 Renewable Product. In the event that the regulatory requirements for application of the RPS Adjustment change after the Effective Date and such change causes an increase in the greenhouse gas emissions intensity associated with the Category 2 Renewable Product, the Parties agree to discuss in good faith amendments to this Transaction to mitigate the increase in the greenhouse gas emissions intensity. In the event that the Parties are unsuccessful in revising or amending this Transaction or unable to agree upon a mutually acceptable resolution within thirty (30) days after the request of either Party to amend the Transaction pursuant to this Section 2.8 by either Party, either Party may, by written notice to the other, immediately terminate the undelivered portion of Renewable Energy Contract Quantities of Category 2 Renewable Product without penalty, termination payment or liability of either Party.

3. DELIVERY PERIOD. This Confirmation shall be in full force and effect as of the Effective Date. The terms set forth herein shall apply from the Start Date through the End Date, which entire period will comprise the Delivery Period. This Confirmation shall terminate on the date on which both Parties have completed the performance of their obligations hereunder, unless earlier terminated pursuant to the terms hereof.

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<th>Start Date:</th>
<th>End Date:</th>
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4. DELIVERY POINT.
<table>
<thead>
<tr>
<th>Product</th>
<th>Delivery Point</th>
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<tbody>
<tr>
<td>Energy</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Renewable Energy</td>
<td>A California Balancing Authority</td>
</tr>
<tr>
<td>Carbon Free Energy</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

5. **SCHEDULING.** Inter-SC Trades will not be scheduled as part of this transaction.

6. **PRICING.**

6.1 **Energy Contract Price and Payment.** For each month during the Delivery Period, Buyer will pay Seller an amount equal to the Energy Contract Quantity delivered and scheduled in accordance with this Confirmation multiplied by the Energy Contract Price specified in Exhibit A.

6.2 **Renewable Energy Contract Price and Payment.** For each month during the Delivery Period, Buyer will pay Seller an amount equal to: a) the applicable Renewable Energy Contract Price as specified in Exhibit B multiplied by the portion of the Renewable Energy Contract Quantity transferred from Seller to Buyer through WREGIS during such month plus b) the Day-Ahead LMP at the Delivery Point for each MWh of the Renewable Energy Contract Quantity delivered and scheduled in accordance with this Confirmation in such month.

6.3 **Carbon Free Energy Price and Payment.** For each month during the Delivery Period, Buyer will pay Seller an amount equal to the Carbon Free Energy Contract Quantity delivered in such month multiplied by the Carbon Free Energy Price specified in Exhibit C plus b) the Day-Ahead LMP at the Delivery Point for each MWh of the Carbon Free Energy Contract Quantity delivered and scheduled in accordance with this Confirmation in such month.

7. **CONTRACT QUANTITIES.**

7.1 **Energy.** Energy Contract Quantities and the Energy Contract Prices pursuant to this Confirmation relate to the quantities set forth in Exhibit A.

7.2 **Renewable Energy.** Renewable Energy Contract Quantities and Renewable Energy Contract Prices pursuant to this Confirmation relate to the quantities set forth in Exhibit B. The Renewable Energy sold by Seller to Buyer shall also include any and all Renewable Energy Credits associated with such Renewable Energy.

7.3 **Carbon Free Energy.** Carbon Free Energy Contract Quantities and Carbon Free Energy Prices pursuant to this Confirmation relate to the quantities set forth in Exhibit C.

8. **MONTHLY BILLING SETTLEMENT.**
8.1 Collection of Customer Payments. In accordance with the Security Documents, Buyer shall direct PG&E to deposit into a lockbox account, all of the proceeds of all of the Customer account receipts (net of the amounts to be paid to PG&E) received from the sale of the Product to the Customers. Seller shall receive, in accordance with the Security Documents, payments for its invoices due and payable, and after Seller’s invoice is paid and agreed to reserves have been funded, the amounts remaining in such lockbox shall be immediately released to Buyer or its designee in accordance with the Security Documents. The Parties agree that the lockbox account shall be in the name of Buyer, and any interest earned thereon shall accure to Buyer, as more fully set forth in the Security Documents.

8.2 Monthly Invoice Timeline. Seller agrees to use commercially reasonable efforts to deliver each monthly invoice to Buyer not later than the fifteenth (15th) day of each month for the previous calendar month. The Parties hereby agree that all invoices under this Confirmation shall be due and payable on the twenty-fifth (25th) day of the month following the month in which Seller delivered such invoice, provided that if such day is not a Business Day, then such invoice will be due and payable on the next Business Day that occurs after the twenty-fifth (25th) day of the month.

9. COMPLIANCE REPORTING. Buyer shall be responsible for submitting compliance reports to the CPUC and/or other Governmental Authorities on behalf of Silicon Valley Clean Energy and will require resource information, electronic tagging information, and other documentation to be provided by Seller. Seller shall provide all reasonable information to Buyer necessary for Buyer to timely comply with periodic compliance reporting requirements and as otherwise required by Applicable Law with respect to any Product.

10. NO RESTRICTION. Nothing in this Confirmation shall limit Buyer’s ability to develop its own generation facilities (“Buyer Facilities”) or prevent Buyer from purchasing energy from other parties or Seller from selling energy to other parties.

11. STANDARD OF CARE AND GOOD FAITH. When performing its obligations hereunder, Seller shall act in good faith and shall perform all work in a manner consistent with Prudent Utility Practices.

12. SECURITY PROVISIONS.

12.1 Compliance with Security Documents. During the entire period that this Confirmation remains in effect, Buyer shall comply with the Security Documents. Upon the occurrence of an Event of Default (after giving effect to any applicable cure periods) by Buyer under any Security Document or a termination of any Security Document by Seller due to Buyer’s failure to perform in accordance with the terms thereof, such event shall constitute an Event of Default of Buyer in accordance with Article Five of the Master Agreement and Buyer shall therefore be the ‘Defaulting Party’ with regard to such failure to perform.
12.2 **Buyer Reporting Requirements.** During the entire period this Confirmation remains in effect, Buyer shall provide Seller with the report(s) required below and shall also provide Seller with any clarifications requested regarding such report(s) and such other information that Seller reasonably requests regarding Buyer’s financial performance, Buyer’s performance of its obligations under this Confirmation or any Security Document or the ongoing viability of the CCA.

(a) **Annual Reports.** The following report shall be provided by Buyer to Seller not later than 180 days following the end of Buyer’s fiscal year, shall be with regard to such previous fiscal year and shall be as follows: Buyer’s financial reports consisting of, at a minimum, statement of revenues, expenses and changes in fund net assets, statement of net assets, and statement of cash flows on a consolidating basis (as applicable), each as prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant.

This Confirmation is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated November 28, 2016 (the “Master Agreement”) between Buyer and Seller, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement. This Confirmation and the Master Agreement, including any appendices, exhibits or amendments thereto, shall collectively be referred to as the “Agreement.”

<table>
<thead>
<tr>
<th>This Confirmation is subject to the Exhibits identified below and that are attached hereto:</th>
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<tbody>
<tr>
<td>Exhibit A – Energy Contract Quantity and Price Schedule</td>
</tr>
<tr>
<td>Exhibit B – Renewable Energy Contract Quantity and Price Schedule</td>
</tr>
<tr>
<td>Exhibit C – Carbon Free Energy Contract Quantity and Price Schedule</td>
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</tbody>
</table>

**DIRECT ENERGY BUSINESS MARKETING, LLC**

Sign: [Signature]
Print: [Name]
Title: Senior Director, Product

**SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority**

DocSigned by: [Signature]
Print: [Name]
Title: CEO
Exhibit A

Energy Contract Quantity and Price Schedule

The Energy Contract Quantity is 0 MWhs.
Exhibit B

Renewable Energy Contract Quantity and Price Schedule

<table>
<thead>
<tr>
<th>Year</th>
<th>Category 1 Renewable</th>
<th>Category 1 Renewable</th>
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<tbody>
<tr>
<td></td>
<td>REC Contract Quantity</td>
<td>REC Contract Price</td>
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<td>MWh</td>
<td>$/MWh</td>
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Renewable energy can only be sourced from wind, solar or small hydro (below 30MW) technology types.
Exhibit C

Carbon Free Energy Contract Quantity and Price Schedule

The Carbon Free Energy Contract Quantity is 0 MWhs.
CONFIRMATION

Reference:
Master Power Purchase and Sale Agreement
Between 3 Phases Renewables Inc. ("Seller")
And
Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer")
dated November 28, 2016 ("Master Agreement")

Transaction Date: May 14, 2019 (the "Effective Date")

RECITALS:

WHEREAS, Buyer is a California joint powers authority, which has established Silicon
Valley Clean Energy for purposes of delivering CCA service to certain customers located within
the County of Santa Clara;

WHEREAS, Buyer and Seller are Parties under the Master Agreement;

WHEREAS, Seller and Buyer desire to set forth the terms and conditions pursuant to
which Seller shall supply the Product to Buyer and Seller shall be paid for such Product in
accordance with the terms and conditions herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements in this
Confirmation and for other good and valuable consideration, the sufficiency of which is hereby
acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. DEFINITIONS. Any capitalized terms used in this Confirmation but not otherwise
defined below shall have the meaning ascribed to such term in the Master Agreement:

"Applicable Law" means any statute, law, treaty, rule, tariff, regulation, ordinance, code,
permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other
legal or regulatory determination or restriction by a court or Governmental Authority of
competent jurisdiction, or any binding interpretation of the foregoing, as any of them is amended
or supplemented from time to time, that apply to either or both of the Parties, the Project(s), or
the terms of the Agreement.

