Howard Miller, Chair
City of Saratoga

Nancy Smith, Vice Chair
City of Sunnyvale

Liz Gibbons
City of Campbell

Rod Sinks
City of Cupertino

Fred M. Tovar
City of Gilroy

Neysa Fligor
City of Los Altos

George Tyson
Town of Los Altos Hills

Rob Rennie
Town of Los Gatos

Carmen Montano
City of Milpitas

Javed Ellahie
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Margaret Abe-Koga
City of Mountain View

Susan Ellenberg
County of Santa Clara

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, December 9, 2020
7:00 pm

Teleconference Meeting
Webinar: https://zoom.us/j/93610559171

Telephone (Audio Only):
US: +1 669 900 9128
Webinar ID: 936 1055 9171

This meeting will be conducted in accordance with State of California Executive Order N-29-20, dated March 17, 2020, in consideration of the Coronavirus (COVID-19). All members of the Silicon Valley Clean Energy Board of Directors and staff will participate in this meeting by teleconference.

Members of the public may observe this meeting electronically by accessing the meeting via instructions above. Public Comments can be sent in advance of the meeting to Board Clerk Andrea Pizano at Andrea.Pizano@svcleanenergy.org and will be read within the public comment period or the applicable agenda item. The public will also have an opportunity to provide comments during the meeting.

The public may provide comments on any matter listed on the Agenda. Speakers are customarily limited to 3 minutes each, however, the Board Chair may increase or decrease the time allotted to each speaker based on the number of speakers, the length of the agenda and the complexity of the subject matter. Speaking time will not be decreased to less than one minute.

If you are an individual with a disability and need a reasonable modification or accommodation pursuant to the Americans with Disabilities Act ("ADA") please contact Board Clerk Andrea Pizano at andrea.pizano@svcleanenergy.org prior to the meeting for assistance.

AGENDA

Call to Order

svcleanenergy.org
333 W El Camino Real
Suite 290
Sunnyvale, CA 94087

Roll Call

Page 1 of 3

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).
Adoption of Resolutions Commending Directors Miller, Smith, and Sinks, and Alternate Directors Bruins, Corrigan, and Cortese for Their Dedicated Service to SVCE

Public Comment on Matters Not Listed on the Agenda

The public may provide comments on any matter not listed on the Agenda provided that it is within the subject matter jurisdiction of SVCE. Speakers are customarily limited to 3 minutes each, however, the Board Chair may increase or decrease the time allotted to each speaker based on the number of speakers, the length of the agenda and the complexity of the subject matter. Speaking time will not be decreased to less than one minute.

Consent Calendar (Action)

1a) Approve Minutes of the November 13, 2020, Board of Directors Special Meeting

1b) Receive September 2020 Treasurer Report

1c) Adopt Resolution Amending SVCE Conflict of Interest Code to Add Senior Government Affairs Manager Position in the List of Designated Positions for Filing

1d) Approve to Appoint Chief Financial Officer and Director of Administrative Services Amrit Singh as SVCE Treasurer/Auditor

1e) Approve and Authorize Amendment No. 1 to the Amended and Restated Engagement Letter with Hall Energy Law PC for Legal Services Related to SVCE’s Energy and Capacity Transaction Needs and Long-term Power Purchase Agreements Not-to-Exceed $400,000 for a Three-Year Term

1f) Approve Scholarship Funds for 2021 Climate Resilience Short-Film Competition

1g) Authorize the Chief Executive Officer to Execute Agreement with Keyes and Fox, LLP for Regulatory and Legislative Counsel Services

1h) Authorize the Chief Executive Officer to Execute Amendment to Agreement Amending Not-to-Exceed Amount with MRW & Associates Inc.

1i) Executive Committee Report

1j) Finance and Administration Committee Report

1k) Audit Committee Report

Regular Calendar

2) CEO Report (Discussion)
3) Adopt Resolution to Implement SVCE Generation Rate Changes Effective January 2021 (Action)

4) Approve Policy Platform and Identify Priorities for the 2021 Legislative and Regulatory Ad Hoc Committee (Action)

5) Approve Participation in California Community Power Joint Powers Authority (Action)

6) Approve Chair and Vice Chair Vacancy Policy (Action)

7) SVCE Information Update on 2021 SVCE Board Elections (Discussion)

Board Member Announcements and Direction on Future Agenda Items

Adjourn
SVCE GLOSSARY OF TERMS

**CAISO – California Independent System Operator** – A non-profit independent system operator that oversees the operation of the California bulk electric power system, transmission lines and electricity market generated and transmitted by its members (~80% of California’s electric flow). Its stated mission is to “operate the grid reliably and efficiently, provide fair and open transmission access, promote environmental stewardship and facilitate effective markets and promote infrastructure development. CAISO is regulated by FERC and governed by a five-member governing board appointed by the governor.