"CAISO" means the California Independent System Operator Corporation or the
successor organization to the functions thereof.

"California RPS" or "California Renewables Portfolio Standard" means the California
Res. Code §§ 25740-25751, and as administered by the CEC as set forth in the CEC RPS
Eligibility Guidebook (9th Ed.), as may be subsequently modified by the CEC, and the California
Public Utilities Commission ("CPUC") as set forth in CPUC Decision ("D") 08-08-028, D.08-
04-009, D.11-01-025, D.11-12-020, D.11-12-052, D.12-06-038 and D.14-12-023, and as may be
modified by subsequent decision of the CPUC or by subsequent legislation, and regulations
promulgated with respect thereto.

A-1
“Cap and Trade Regulations” means the Mandatory Greenhouse Gas Emissions Reporting and California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations (California Code of Regulations Title 17, Subchapter 10, Articles 2 and 5 respectively) promulgated by the California Air Resources Board of the California Environmental Protection Agency pursuant to the California Global Warming Solutions Act of 2006.

“Category 1 Renewable” means Energy, along with the associated Green Attributes and RECs produced by the Project without substituting energy from another generating source (as defined by the CPUC in D.11-12-052), delivered on an hourly basis to the Delivery Point during the Delivery Period. Category 1 Renewable satisfies the requirements of Section 399.16(b)(1) of the California Public Utilities Code as of the Effective Date.

“CEC” means the California Energy Commission.

“Change in Law” has the meaning set forth in Section 2.2 hereof.

“Commercially Reasonable Efforts” for the purposes of this Confirmation, “commercially reasonable efforts” or acting in a “commercially reasonable manner” shall not require a Party to undertake extraordinary or unreasonable measures.

“Compliance Obligation” has the meaning set forth by the Cap and Trade Regulations.

“CPUC” means the California Public Utilities Commission.

“Customers” means the residential, commercial, industrial, and all other retail end use customers that have not opted out of the East Bay Community Energy Program, as designated from time to time by Buyer as being served by Buyer within the jurisdictional boundaries of the County of Alameda.

“Delivery Period” shall be the period beginning on the Start Date and ending on the End Date, as set forth in Section 3 below.

“Delivery Point” has the meaning set forth in Section 4 hereof.

“Effective Date” means the Transaction Date.

“Energy” means electrical energy, measured in MWh.

“Eligible Renewable Energy Resource” or “ERR” means

“Energy Contract Price” shall mean the applicable locational marginal price at the Delivery Point(s), as published by the CAISO, per MWh of Energy delivered.

“ERR” shall mean an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16.
“Exhibits” shall be those certain Exhibits, which are attached hereto and made a part hereof.

“FERC” means the Federal Energy Regulatory Commission.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States.

“Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, or the CAISO or any other transmission authority, having or asserting jurisdiction over a Party or the Agreement.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from a Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;1 (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

1 Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.
“Incremental Energy” means Energy generated outside the metered boundaries of a California balancing authority area, which may include electricity produced by the Project(s), delivered to a delivery point inside California during the same calendar year in which the Energy was produced by the Projects. For avoidance of doubt, Incremental Energy is not required to be Energy generated directly from the Project.

“Mandatory Reporting Rule” means the regulations entitled Mandatory Greenhouse Gas Emissions Reporting set forth in Article 2 of Subchapter 10 of Title 17 of the California Code of Regulations.

“MW” means megawatt.

“MWh” means megawatt-hour.

“PG&E” means the Pacific Gas and Electric Company, its successors and assigns.

“Product” shall have the meaning set forth in Section 2.1 below.

“Project” shall mean the Eligible Renewable Energy Resource(s) used to provide Renewable Energy hereunder, as further specified in Exhibit B.

“Prudent Industry Practices” means any of the practices, methods, techniques and standards (including those that would be implemented and followed by a prudent operator of generating facilities similar to the Project(s) in the United States during the relevant time period) that, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result, giving due regard to manufacturers’ warranties and recommendations, contractual obligations, the requirements or guidance of Governmental Authority, including CAISO, Applicable Law, the requirements of insurers, good business practices, economy, efficiency, reliability, and safety. Prudent Industry Practices shall not be limited to the optimum practice, method, technique or standard to the exclusion of all others, but rather shall be a range of possible practices, methods, techniques or standards.

“REC Price” shall mean the price ($/REC) to be paid by Buyer to Seller for RECs delivered hereunder, as set forth on Exhibit A.

“REC Vintage” means the date of Energy generation found on a WREGIS Certificate.

“Renewable Energy” means Energy and/or Green Attributes generated from Renewable Energy Sources.


“Renewable Energy Contract Quantity” shall mean the quantity of Renewable Energy to be delivered by Seller to Buyer hereunder, as set forth on Exhibit A.
“Renewable Energy Credits” or “REC” has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision D.08-08-028, as applicable to the specific REC Vintage(s) transferred hereunder.

“Specified Sources of Power” means electricity that is traceable to a specific generation source by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification of the power source.

“Scheduling Coordinator” or “SC” means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the Tariff for the purposes of undertaking the functions specified in “Responsibilities of a Scheduling Coordinator” as set forth in the Tariff.

“Tariff” means the tariff and protocol provisions, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” as amended, supplemented or replaced by CAISO from time to time.

“Third-Party SC” means a third party designated by Seller to provide the Scheduling Coordinator functions for the delivery of Product.

“WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

“WREGIS Certificate” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS.

2. PRODUCT.

2.1 Seller Delivery Obligation. Throughout the Delivery Period, Seller shall sell and deliver or make available, or cause to be sold and delivered or made available to Buyer, Energy bundled with RECs from the Project, the “Product”. The Product satisfies the requirements for Category 1 Renewable Energy as of the Effective Date.

2.2 Change in Law. If due to any action by the CPUC or any Governmental Authority, or any change in Applicable Law (a “Change in Law”) occurring after the Transaction Date that results in material changes to Buyer’s or Seller’s obligations with regard to the Products sold hereunder and that has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the implementation of this Confirmation becomes impossible or impracticable, or otherwise modifies the California RPS or language required to conform to the California RPS, the Parties shall work in good faith to try and revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of Products sold hereunder or Buyer’s compliance with California RPS obligations in order to maintain the original intent of the Parties under this Confirmation. In the event the Parties cannot reach agreement on any
such amendments to this Confirmation within sixty (60) days following the Change in Law, to the extent practicable and lawful, Seller shall perform its obligations hereunder with regard to any Product hereunder or compliance with California RPS obligations in accordance with the Applicable Law immediately prior to the Change in Law; provided, however, that notwithstanding the foregoing or anything to the contrary herein, Seller shall not be obligated to perform any obligation hereunder to the extent that doing so would cause Seller to be materially adversely affected. These Change in Law provisions are independent of those set forth in the RPS Standard Terms and Conditions below.

2.3 RPS Standard Terms and Conditions.

STC 6: Eligibility

Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Period of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

STC REC-1: Transfer of Renewable Energy Credits

Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Period of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

STC REC-2: Tracking of RECs in WREGIS

Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under this contract.

STC 17: Applicable 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.

2.4 No New Construction Without Environmental Review. To the extent that Seller constructs any new facilities to meet its supply obligation hereunder, Seller covenants and agrees that the construction and operation of such facility(ies) will be in accordance with any and all Applicable Law.

2.5 Delivery of WREGIS Certificates. Throughout the Delivery Period, following generation of the Renewable Energy by the Project(s), Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with the Renewable Energy Contract Quantity are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard for Buyer.

2.6 Seller shall comply with all Applicable Laws, including, without limitation, the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. The Parties acknowledge and agree that, as of the Transaction Date, the WREGIS Certificates associated with the Renewable Energy Contract Quantity for a month are not available for transfer to Buyer until approximately ninety (90) days after the end of such month. Seller shall transfer such WREGIS Certificates in a timely manner after such WREGIS Certificates are available for transfer to Buyer for Buyer’s sole benefit. Seller shall be deemed to have delivered the applicable quantity of WREGIS Certificates to Buyer after initiating the transfer of the applicable quantity of WREGIS Certificates to Buyer’s WREGIS Account. Upon receiving written or electronic confirmation from WREGIS that a transfer order has been initiated by Seller, Buyer shall confirm such transfer order in WREGIS within fourteen (14) days to the extent that the WREGIS Certificates included in such transfer conform to the specifications reflected in this Confirmation. In the event that certain WREGIS Certificates fail to conform to the specifications reflected in this Confirmation, Buyer shall be entitled to reject the transfer of any non-conforming WREGIS Certificates and if Seller agrees such WREGIS Certificates are non-conforming, Seller shall promptly replace the non-conforming WREGIS Certificates with an equivalent amount of WREGIS Certificates of the same REC Vintage and that meet the applicable California RPS requirements or WREGIS specifications reflected in this Confirmation; provided, however, that if replacement WREGIS Certificates are not immediately available, Seller may provide replacements once available, but in any event shall provide replacement WREGIS Certificates to Buyer within ninety (90) days after Buyer’s rejection of such non-conforming WREGIS Certificates. Upon either Party’s receipt of notice from WREGIS that a transfer of WREGIS Certificates was not recognized, that Party will immediately notify the other Party, providing a copy of such notice, and both Parties will cooperate in taking such actions as are necessary and commercially reasonable to cause such transfer to be recognized and completed. Each Party agrees to provide
copies of its applicable reports to the extent reasonably necessary for WREGIS to verify the accuracy of any fact, statement, charge or computation made pursuant hereto if requested by the other Party.

2.7 **Retirement of RECs.** To facilitate compliance with obligations of suppliers of Renewable Energy as first deliverers of electricity, as defined in Title 17, California Code of Regulations ("CCR") Section 95802, to comply with mandatory greenhouse gas reporting requirements in Title 17 CCR Section 95101 with respect to such Renewable Energy, Buyer agrees to retire the RECs purchased from Seller hereunder for each renewable generation period in accordance with Title 17 CCR Section 95852(b)(3)(D).

3. **DELIVERY PERIOD.** This Confirmation shall be in full force and effect as of the Effective Date. The terms set forth herein shall apply from the Start Date through the End Date, which entire period will comprise the Delivery Period. This Confirmation shall terminate on the date on which both Parties have completed the performance of their obligations hereunder, unless earlier terminated pursuant to the terms hereof.

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<th>Start Date:</th>
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<tr>
<td>The Effective Date</td>
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For clarification purposes, the above period refers to the delivery of the energy associated with the RECs. This Confirmation shall terminate upon final payment from Buyer to Seller for the complete transfer of RECs for the Contract Quantities from Seller to Buyer.

4. **DELIVERY POINT.** CAISO or a California Balancing Authority.

5. **SCHEDULING.** Inter-SC Trades will not be scheduled as part of this transaction.

6. **PRICING.**

6.1 **Renewable Energy Contract Price and Payment.** For each month during the Delivery Period, (a) Buyer will pay Seller an amount equal to the applicable REC Price as specified in Exhibit A multiplied by the portion of the Renewable Energy Contract Quantity delivered as evidenced by the transfer of WREGIS Certificates from Seller to Buyer through WREGIS plus (b) Seller shall be entitled to retain all revenues associated with the sale of the Energy associated with the Product to the CAISO at the Delivery Point in full satisfaction of Buyer’s payment obligation for the Energy component of the Product.

7. **CONTRACT QUANTITIES.**
7.1. **Renewable Energy.** Renewable Energy Contract Quantities and Renewable Energy Contract Prices pursuant to this Confirmation relate to the quantities set forth in Exhibit A.

8. **MONTHLY BILLING SETTLEMENT.**

8.1. **Monthly Invoice Timeline.** Invoicing and payment shall be in accordance with Article 6 of the Master Agreement and Buyer shall pay such invoices in accordance with the Master Agreement and this Confirmation.

9. **GREEN-E REQUIREMENTS.** Seller represents and warrants that it shall take commercially reasonable actions to cause the Project to comply with the Green-e Renewable Energy Standard for Canada and the United States, v3.2 and Green-e Energy requirements as necessary to ensure that all Product sold to Buyer hereunder meets the eligibility criteria of the Green-e Renewable Energy Standard for Canada and the United States, v3.2. Such actions shall include the submission of the “Green-e Energy Attestation From Generator Participating in a Tracking System” for all facilities comprising the Project (or any other forms required by the Center for Resource Solutions (“CRS”) or Green-e Energy as a successor thereto) to Green-e Energy and/or CRS. Nothing in this paragraph shall imply that Seller is required to certify the RECs from the Project.

10. **COMPLIANCE REPORTING.** In consideration of applicable compliance obligations, Buyer shall be responsible for submitting compliance reports to the CPUC and/or other Governmental Authorities on its own behalf and will require resource information, electronic tagging information, and other documentation to be provided by Seller. Seller shall provide all reasonable information to Buyer necessary for Buyer to timely comply with periodic compliance reporting requirements and as otherwise required by Applicable Law with respect to any Product.

11. **STANDARD OF CARE AND GOOD FAITH.** When performing its obligations hereunder, Seller shall act in good faith and shall perform all work in a manner consistent with Prudent Industry Practices.

This Confirmation is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated November 28, 2016 (the “Master Agreement”) between Buyer and Seller, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement. This Confirmation and the Master Agreement, including any appendices, exhibits or amendments thereto, shall collectively be referred to as the “Agreement.”

<table>
<thead>
<tr>
<th>This Confirmation is subject to the Exhibit identified below and that is attached hereto:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A – Renewable Energy Contract Quantity and REC Price Schedule</td>
</tr>
</tbody>
</table>
IN WITNESS WHEREOF, the Parties hereto have executed this Confirmation on the Effective Date.

3 PHASES RENEWABLES INC.

Digitally signed by Eric Hulin

Sign: Eric Hulin
Print: Eric Hulin
Title: Director, Energy Marketing

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

Sign: Girish Balachandran
Print: Girish Balachandran
Title: CEO
Exhibit A

Renewable Energy Contract Quantity and REC Price Schedule

<table>
<thead>
<tr>
<th>Year</th>
<th>Renewable Energy Contract Quantity</th>
<th>REC Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MWh</td>
<td>$/REC</td>
</tr>
</tbody>
</table>
## Exhibit B

### Project

<table>
<thead>
<tr>
<th>Facility Name</th>
<th>Resource Type</th>
<th>Location</th>
<th>CEC RPS ID</th>
<th>Host Balancing Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>CED Lost Hills Solar, LLC</td>
<td>Solar</td>
<td>Kern County, CA</td>
<td>62516A</td>
<td>CAISO</td>
</tr>
</tbody>
</table>

In addition, Seller may source the Product or any portion thereof from other facilities (each of which shall also be referred to as a “Project” under this definition) if and only if such facilities, a) satisfy the requirements to generate Category 1 Renewable, b) meet Green-e Requirements, and c) have a Resource Type of Solar from a facility located in California.
WSPP AGREEMENT  
SCHEDULE R  
FIRM BUNDLED RECS TRANSACTION  
BETWEEN  
EDF Trading North America, LLC  
AND  
SILICON VALLEY CLEAN ENERGY AUTHORITY, A CALIFORNIA JOINT POWERS AUTHORITY  

This confirmation ("Confirmation") confirms the Firm REC transaction ("REC Transaction") between EDF Trading North America, LLC ("Seller") and the Silicon Valley Clean Energy Authority ("Purchaser" or "Buyer"), each individually a "Party" and together the "Parties", effective as of May 8, 2019 (the "Confirmation Effective Date"). This REC Transaction is governed by the WSPP Agreement effective as of June 21, 2018 (as updated from time to time to include revisions approved by FERC), and Service Schedule R to the WSPP Agreement. The WSPP Agreement, Service Schedule R to the WSPP Agreement, and this Confirmation shall be 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.

<table>
<thead>
<tr>
<th>IDENTIFICATION OF PARTIES:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>PURCHASER:</strong></td>
<td><strong>SELLER:</strong></td>
</tr>
<tr>
<td>Silicon Valley Clean Energy Authority, a California joint powers authority</td>
<td>EDF Trading North America, LLC</td>
</tr>
</tbody>
</table>
| Silicon Valley Clean Energy Authority, a California joint powers authority | EDF Trading North America LLC  
333 W. El Camino Real, Suite 320  
Sunnyvale, CA 94087 |
| Attn: Girish Balachandran  
Phone: (408) 721-5301 | Attn: Contract Administration  
Phone: (213) 781-0333  
Fax: (213) 653-1454 |
| **Contact Information:** | **Scheduling Contacts:** |
| Silicon Valley Clean Energy Authority, a California joint powers authority | Attn: Alcia Cain  
West Power Scheduler  
Phone: (213) 653-1695 |
| 333 W. El Camino Real, Suite 320  
Sunnyvale, CA 94087 | Attn: ZGlobal  
Phone: (916) 221-4327 |
| **Addresses For Formal Notices:** | **Same as above in Contact Information with Attention to General Counsel** |
| Same as above in Contact Information | |

<table>
<thead>
<tr>
<th>IDENTIFICATION OF PARTIES:</th>
<th></th>
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<tbody>
<tr>
<td><strong>REC TRANSACTION TERMS:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>REC Product:</strong></td>
<td></td>
</tr>
</tbody>
</table>
(e.g., Firm REC, Firm Bundled REC, etc.) (see Section R-2.3) |  
For purposes of this Confirmation "Firm REC" means "renewable energy credits without associated energy (unbundled). Each REC shall be evidenced by a WREGIS Certificate and be equivalent to one (1) MWh of energy from a Renewable Energy Source and shall include the Green Attributes associated with such MWh of energy. |
| **Additional Provisions:** |  |
The Product meets the California RPS compliance requirements in California Public Utilities Code Section 399.11 through 399.20 of the California Public Utilities Code and the renewable energy resources program enacted by the State of California and set forth in Sections 25740 through 25751 of the California Public Resources Code, and the associated rules, regulations, and decisions of the CPUC and the CEC, as may be amended from time to time and, to the extent not inconsistent with the foregoing, qualifies as a Firm REC as described in Section R-2.3.1 and also qualifies as a "Renewable energy certificate" as defined or described in and eligible under the Green-e Applicable Standard.