**CALCCA – California Community Choice Association** – Association made up of Community Choice Aggregation (CCA) groups which represents the interests of California’s community choice electricity providers.

**CARB – California Air Resources Board** – The CARB is charged with protecting the public from the harmful effects of air pollution and developing programs and actions to fight climate change in California.

**CEC – California Energy Commission**

**CPUC – California Public Utility Commission**

**C&I – Commercial and Industrial** – Business customers

**CP – Compliance Period** – Time period to become RPS compliant, set by the CPUC (California Public Utilities Commission)

**DA – Direct Access** – An option that allows eligible customers to purchase their electricity directly from third party providers known as Electric Service Providers (ESP).

**DA Cap** – The maximum amount of electric usage that may be allocated to Direct Access customers in California, or more specifically, within an Investor-Owned Utility service territory.

**DA Lottery** – A random drawing by which DA waitlist customers become eligible to enroll in DA service under the currently-applicable Direct Access Cap.

**DA Waitlist** – Customers that have officially registered their interest in becoming a DA customer but are not yet able to enroll in service because of DA cap limitations.

**DAC** – Disadvantaged Community

**DASR – Direct Access Service Request** – Request submitted by C&I to become direct access eligible.

**Demand** – The rate at which electric energy is delivered to or by a system or part of a system, generally expressed in kilowatts (kW), megawatts (MW), or gigawatts (GW), at a given instant or averaged over any designated interval of time. Demand should not be confused with Load or Energy.

**DER – Distributed Energy Resource** – A small-scale physical or virtual asset (e.g. EV charger, smart thermostat, behind-the-meter solar/storage, energy efficiency) that operates locally and is connected to a larger power grid at the distribution level.

**Distribution** – The delivery of electricity to the retail customer’s home or business through low voltage distribution lines.
**DLAP – Default Load Aggregation Point** – In the CAISO’s electricity optimization model, DLAP is the node at which all bids for demand should be submitted and settled. SVCE settles its CAISO load at the PG&E DLAP as SVCE is in the PG&E transmission access charge area.

**DR – Demand Response** - An opportunity for consumers to play a significant role in the operation of the electric grid by reducing or shifting their electricity usage during peak periods in response to time-based rates or other forms of financial incentives.

**DWR – Department of Water Resources** – DWR manages California’s water resources, systems, and infrastructure in a responsible, sustainable way.

**ELCC – Effective Load Carrying Capacity** – The additional load met by an incremental generator while maintaining the same level of system reliability. For solar and wind resources the ELCC is the amount of capacity which can be counted for Resource Adequacy purposes.

**EPIC – Electric Program Investment Charge** – The EPIC program was created by the CPUC to support investments in clean energy technologies that provide benefits to the electricity ratepayers of PG&E, San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE).

**ERRA – Energy Resource Recovery Account** – ERRA proceedings are used to determine fuel and purchased power costs which can be recovered in rates. The utilities do not earn a rate of return on these costs, and only recover actual costs. The costs are forecast for the year ahead. If the actual costs are lower than forecast, then the utility gives money back, and vice versa.

**ESP – Energy Service Provider** - An energy entity that provides service to a retail or end-use customer.

**EV – Electric Vehicle**

**GHG – Greenhouse gas** - water vapor, carbon dioxide, tropospheric ozone, nitrous oxide, methane, and chlorofluorocarbons (CFCs). A gas that causes the atmosphere to trap heat radiating from the earth. The most common GHG is Carbon Dioxide, though Methane and others have this effect as well.

**GRC – General Rate Case** – Proceedings used to address the costs of operating and maintaining the utility system and the allocation of those costs among customer classes. For California’s three large IOUs, the GRCs are parsed into two phases. Phase I of a GRC determines the total amount the utility is authorized to collect, while Phase II determines the share of the cost each customer class is responsible and the rate schedules for each class. Each large electric utility files a GRC application every three years for review by the Public Advocates Office and interested parties and approval by the CPUC.

**GWh – Gigawatt-hour** - The unit of energy equal to that expended in one hour at a rate of one billion watts. One GWh equals 1,000 megawatt-hours.

**IEP – Independent Energy Producers** – California’s oldest and leading nonprofit trade association, representing the interest of developers and operators of independent energy facilities and independent power marketers.