<table>
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<tr>
<th>RECs:</th>
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<td>N/A</td>
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</table>

**Environmental Attributes:**
(check one)

- All Attributes (this designation is effective only if a Renewable Energy Source or Renewable Energy Facility is designated below)
- Program Attributes (this designation is effective only if an Applicable Program is identified below) (Note: WREGIS and possibly other Tracking Systems will not recognize a Program Attributes REC, or may treat it as an All Attributes REC)

**Applicable Program:**
(required for Program Attributes; not required for All Attributes, but designation establishes the minimum Environmental Attributes required by a designated Applicable Program). Also required for recovery of penalties and alternative compliance payments (Section R-9.1). Designation should include detailed information, including any applicable legal citations, to assure adequate description of the program


**Designation of Renewable Energy Source or Renewable Energy Facility:**
(required for All Attributes)

- Renewable Energy Source:
Renewable Energy Facilities:

<table>
<thead>
<tr>
<th>Name</th>
<th>Location</th>
<th>CEC RPS ID</th>
<th>Tracking System Number</th>
<th>Fuel (wind, solar, etc)</th>
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</tbody>
</table>

Change in Law Provisions:

- X Regulatorily Continuing (Section R-5.2.2(b)), requiring that Seller make commercial reasonable efforts to obtain compliance with Changes in Law in the designated Applicable Program.
  - If checked, state any agreed maximum costs of such efforts (if no maximum is stated, then no maximum applies): $2,500
  - Not Regulatorily Continuing (Section R-5.2.2(c))

Tracking System:

- X WREGIS
- Other:

Damages:

- Damages include reimbursement for penalties and alternative compliance payments, subject to any agreed cap on this damages component, which can be zero (Section R-9.1)
- X No cap on damages

Any agreements concerning forward certificates in WREGIS or other Tracking System Expedition:

- See Other Provisions below.

TERMS APPLICABLE TO ENERGY IF INCLUDED IN REC PRODUCT:

Period (Schedule) of Delivery:

- From: N/A
- To: N/A

Schedule (Days and Hours):

- N/A

Delivery Rate:

- N/A

Delivery Point(s):

- N/A

Contract Quantity (specify all details):

- N/A

Transmission Path for the Transaction (If Applicable):

- N/A

EFFECTIVE DATE AND OTHER PROVISIONS:
### Effective Date:
(no earlier than mutual execution of this Confirmation)

The Confirmation Effective Date specified above.

### Other Provisions:

1. **Additional Definitions.**
   - “California Renewables Portfolio Standard” means the renewable energy program and policies established by Senate Bills 1038 and 1078 and 2 (1X) codified in California Public Utilities Code Sections 399.11 et seq. and California Public Resources Code Sections 25740 through 25751.
   - “CEC” means the California Energy Commission.
   - “CPUC” means the California Public Utilities Commission.
   - “Environmental Attributes” means “Green Attributes”.
   - “Green-e Applicable Standard” means the Green-e Energy National Standard v 3.2 for Renewable Energy Products published by the Center for Resource Solutions, as may be amended from time to time.
   - “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydro fluorocarbons, per fluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions or allowances associated with the Project that are applicable to a state or federal income tax obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to the Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project. [STC 2]
   - “REC” means a renewable energy credit as defined by and in accordance with the California Public Utilities Code, as ordered by the CPUC in Decision 08-08-028, as such definition may be modified by the CPUC or other applicable law from time to time.

---

1Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.
“RPS” means the California Renewables Portfolio Standard Program as codified at California Public Utilities Code Section 399.11 et seq., and any decisions by the CPUC related thereto.

“Scheduling Protocols” means the tariffs, operating procedures and protocols and business practices of the CAISO and all applicable scheduling protocols of the WECC and any other entity or entities transmitting the energy associated with the REC Product on behalf of Seller or Purchaser to or from the Delivery Point.

“WREGIS” and “Western Renewable Energy Generation Information System” mean the Western Renewable Energy Generation Information System or its successor organization recognized under applicable laws for the registration, transfer or ownership of RECs, Environmental Attributes or Green Attributes.

“WREGIS Certificate” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS.

2. **Additional Representations and Warranties.**

(a) During the Term, each Party represents and warrants to the other that: (i) it is an “eligible commercial entity” and an “eligible contract participant” within the meaning of United States Commodity Exchange Act §§1a(17) and 1a(18), respectively, and this Transaction has been subject to individual negotiation by the Parties.

(b) Seller further represents and warrants to Purchaser that (i) Seller has not sold the REC Product or any Environmental Attribute of the REC Product to be transferred to Purchaser to any other person or entity; and (ii) Seller has and during the Term shall continue to maintain Certification from WREGIS.

3. **Compliance with RPS.**

(a) Seller has reviewed Section 399.16(b)(2) of the California Public Utilities Code. Seller has concluded in good faith that the Projects’ output delivered to Buyer hereunder would qualify under the requirements of California Public Utilities Code Section 399.16(b)(2) (portfolio content category 2) on the date hereof and so long as no Change in Law occurs, on each date of delivery.

(b) Seller shall deliver and convey the RECs by properly transferring the WREGIS Certificates for such RECs, in accordance with the rules and regulations of WREGIS, into Purchaser’s WREGIS account such that all right, title and interest in and to such WREGIS Certificates shall transfer from Seller to Purchaser. Notwithstanding Service Schedule R, title to such WREGIS Certificates shall transfer upon the delivery of such WREGIS Certificates.

(c) Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Projects. [STC 2]

(d) If WREGIS changes the WREGIS Operating Rules or applies the WREGIS Operating Rules in a manner inconsistent with this Confirmation, the Parties promptly shall modify this Agreement as reasonably required to preserve the intended economic benefits of this Transaction for both Parties, and so cause and enable Seller to transfer to Purchaser’s WREGIS Account the RECs sold to Purchaser hereunder.

(e) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that each Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16. To the extent a Change in Law occurs after execution of this Agreement that causes
this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such Change in Law.

(f) Seller and, if applicable, its successors, representatives and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a Change in Law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such Change in Law. [STC REC-1]

(g) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. [STC REC-2]

(h) Buyer warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract.

4. **Payments.** For purposes of this Confirmation, invoicing and payment for the RECs delivered to Purchaser shall be as follows:

a) Following delivery by Seller of the RECs, Seller shall provide an invoice to Purchaser reflecting the Contract Price associated with the RECs so delivered (each, an "invoice"). Seller’s invoice may be delivered by email from Seller to Purchaser.

b) Within five (5) Business Days of the later of (x) Purchaser’s receipt of an Invoice and (y) Purchaser’s receipt of confirmation from Seller that the WREGIS Certificates have been transferred into Purchaser’s WREGIS account. All payments made under this Confirmation shall be made in immediately available United States Dollars by electronic transfer to the following accounts:

Payments to:  
Seller: EDF Trading North America, LLC  
Bank: Bank of America, NA  
Bank ABA: 026009593  
Account Number: 4427288595

5. **Regulatory.**

The Parties intend the rates, terms and conditions of service specified in this Confirmation to remain fixed throughout the Term regardless of any changes in underlying costs that would justify a change in rates under traditional cost of service principles. The Parties agree that they shall not make unilateral application to the Federal Energy Regulatory Commission for a change in rates, terms and conditions herein under Section 205 and/or 206 of The Federal Power Act nor shall either Party seek any change in the rates, terms and conditions herein based upon changes in its costs of service. Neither Party shall unilaterally seek to obtain from the Federal Energy Regulatory Commission any relief changing the rate, charge, classification, or other term or condition of this Confirmation, notwithstanding any subsequent changes in applicable law or market conditions that may occur. Except as expressly provided by this Confirmation, Purchaser and Seller further agree that the standard of review for changes to this Confirmation proposed by any person, including a non-party or the Federal Energy Regulatory Commission acting *sua sponte* shall be the “public interest” application of the “just and reasonable” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Pub. Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008) and *NRG Power Mktg., LLC v. Maine Pub. Util. Comm’n*, 558 U.S. 165 (2010) (the “Mobile-Sierra” doctrine).
6. **Governing Law.** Section 24 of the Agreement is deleted in its entirety and this Confirmation and any portion of the 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. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any proceedings relating to this Agreement.

7. **Failure of Title Transfer.** In the event that WREGIS fails to deliver or restricts acceptance of the Green Attributes, then each Party will provide the other Party with all documents, communications, and information sent to or received from WREGIS that pertain thereto. The Parties will cooperate, each at its own expense, to assure the completion of all actions and items required for transfer of the Green Attributes, and will promptly complete any and all uncompleted actions and items. If following such efforts WREGIS does not transfer the Green Attributes for reasons beyond either the Buyer's or Seller's control, if permitted by Buyer, Seller will provide an Attestation to Buyer and the event described hereto will not be considered an Event of Default or a failure to deliver Green Attributes.

8. **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.

9. **Credit Requirements.** Notwithstanding any other provision of the Agreement, credit support is not required for either Party under this Transaction.

10. **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 page.

11. **Entire Agreement; No Oral Agreements or Modifications.** This Confirmation sets forth the terms of the Transaction into which the Parties have entered into 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 Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE:

EDF TRADING NORTH AMERICA, LLC

By: ________________________________
   Name: ________________________________
   Title: ________________________________

SILICON VALLEY CLEAN ENERGY
AUTHORITY, A CALIFORNIA JOINT POWERS
AUTHORITY

By: Girish Balachandran
   Name: Girish Balachandran
   Title: CFO

EDF Commercial JLC
EDF Settlements KU
EDF Credit NW/A
EDF Legal
C/A
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
EXELON GENERATION COMPANY, LLC

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and Exelon Generation Company, LLC, a Pennsylvania limited liability company ("Buyer"), each individually a "Party" and together the "Parties", dated as of April 29, 2019 (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 EEI Master Power Purchase and Sale Agreement, effective as of November 28, 2016, as amended from time to time (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 (defined herein below). To the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall control and shall govern the rights and obligations of the Parties in connection with the Transaction.

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 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 3.2 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 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" means the current effective version of the WSPP Agreement as approved and published by WSPP on their website: www.wspp.org, or any successor thereto.
ARTICLE 2. UNIT INFORMATION

<table>
<thead>
<tr>
<th>Name</th>
<th>Delta Energy Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Pittsburg, CA</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>DELTA_2_PL1X4</td>
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<tr>
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<tr>
<td>Resource Type</td>
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<td>Resource Category (1, 2, 3 or 4)</td>
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<tr>
<td>Flexible RAR Category (1, 2 or 3)</td>
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<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>Greater Bay Area</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
[ ] 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:

[ ] RAR Attributes
[X] 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: 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 LAR Contract Quantity (MWs)</th>
</tr>
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</table>

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 Master 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 Article 6 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, 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>LAR Capacity Price ($/kW-month)</th>
</tr>
</thead>
<tbody>
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<td></td>
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</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 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. RESERVED

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 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 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 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-SALED 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 Master Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.
ARTICLE 12. NO RECOUSE TO MEMBERS OF SELLER

Seller 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. Seller will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Buyer will have no rights and will not make any claims, take any actions or assert any remedies against any of Seller's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Seller's constituent members, in connection with this Confirmation.

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: __________________________

Name: _________________________

Title: _________________________

EXELON GENERATION COMPANY, LLC, a Pennsylvania limited liability company

By: __________________________

Name: _________________________

Title: _________________________
SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: [Signature]
Name: Girish Balachandran
Title: CEO

EXELON GENERATION COMPANY, LLC, a Pennsylvania limited liability company

By: [Signature]
Name: Ravi Ganti
Title: SVP, Portfolio Management and Strategy
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
SACRAMENTO MUNICIPAL UTILITY DISTRICT

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and Sacramento Municipal Utility District ("Buyer"), each individually a "Party" and together the "Parties", dated as of April 29, 2019 (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.
1.14 "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 "Designated 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).
"Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.

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

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

"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.

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

"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.

"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.

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

"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.

"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.

"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.

"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.

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

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

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

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

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

"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**

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</tr>
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<td>Local Capacity Area (if any, as of Confirmation Effective Date)</td>
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<td>Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment</td>
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<tr>
<td>Run Hour Restrictions</td>
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</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
[ ] 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:

[ ] RAR Attributes
[X] 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: [ ]

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 LAR Contract Quantity (MWs)</th>
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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>RA CAPACITY PRICE TABLE</th>
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<tr>
<td>Contract Month</td>
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<td>----------------</td>
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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. 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, 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 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.

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. NO RECOURSE TO MEMBERS OF SELLER

Seller 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. Seller will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Buyer will have no rights and will not make any claims, take any actions or assert any remedies against any of Seller’s constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Seller’s constituent members, in connection with this Confirmation.

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

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Heather Wilson
Supervisor
Commodity Settlements
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CITY OF SAN JOSÉ

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and City of San José, a California municipality ("Buyer"), each individually a "Party" and together the "Parties", dated as of April 29, 2019 (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, 05-06-064, 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 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

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<thead>
<tr>
<th>Name</th>
<th>Delta Energy Center</th>
</tr>
</thead>
<tbody>
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<td>Location</td>
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</tr>
<tr>
<td>Unit SCID</td>
<td>CALJ</td>
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<tr>
<td>Unit NQC</td>
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<td>Unit EFC</td>
<td>N/A</td>
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<tr>
<td>Resource Type</td>
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<tr>
<td>Resource Category (1, 2, 3 or 4)</td>
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<tr>
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<tr>
<td>Path 26 (North or South)</td>
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</tr>
<tr>
<td>Local Capacity Area (if any, as of Confirmation Effective Date)</td>
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</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
[ ] 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: ____________________________.

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>
</tr>
</thead>
</table>

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>RA CAPACITY PRICE TABLE</th>
</tr>
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<tbody>
<tr>
<td>Contract Month</td>
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<tr>
<td>-----------------</td>
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<td></td>
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</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 4.9.3 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. 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 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 acknowledge and agree that the Agreement is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

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. DESIGNATED FUND AND LIMITED OBLIGATIONS

(a) Designated Fund. Buyer's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund ("Designated Fund") that shall be used solely for San José Clean Energy costs and expenses, including the obligations under this Agreement. Subject to the requirements and limitations of Applicable Law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to San José Clean Energy's obligations, Buyer agrees to establish San José Clean Energy rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this Agreement and all of Buyer's payment obligations under its other contracts for the purchase of energy for San José Clean Energy. Buyer shall provide Seller with reasonable access to account balance information with respect to the San José Clean Energy Designated Fund during the Term.

(b) Limited Obligations. Buyer's payment obligations are special limited obligations of the Buyer payable solely from the Designated Fund. Buyer's payment obligations under this Agreement are not a charge upon the revenues or general fund of the City of San José or upon any non-San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

ARTICLE 12. 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 13. NO RECOourse TO MEMBERS OF SELLER

Seller 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. Seller will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Buyer will have no rights and will not make any claims, take any actions or assert any remedies against any of Seller's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Seller's constituent members, in connection with this Agreement.

ARTICLE 14. COUNTERPARTS

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, facsimile or scanned signatures as originals under this Confirmation. 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.

[Signatures appear on the following page.]
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

CITY OF SAN JOSE, a California municipality

By: [Signature]
Name: Lori Mitchell
Title: Director
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CITY OF SAN JOSÉ

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and City of San José, a California municipality ("Buyer"), each individually a "Party" and together the "Parties", dated as of April 29, 2019 (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, 06-06-054, 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 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

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<th>Delta Energy Center</th>
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<td>Local Capacity Area (if any, as of Confirmation Effective Date)</td>
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<td>Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment</td>
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<td>Run Hour Restrictions</td>
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</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
  - [ ] 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:

  - [ ] RAR Attributes
  - [X] 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: [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 for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Contract Month</th>
<th>Total Generic LAR Contract Quantity (MWs)</th>
</tr>
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<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

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>LAR Capacity Price ($/kW-month)</th>
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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. 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 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 the 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 acknowledge and agree that the Agreement is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

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. DESIGNATED FUND AND LIMITED OBLIGATIONS

(a) Designated Fund. Buyer's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund ("Designated Fund") that shall be used solely for San José Clean Energy costs and expenses, including the obligations under this Agreement. Subject to the requirements and limitations of Applicable Law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to San José Clean Energy's obligations, Buyer agrees to establish San José Clean Energy rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this Agreement and all of Buyer's payment obligations under its other contracts for the purchase of energy for San José Clean Energy. Buyer shall provide Seller with reasonable access to account balance information with respect to the San José Clean Energy Designated Fund during the Term.