**IOU – Investor Owned Utility** – A private electricity and natural gas provider.

**IRP – Integrated Resource Plan** – A plan which outlines an electric utility’s resource needs in order to meet expected electricity demand long-term.

**kW – Kilowatt** – Measure of power where power (watts) = voltage (volts) x amperage (amps) and 1 kW = 1000 watts

**kWh – Kilowatt-hour** – This is a measure of consumption. It is the amount of electricity that is used over some period of time, typically a one-month period for billing purposes. Customers are charged a rate per kWh of electricity used.
**LCFS – Low Carbon Fuel Standard** – A CARB program designed to encourage the use of cleaner low-carbon fuels in California, encourage the production of those fuels, and therefore, reduce greenhouse gas emissions.

**LCR – Local (RA) Capacity Requirements** – The amount of Resource Adequacy capacity required to be demonstrated in a specific location or zone.

**LMP – Locational Marginal Price** – Each generator unit and load pocket is assigned a node in the CAISO optimization model. The model will assign a LMP to the node in both the day-ahead and real time market as it balances the system using the least cost. The LMP is comprised of three components: the marginal cost of energy, congestion and losses. The LMP is used to financially settle transactions in the CAISO.

**Load** – An end use device or customer that receives power from an energy delivery system. Load should not be confused with Demand, which is the measure of power that a load receives or requires. See Demand.

**LSE – Load-serving Entity** – Entities that have been granted authority by state, local law or regulation to serve their own load directly through wholesale energy purchases and have chosen to exercise that authority.

**NEM – Net Energy Metering** – A program in which solar customers receive credit for excess electricity generated by solar panels.

**NRDC – Natural Resources Defense Council**

**OIR – Order Instituting Rulemaking** – A procedural document that is issued by the CPUC to start a formal proceeding. A draft OIR is issued for comment by interested parties and made final by vote of the five Commissioners of the CPUC.

**MW – Megawatt** – measure of power. A megawatt equals 1,000 kilowatts or 1 million watts.

**MWH – Megawatt-hour** – measure of energy

**NP-15 – North Path 15** – NP-15 is a CAISO pricing zone usually used to approximate wholesale electricity prices in northern California in PG&E’s service territory.

**PCC1 – RPS Portfolio Content Category 1** – Bundled renewables where the energy and REC are dynamically scheduled into a California Balancing Authority (CBA) such as the CAISO. Also known as “in-state” renewables

**PCC2 – RPS Portfolio Content Category 2** – Bundled renewables where the energy and REC are from out-of-state and not dynamically scheduled to a CBA.

**PCC3 – RPS Portfolio Content Category 3** – Unbundled REC

**PCIA or “exit fee”** – Power Charge Indifference Adjustment (PCIA) is an “exit fee” based on stranded costs of utility generation set by the California Public Utilities Commission. It is calculated annually and assessed to customers of CCAs and paid to the IOU that lost those customers as a result of the formation of a CCA.

**PCL – Power Content Label** – A user-friendly way of displaying information to California consumers about the energy resources used to generate the electricity they sell, as required by AB 162 (Statute of 2009) and Senate Bill 1305 (Statutes of 1997).

**PD – Proposed Decision** – A procedural document in a CPUC Rulemaking process that is formally commented on by Parties to the proceeding. A PD is a precursor to a final Decision voted on by the five Commissioners of the CPUC.

**Pnode – Pricing Node** – In the CAISO optimization model, it is a point where a physical injection or withdrawal of energy is modeled and for which a LMP is calculated.
**PPA – Power Purchase Agreement** – A contract used to purchase the energy, capacity and attributes from a renewable resource project.

**RA – Resource Adequacy** - Under its Resource Adequacy (RA) program, the California Public Utilities Commission (CPUC) requires load-serving entities—both independently owned utilities and electric service providers—to demonstrate in both monthly and annual filings that they have purchased capacity commitments of no less than 115% of their peak loads.

**RE – Renewable Energy** - Energy from a source that is not depleted when used, such as wind or solar power.

**REC - Renewable Energy Certificate** - A REC is the property right to the environmental benefits associated with generating renewable electricity. For instance, homeowners who generate solar electricity are credited with 1 solar REC for every MWh of electricity they produce. Utilities obligated to fulfill an RPS requirement can purchase these RECs on the open market.

**RPS - Renewable Portfolio Standard** - Law that requires CA utilities and other load serving entities (including CCAs) to provide an escalating percentage of CA qualified renewable power (culminating at 33% by 2020) in their annual energy portfolio.

**SCE – Southern California Edison**

**SDG&E – San Diego Gas & Electric**

**SGIP – Self-Generation Incentive Program** – A program which provides incentives to support existing, new, and emerging distributed energy resources (storage, wind turbines, waste heat to power technologies, etc.)

**TCR EPS Protocol – The Climate Registry Electric Power Sector Protocol** – Online tools and resources provided by The Climate Registry to assist organizations to measure, report, and reduce carbon emissions.

**Time-of-Use (TOU) Rates** — The pricing of delivered electricity based on the estimated cost of electricity during a particular time-block. Time-of-use rates are usually divided into three or four time-blocks per 24 hour period (on-peak, midpeak, off-peak and sometimes super off-peak) and by seasons of the year (summer and winter). Real time pricing differs from TOU rates in that it is based on actual (as opposed to forecasted) prices that may fluctuate many times a day and are weather sensitive, rather than varying with a fixed schedule.

**TURN – The Utility Reform Network** - A ratepayer advocacy group charged with ensuring that California IOUs implement just and reasonable rates.

**Unbundled RECs** - Renewable energy certificates that verify a purchase of a MWH unit of renewable power where the actual power and the certificate are “unbundled“ and sold to different buyers.

**VPP – Virtual Power Plant** – A cloud-based network that leverages an aggregation of distributed energy resources (DERs) to shift energy demand or provide services to the grid. For example, thousands of EV chargers could charge at a slower speed and hundreds of home batteries could discharge to the grid during a demand peak to significantly reduce the procurement of traditional supply resources.
RESOLUTION NO. 2020-35

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING CHAIR HOWARD MILLER FOR HIS PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HIS DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE CITY OF SARATOGA.

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

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

WHEREAS, Howard Miller played an important role as Mayor and Councilmember in the City of Saratoga in promoting community clean energy in Santa Clara County and forming SVCEA with his City as a member; and

WHEREAS, the Saratoga City Council appointed Howard Miller as its first representative on the Board of Directors of SVCEA; and

WHEREAS, Howard Miller actively participated in key decisions setting up the organization and management of SVCEA, which made it possible for SVCEA to launch Community Choice Energy service in April 2017; and

WHEREAS, Chair Miller actively participated with SVCEA staff in communications with the Milpitas City Council as they deliberated joining SVCEA; and

WHEREAS, Chair Miller established and led committees to provide advice, support and program input to SVCEA; and

WHEREAS, Chair Miller guided sound financial policy which led to obtaining the first SVCEA credit rating; and

WHEREAS, Chair Miller directed SVCEA to establish the ground-breaking Decarbonization Strategy and Programs Roadmap, adopting strategic plans to reduce not only electricity emissions but also emissions associated with buildings and transportation; and

WHEREAS, Chair Miller guided SVCEA to establish the Electric Vehicle Infrastructure Joint Action Plan, increasing accessibility of electric vehicle chargers throughout Santa Clara County; and

WHEREAS, Chair Miller supported SVCEA’s Building Decarbonization Joint Action Plan, which defines strategies to reduce building emissions; and
WHEREAS, Chair Miller committed SVCEA to over $1 billion in long-term contracts for solar-plus-storage and geothermal power, securing new renewable energy projects and reliability for SVCEA customers; and

WHEREAS, Chair Miller supported the funding of innovative pilot projects to address local emissions; and

WHEREAS, Chair Miller assisted in the development and establishment of $10 million in funding for COVID-19 relief programs for residents, businesses, workforce development and community resilience; and

WHEREAS, Chair Miller helped establish reach codes in the City of Saratoga, supporting a healthy community and cost savings; and

WHEREAS, Chair Miller directed SVCEA to provide carbon-free electricity resulting in a 24% reduction in overall community emissions since 2015; and

WHEREAS, while serving on the board of SVCEA, Chair Miller voted for electricity rates that saved Saratoga customers more than $2.2 million on their energy bills.

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

ADOPTED AND APPROVED this 9th day of December 2020, by the following vote:

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ATTEST:

Secretary

Vice Chair
RESOLUTION NO. 2020-36

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING VICE CHAIR NANCY SMITH FOR HER PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HER DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE CITY OF SUNNYVALE.