(b) Limited Obligations. Buyer's payment obligations are special limited obligations of the Buyer payable solely from the Designated Fund. Buyer's payment obligations under this Agreement are not a charge upon the revenues or general fund of the City of San José or upon any non-San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

ARTICLE 12. 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 13. NO RECOURSE TO MEMBERS OF SELLER

Seller 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. Seller will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Buyer will have no rights and will not make any claims, take any actions or assert any remedies against any of Seller's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Seller's constituent members, in connection with this Agreement.

ARTICLE 14. COUNTERPARTS

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, facsimile or scanned signatures as originals under this Confirmation. 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.

[Signatures appear on the following page.]
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: ________________________________

Name: Girish Balachandran

Title: CEO

CITY OF SAN JOSE, a California municipality

By: ________________________________

Name: Lori Mitchell

Title: Director
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CITY OF SAN JOSÉ

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and City of San José, a California municipality ("Buyer"), each individually a "Party" and together the "Parties", dated as of April 29, 2019 (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, 08-03-031, 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 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

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<td>Path 26 (North or South)</td>
<td>North</td>
</tr>
<tr>
<td>Local Capacity Area</td>
<td>PG&amp;E Other</td>
</tr>
<tr>
<td>Deliverability restrictions</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
[ ] 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:

[ ] 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: ____________

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 LAR Contract Quantity (MWs)</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

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>LAR Capacity Price ($/kW-month)</th>
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</thead>
<tbody>
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<td></td>
<td></td>
</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 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;
Appendix A

(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 acknowledge and agree that the Agreement is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

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. DESIGNATED FUND AND LIMITED OBLIGATIONS

(a) Designated Fund. Buyer's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund ("Designated Fund") that shall be used solely for San José Clean Energy costs and expenses, including the obligations under this Agreement. Subject to the requirements and limitations of Applicable Law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to San José Clean Energy's obligations, Buyer agrees to establish San José Clean Energy rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this Agreement and all of Buyer's payment obligations under its other contracts for the purchase of energy for San José Clean Energy. Buyer shall provide Seller with reasonable access to account balance information with respect to the San José Clean Energy Designated Fund during the Term.

(b) Limited Obligations. Buyer's payment obligations are special limited obligations of the Buyer payable solely from the Designated Fund. Buyer's payment obligations under this Agreement are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

ARTICLE 12. 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 13. NO RECOVERY TO MEMBERS OF SELLER

Seller 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. Seller will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Buyer will have no rights and will not make any claims, take any actions or assert any remedies against any of Seller's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Seller's constituent members, in connection with this Agreement.

ARTICLE 14. COUNTERPARTS

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, facsimile or scanned signatures as originals under this Confirmation. 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.

[Signatures appear on the following page.]
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

CITY OF SAN JOSÉ, a California municipality

By: Lori Mitchell
Name: Lori Mitchell
Title: Director
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CITY OF SAN JOSÉ

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer") and City of San José, a California municipality ("Seller"), each individually a "Party" and together the "Parties", dated as of April 29, 2019 (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.
1.14 "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 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 CPUC 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

### SEPTEMBER

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<thead>
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<tr>
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<tr>
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</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
[ ] 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: [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 for each Monthly Delivery Period shall be:

<table>
<thead>
<tr>
<th>Contract Month</th>
<th>Total Generic RAR Contract Quantity (MWs)</th>
</tr>
</thead>
</table>

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

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;
Appendix A

(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 acknowledge and agree that the Agreement is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

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. DESIGNATED FUND AND LIMITED OBLIGATIONS

(a) Designated Fund. Seller's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund ("Designated Fund") that shall be used solely for San José Clean Energy costs and expenses, including the obligations under this Agreement. Subject to the requirements and limitations of Applicable Law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to San José Clean Energy's obligations, Seller agrees to establish San José Clean Energy rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this Agreement and all of Seller's payment obligations under its other contracts for the purchase of energy for San José Clean Energy. Seller shall provide Buyer with reasonable access to account balance information with respect to the San José Clean Energy Designated Fund during the Term.

(b) Limited Obligations. Seller's payment obligations are special limited obligations of the Seller payable solely from the Designated Fund. Seller's payment obligations under this Agreement are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

ARTICLE 12. 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 13. NO RECOUSE 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 8500, 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 Agreement. 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 Agreement.

ARTICLE 14. COUNTERPARTS

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, facsimile or scanned signatures as originals under this Confirmation. 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.

[Signatures appear on the following page.]
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: Giriish Balachandran
Name: Giriish Balachandran
Title: CEO

CITY OF SAN JOSE, a California municipality

By: [Signature]
Name: Lori Mitchell
Title: Director
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
EAST BAY COMMUNITY ENERGY AUTHORITY

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and East Bay Community Energy Authority, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of May 9, 2019 (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.
1.14 “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 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>Aidlin Power Plant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Sonoma County</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>ADLIN_1_UNITS</td>
</tr>
<tr>
<td>Unit SCID</td>
<td>CALJ</td>
</tr>
<tr>
<td>Unit NQC</td>
<td>Varies</td>
</tr>
<tr>
<td>Unit EFC</td>
<td>N/A</td>
</tr>
<tr>
<td>Resource Type</td>
<td>Geothermal</td>
</tr>
<tr>
<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>
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<tr>
<td>Path 26 (North or South)</td>
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</tr>
<tr>
<td>Local Capacity Area (if any, as of Confirmation Effective Date)</td>
<td>PG&amp;E Other</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
  [ ] 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:
  
  [ ] RAR Attributes
  [X] 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: ____________________________

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 LAR Contract Quantity (MWs)</th>
</tr>
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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>RA Capacity Price Table</th>
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</thead>
<tbody>
<tr>
<td>Contract Month</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td></td>
</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, 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, 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 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.

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

EAST BAY COMMUNITY ENERGY AUTHORITY, a California joint powers authority

By: Howard Chang
Name: Howard Chang
Title: COO

5/13/19
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
EAST BAY COMMUNITY ENERGY AUTHORITY

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and East Bay Community Energy Authority, a California joint powers authority ("Buyer"), each individually a “Party” and together the “Parties”, dated as of May 9, 2019 (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 4.3.
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 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>Delta Energy Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
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</tr>
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<td>CAISO Resource ID</td>
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</tr>
<tr>
<td>Unit SCID</td>
<td>CALJ</td>
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<tr>
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<tr>
<td>Unit EFC</td>
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<tr>
<td>Resource Type</td>
<td>Natural Gas</td>
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<td>Resource Category (1, 2, 3 or 4)</td>
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<tr>
<td>Flexible RAR Category (1, 2 or 3)</td>
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<td>Path 26 (North or South)</td>
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</tr>
<tr>
<td>Local Capacity Area (if any, as of Confirmation Effective Date)</td>
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</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
[ ] 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:

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>
</tr>
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<tr>
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</tr>
</tbody>
</table>

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.

RA CAPACITY PRICE TABLE

<table>
<thead>
<tr>
<th>Contract Month</th>
<th>RAR Capacity Price ($/kW-month)</th>
</tr>
</thead>
<tbody>
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</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 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 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.

ARTICLE 9. BUYER’S RE-SALEASE 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

EAST BAY COMMUNITY ENERGY
AUTHORITY, a California joint powers authority

By: Howard Chang
Name: Howard Chang
Title: CEO

Date: 5/13/19
IMPORT RA CAPACITY

IMPORT RESOURCES ADEQUACY CAPACITY CONFIRMATION LETTER BETWEEN SILICON VALLEY CLEAN ENERGY AUTHORITY AND CITY OF LANCASTER

This confirmation letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority, ("Buyer" or "SVCEA") and City of Lancaster, a California municipal corporation and charter city ("Seller" or "Lancaster"), each individually a "Party" and together the "Parties," dated as of May 10, 2019 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product. This Transaction is governed by the WSPP Agreement dated as of June 21, 2018, together with any and all exhibits, schedules or supplements thereto or incorporated therein by reference, each in force and effect from time to time between the Parties (collectively, the "Master Agreement"), as amended and supplemented by this Confirmation, under the following terms and conditions. The definitions and provisions contained in this Confirmation, the Master Agreement, the RA Rules (as defined herein), and in the tariffs and/or protocols of the California Independent System Operator ("CAISO") as amended from time to time (the "CAISO Tariff" or the "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. Consistent with Section 2.2 of the Master Agreement, this Confirmation, together with all other transactions, confirmations and the Master Agreement, form a single integrated agreement between the Parties and are not separate contracts. This Confirmation supersedes and replaces any prior oral or written confirmation or agreement, including broker confirmations, regarding this Transaction.

ARTICLE 1 DEFINITIONS

1.1. "Import Resource Adequacy (RA) Capacity Product" or "Import RA Capacity" means the qualified and deliverable capacity from the System Resource that can be counted toward Buyer's RAR as described in the applicable RA Rules, and all other resource adequacy requirements established by any other regional entity responsible for RAR. 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 Import RA Capacity sale obligation, and Buyer shall in no way be responsible to compensate Seller for any commitments to CAISO as set forth in this Transaction.

1.2. "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 Transaction.
IMPORT RA CAPACITY

1.3. “RA Capacity Delivery Point” means the CAISO Scheduling Point MALIN500 which maps to the CAISO Branch Group MALIN500 where Buyer holds intertie import capability, or another location as agreed to in writing by the Parties.

1.4. “Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for Buyer by the California Public Utilities Commission (“CPUC”) pursuant to the RA Rules, or by any other governmental body having jurisdiction.


1.6. “System Resource” means one or more of 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. System Resource does not include any energy source with an e-tag from a source point associated with a nuclear or coal-fired generating facility.

ARTICLE 2
FURTHER ASSURANCES; REPRESENTATIONS AND WARRANTIES

2.1. Throughout the Delivery Term, Seller and Buyer 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 or subsequent purchaser’s RAR in accordance with Section 8 herein 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 CPUC in its RA counting protocols, including demonstration of the ability to deliver the Contract Quantity over all hours of the Delivery Term required for full RAR eligibility, and 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 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;

(b) Negotiating in good faith to make necessary amendments, if any, to this Transaction to conform this Transaction to subsequent clarifications, revisions or decisions rendered by the CPUC or 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.
IMPORT RA CAPACITY

2.2. Seller represents and warrants that throughout the Delivery Term:

(a) Buyer or subsequent purchaser has the exclusive right to count the Contract Quantity of Import RA Capacity from Seller’s System Resource toward Buyer’s or subsequent purchaser’s RAR;

(b) No portion of the Contract Quantity of Import RA Capacity 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.

ARTICLE 3
CAISO DISPATCH REQUIREMENTS

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 provisions of the Tariff implementing the RA Rules, including, without reservation, section 40.6 of the Tariff. Buyer shall have no liability for the failure of Seller to comply with such Tariff provisions, including any penalties or fines imposed on Seller for such noncompliance.

ARTICLE 4
CONTRACT QUANTITY AND DELIVERY TERM

4.1. Contract Quantity and Delivery Term

(a) Delivery Term: 

(b) Contract Quantity: 

(c) Intertie Resource ID: MSCG_MALIN_1_F_IMS010

ARTICLE 5
MONTHLY IMPORT RA CAPACITY PAYMENT

With respect to each Showing Month, Buyer shall make a Monthly Import RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month. The Parties hereby agree that all invoices under this Confirmation shall be due and payable in accordance with the Master Agreement. Each Unit’s Monthly Import 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).

Contract Price: 

Buyer shall pay the Contract Price to Seller in accordance with the Master Agreement.
IMPORT RA CAPACITY

ARTICLE 6
BUYER’S AND SELLER’S SCID

Buyer: LSVCE
Seller: LANC

ARTICLE 7
CAISO REVENUES

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

ARTICLE 8
RESALE OF IMPORT RA CAPACITY

(a) Buyer may re-sell all or a portion of the Contract Quantity and any associated rights, in each case, acquired under this Transaction. In the event Buyer re-sells all or a portion of the Contract Quantity of Import RA Capacity and any associated rights acquired under this Transaction ("Resold Import RA Capacity") Seller agrees to follow Buyer’s instructions with respect to providing such Resold Import RA Capacity to subsequent purchasers of such Resold Import RA Capacity. Seller further agrees 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 Import RA Capacity, provided the foregoing shall not require Seller to enter into any agreements or transactions directly with any such subsequent purchaser. Seller acknowledges and agrees that with respect to any Resold Import RA Capacity, if Buyer incurs any liability to any purchaser of such Resold Import RA Capacity due to the failure of Seller to comply with the terms of this Transaction, and Seller would have had liability to Buyer under this Transaction for such failure had Buyer not sold the Resold Import RA Capacity to a subsequent purchaser, then Seller shall be liable to Buyer under this Confirmation to the extent it would have been liable to Buyer had such Resold Import RA Capacity not been sold to a subsequent purchaser.

(b) Seller’s obligations under this Section 8 are contingent on Buyer notifying Seller with the information required by this Section 8 no later than two (2) Business Days prior to the deadline for filing the Supply Plan for the Resold Import RA Capacity. Further, any resale of Import RA Capacity by Buyer to a subsequent purchaser must be permitted under the Tariff, CAISO business practices and applicable law, and Seller shall not be required to take any action hereunder or execute any documents or instruments that would not be permitted under the Tariff, CAISO business practices or applicable law.

(c) In the event there is any Resold Import RA Capacity, Buyer agrees to notify Seller that such a sale has occurred and agrees to provide Seller with the information specified below promptly following such sale (and any other information reasonably requested by Seller so that Seller may perform its obligations in this Section 8) and promptly notify Seller of any subsequent changes to such information with respect to any particular sale:
IMPORT RA CAPACITY

i. Benefitting load serving entity SC identification number (SCID),

ii. Volume (in MW) of Resold Import RA Capacity,

iii. Subsequent Sale delivery period for Resold Import RA Capacity.

ARTICLE 9
INDEMNITY

To the extent that Seller fails to fulfill its obligations under this Confirmation and such failure is not excused under this Confirmation or the Master Agreement or by Buyer's failure to perform, then Seller agrees to indemnify Buyer for:

(a) monetary penalties, directly resulting from Seller's nonperformance hereunder, assessed against Buyer by the CPUC and the CAISO, as applicable, pursuant to the RA Rules or Tariff as applicable as of the date of this Confirmation, but only to the extent such penalties could not be avoided by Buyer, acting reasonably, following notice from Seller of its nonperformance; and

(b) costs of any RA Capacity incurred by Buyer to address a deficiency hereunder, using reasonable efforts to procure a product similar in price to Import RA Capacity, in such quantity equal to the Contract Quantity less the quantity of Import RA Capacity provided to Buyer by Seller hereunder. At Seller's discretion, in lieu of reimbursing Buyer for the costs set out in this Section 9.(b), Seller may provide RA Capacity, provided such RA Capacity meets the requirements of the RA Rules and the Tariff.

Notwithstanding the foregoing, if approved by the CPUC and/or the CAISO, Seller may replace any Product necessary for Buyer to make its equivalent RA demonstration with another System Resource. For purposes of this Section 9, the term "Buyer" shall include any third party entity to which Buyer resells any of the Contract Quantity.

ARTICLE 10
CONFIDENTIALITY

The Parties acknowledge and agree that the Agreement is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

ARTICLE 11
NO RECORESE 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 Agreement. 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 Agreement.
IMPORT RA CAPACITY

ARTICLE 12
WSPP SPECIAL PROVISIONS

10.1 For purposes of this Transaction only, the Parties hereby agree to amend the WSPP Agreement as follows:

1. Section 10 of the WSPP Agreement is amended by adding the following at the end of the second paragraph thereof: “The Party receiving such notice of Uncontrollable Forces shall have until the end of the next Business Day to notify the Party claiming Uncontrollable Forces that it objects to or disputes the existence of an event of Uncontrollable Forces.”

2. Section 21.3(d) of the WSPP Agreement is amended by deleting the second sentence thereof.

3. Section 22.1 of the WSPP Agreement is modified by inserting the following new language at the end thereof:

“(f) The Defaulting Party is subject to an event of default or material breach (howsoever defined) under any Specified Agreement, after giving effect to any applicable notice or grace period under such Specified Agreement; or

(g) A default, event of default or other similar condition or event (however described) in respect of the Defaulting Party or its Guarantor(s), if any, under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than ten million dollars ($10,000,000) which has resulted in such Specified Indebtedness becoming due and payable under such agreements or instruments, before it would otherwise have been due and payable, or a default by the Defaulting Party or its Guarantor(s), if any, (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than ten million dollars ($10,000,000) under such agreements or instruments (after giving effect to any applicable notice requirement or grace period).”

4. Sections 22.2(a) and (b) of the WSPP Agreement are modified by deleting the second sentence of each paragraph in its entirety.

5. Section 22.2(b) of the WSPP Agreement is amended by inserting, “and is continuing” after “Event of Default occurs” in the first line thereof.

6. Section 22.3 of the WSPP Agreement is amended by:

1) In Section 22.3(d), adding after “this Agreement and any Confirmation” in the third line thereof with the words “or any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party”;

2) In Section 22.3(e)(i), deleting the last sentence thereof, and
IMPORT RA CAPACITY

3) In Section 22.3(f), replacing “thereafter binding dispute resolution pursuant to Section 34.2 if the informal dispute resolution does not succeed in resolving the dispute”, with “unless the parties otherwise agree, the non-binding mediation shall be concluded within ten (10) Business Days”.

7. **Section 24** of the WSPP Agreement is amended by deleting the word “Utah” and replacing it with the words “California”; provided, however, that for purposes of resolving any issues arising with respect to Counterparty’s authority to enter into the Agreement and/or discharge its obligations thereunder based upon its status as a state or municipal entity, the Parties acknowledge that such issues may be governed by the laws of the state of Counterparty’s formation.

8. **Section 24** of the WSPP Agreement is further amended by adding the following new Sections 24A and 24B at the end thereof:

"24A. Binding Rates and Terms.

(a) Absent the agreement of all parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Confirmation, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group Inc. v. Pub. Util. Dist. No. 1 of Snohomish County, 128 S. Ct. 2733 (2008) (the “Mobile-Sierra” doctrine).

(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Confirmation specifying the rate, charge, classification, or other term or condition agreed to by the parties, it being the express intent of the parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Confirmation, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing section (a).
IMPORT RA CAPACITY

24B. No Immunity Claim. SVCEA warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.”

9. **Section 30.1(4)** of the WSPP Agreement is amended by inserting “or pursuant to any regulatory, self-regulatory, legislative or judicial request, inquiry or investigation” after the word “regulatory proceedings”.

10. **Section 34** of the WSPP Agreement is amended by:

1) Deleting “binding dispute resolution or” in the first sentence of Section 34.1;

2) Deleting Section 34.2 in its entirety;

3) Deleting the phrase “arbitrator or” from Section 34.3; and

3) Deleting the phrase “arbitration or ” from the first line of Section 34.4.

11. **Section 37** of the WSPP Agreement is amended by inserting the following new language at the end thereof:

“Each Party further represents and warrants to the other Party, as of the date of this Transaction, that:

(a) It is not relying upon any representations of the other Party other than those expressly set forth in the WSPP Agreement, any Confirmation or any written guarantee of the obligations of such other Party;

(b) It has entered into the WSPP Agreement and this Transaction and corresponding Confirmation thereof as principal (and not as advisor, agent, broker or in any other capacity, fiduciary or otherwise) and has made its trading and investment decisions based upon its own judgment, with a full understanding of the material terms and ability to assume the risks of the same. Each Party expressly acknowledges that the other Party is not acting with respect to any communication (written or oral) as a “municipal advisor,” as such term is defined in Section 975 of the U.S. Dodd-Frank Wall Street Reform & Consumer Protection Act;

(c) It has the capacity to make or take, as applicable, physical delivery of the product specified in such transaction, and is entering into such transaction with the intent of making or taking such physical delivery, and

(d) It is an “Eligible Contract Participant” as defined in Section 1a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. § 1a(12).”
IMPORT RA CAPACITY

12. **Exhibit D.II** of the WSPP Agreement is modified by deleting that section of the exhibit in its entirety.

13. **Definitions.** As used in this Article 10, the following terms shall have the meanings specified below:

   "**Guarantor**" means, as to a Party (the "first Party"), the person(s), if any, executing a Guarantee Agreement which supports any or all of the obligations of the first Party to the other Party.

   "**Specified Agreement**" means any contract or transaction, including an agreement with respect thereto (whether or not documented under or effected pursuant to a master agreement) now existing or hereafter entered into between one Party (or any Guarantor of such Party or any Affiliate of such Party) and the other Party (or any Guarantor of such Party or any Affiliate of such Party).

   "**Specified Indebtedness**" means any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

[Signatures appear on the following page.]
IMPORT RA CAPACITY

Acknowledged and agreed to as of the Confirmation Effective Date.

<table>
<thead>
<tr>
<th>SILICON VALLEY CLEAN ENERGY AUTHORITY</th>
<th>CITY OF LANCASTER</th>
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<tr>
<td>By: Girish Balachandran</td>
<td>By: Jason Caudle</td>
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MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER - RESOURCE ADEQUACY
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
3 PHASES RENEWABLES INC.

This Confirmation Letter ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer") and 3 Phases Renewables Inc. ("Seller"), each individually a "Party" and together the "Parties", dated as of May 28, 2019 (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 EEI Master Power Purchase and Sale Agreement, effective as of November 28, 2016, as amended from time to time (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 (defined herein below). To the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall control and shall govern the rights and obligations of the Parties in connection with the Transaction.

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 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 3.2 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 the Contract Quantity (MWs) table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month, as such amount may be adjusted pursuant to Section 4.4.

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

1.22 “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.

1.23 “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.

1.24 “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.

1.25 “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.

1.26 “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.

1.27 “LRA” means Local Regulatory Authority as defined in the Tariff.

1.28 “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).

1.29 “Monthly Delivery Period” means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.30 “Monthly RA Capacity Payment” has the meaning specified in Section 4.9 hereof.

1.31 “Net Qualifying Capacity” has the meaning set forth in the Tariff.

1.32 “Non-Excusable Event” means any event, other than a Planned Outage that is acceptably noticed pursuant to the Notification Deadline and those events described under the definition of “Unit Firm” in the Master 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.

1.33 “Notification Deadline” has the meaning specified in Section 4.5 hereof.

1.34 “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.

1.35 “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.

1.36 “Product” has the meaning specified in Article 3 hereof.

1.37 “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.

1.38 “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.

1.39 “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.

1.40 “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.

1.41 “Replacement Capacity” has the meaning specified in Section 4.7 hereof.

1.42 “Replacement Unit” has the meaning specified in Section 4.5.

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

1.44 “Scheduling Coordinator” has the same meaning as in the Tariff.
1.45 "Seller" has the meaning specified in the introductory paragraph hereof.

1.46 "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.

1.47 "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.

1.48 "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.

1.49 "Transaction" for purposes of this Agreement means the Transaction (as defined in the Master Agreement) that is evidenced by this Agreement.

1.50 "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. A Unit shall not be a coal-fired generating facility.

1.51 "Unit EFC" means the effective flexible capacity that is or will be set by the CAISO for the applicable Unit.

1.52 "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.

ARTICLE 2. UNIT INFORMATION

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</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:

[ ] Flexible RA Attributes with LAR Attributes

[ ] Flexible RA Attributes with RA 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] RA 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 all or some of the Alternate Capacity to fulfill the remainder of the Contract Quantity or portion thereof, from one or more Replacement Units pursuant to Section 4.5 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: [ ]

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:

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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 (i) a Planned Outage as set forth in Section 4.4(a) above or (ii) a reduction in Unit NQC and/or Unit EFC as set forth in Section 4.4(c) below and Seller does not elect to provide Alternate Capacity, 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, provided however that the Replacement Unit shall not be a coal-fired generating facility.

(c) If Seller fails to provide Buyer any portion of the Designated RA Capacity for a given Showing Month during the Delivery Period, then Buyer may, but shall not be required to, purchase such Product from a third party. 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 to the extent the failure to deliver the Contract Quantity 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.
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.

The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Unit by CAISO or Seller complies with Buyer'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) Buyer has elected to submit the Product from the 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 due to a Seller error, and are rejected by CAISO and not corrected by the time the CIRA Tool is locked for the applicable Showing Month or (ii) Seller fails to submit the volume of Designated RA Capacity for any Showing Month pursuant to this Confirmation and Buyer has not provided instruction to withhold all or part of the Designated RA Capacity. Buyer 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 correctly submits the Supply Plan and the Supply Plan and/or Resource Adequacy Plan are not matched in the CIRA Tool due to a Buyer error, or (iii) Seller complies with Buyer'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 Buyer fails or chooses not to submit the Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

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 CAISO revenues or future amounts it may owe to Seller under this Confirmation pursuant to the Master 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 Article 6 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, 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>
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<tbody>
<tr>
<td>Contract Month</td>
</tr>
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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, if applicable, and so long as the availability to earn such revenues does not increase Seller’s obligations or liabilities hereunder). 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 re-sale 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. RESERVED

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 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 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 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 Master Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.

ARTICLE 12. 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.

ARTICLE 13. COUNTERPARTS

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, facsimile or scanned signatures as originals under this Confirmation. 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: [Signature]
Name: Girish Balachandran
Title: CEO

3 PHASES RENEWABLES INC.

By: [Signature] Digitally signed by Eric Hulin
Name: Eric Hulin
Title: Director, Sales & Marketing
MASTER POWER PURCHASE AND SALE AGREEMENT  
CONFIRMATION LETTER - RESOURCE ADEQUACY  
BETWEEN  
SILICON VALLEY CLEAN ENERGY AUTHORITY  
AND  
OHMCONNECT, INC  

This Confirmation Letter ("Confirmation") confirms the Transaction between OhmConnect, Inc, a Delaware corporation ("Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of May 30th, 2019 (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, 06-06-066, 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.
“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” has the meaning specified in Section 4.1 hereof.

“Delivery Point” has the meaning specified in Section 4.2 hereof.

“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.

“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.

“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.

“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.

“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.

“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.

“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.

“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.

“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.

“LRA” means Local Regulatory Authority as defined in the Tariff.

“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

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### 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
[ ] 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 [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 for each Monthly Delivery Period shall be:

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<th>Contract Month</th>
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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.

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<th>RA CAPACITY PRICE TABLE</th>
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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 re-sale 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 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.

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. 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

OHMCONNECT, a Delaware Corporation

By: Matt Duesterberg
Name: Matt Duesterberg
Title: CEO