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

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

WHEREAS, the Sunnyvale City Council appointed Nancy Smith as its representative on the Board of Directors of SVCEA; and

WHEREAS, Vice Chair Smith served on committees to provide advice, support and program input to SVCEA; and

WHEREAS, Vice Chair Smith guided sound financial policy which led to obtaining the first SVCEA credit rating; and

WHEREAS, Vice Chair Smith directed SVCEA to establish the ground-breaking Decarbonization Strategy and Programs Roadmap, adopting strategic plans to reduce not only electricity emissions but also emissions associated with buildings and transportation; and

WHEREAS, Vice Chair Smith guided SVCEA to establish the Electric Vehicle Infrastructure Joint Action Plan, increasing accessibility to electric vehicle chargers throughout Santa Clara County; and

WHEREAS, Vice Chair Smith supported SVCEA’s Building Decarbonization Joint Action Plan, which defines strategies to reduce building emissions; and

WHEREAS, Vice Chair Smith committed SVCEA to over $1 billion in long-term contracts for solar-plus-storage and geothermal power, securing new renewable energy projects and reliability for SVCEA customers; and

WHEREAS, Vice Chair Smith assisted in the development and establishment of $10 million in funding for COVID-19 relief programs for residents, businesses, workforce development and community resilience; and

WHEREAS, Vice Chair Smith supported the funding of innovative pilot projects to address local emissions; and

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WHEREAS, Vice Chair Smith helped establish reach codes in the City of Sunnyvale, supporting a healthy community and cost savings; and

WHEREAS, Vice Chair Smith leveraged her statewide elected official contacts to help guide SVCEA and CalCCA – the trade association representing CCAs across California - in its legislative advocacy efforts; and

WHEREAS, Vice Chair Smith was a mentor to many young people and through her individual efforts helped SVCEA increase its effectiveness to develop intern programs, and mentor high school students in becoming climate advocates; and

WHEREAS, Vice Chair Smith was very diligent in preparing for all board meetings and always asked useful and pointed questions that helped SVCEA staff improve the quality of its recommendations; and

WHEREAS, Vice Chair Smith directed SVCEA to provide carbon-free electricity resulting in a 24% reduction in overall community emissions since 2015; and

WHEREAS, while serving on the board of SVCEA, Vice Chair Smith voted for electricity rates that saved Sunnyvale customers more than $20 million on their energy bills.

NOW, THEREFORE, the Board of Directors of SVCEA hereby commends Vice Chair Smith and expresses its sincere appreciation for her promotion of Community Choice Energy in Santa Clara County and her dedicated service as a member of the Board of Directors of the Authority.

ADOPTED AND APPROVED this 9th day of December 2020, by the following vote:

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ATTEST:

Chair

Secretary
RESOLUTION NO. 2020-37

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN
ENERGY AUTHORITY COMMENDING DIRECTOR ROD SINKS FOR HIS
PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND
HIS DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY
ON BEHALF OF THE CITY OF CUPERTINO.

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

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

WHEREAS, Rod Sinks played an important role as Councilmember in the City of
Cupertino in promoting community clean energy in Santa Clara County and forming
SVCEA with his City as a member; and

WHEREAS, the Cupertino City Council appointed Rod Sinks as its first
representative on the Board of Directors of SVCEA; and

WHEREAS, Rod Sinks served as the founding Board Chair on the Board of
Directors of SVCEA; and

WHEREAS, Rod Sinks actively participated in key decisions setting up the
organization and management of SVCEA, which made it possible for SVCEA to launch
Community Choice Energy service in April 2017; and

WHEREAS, Director Sinks established and led committees to provide advice,
support and program input to SVCEA; and

WHEREAS, Director Sinks guided sound financial policy which led to obtaining the
first SVCEA credit rating; and

WHEREAS, Director Sinks took a lead role in crafting an assertive legislative
advocacy strategy for SVCEA, and put in the hours needed to work with elected officials
in Sacramento to influence state energy policy; and

WHEREAS, Director Sinks directed SVCEA to establish the ground-breaking
Decarbonization Strategy and Programs Roadmap, adopting strategic plans to reduce
not only electricity emissions but also emissions associated with buildings and
transportation; and

WHEREAS, Director Sinks guided SVCEA to establish the Electric Vehicle
Infrastructure Joint Action Plan, increasing accessibility of electric vehicle chargers
throughout Santa Clara County; and

Resolution 2020-37
WHEREAS, Director Sinks supported SVCEA’s Building Decarbonization Joint Action Plan, which defines strategies to reduce building emissions; and

WHEREAS, Director Sinks committed SVCEA to over $1 billion in long-term contracts for solar-plus-storage and geothermal power, securing new renewable energy projects and reliability for SVCEA customers; and

WHEREAS, Director Sinks supported the funding of innovative pilot projects to address local emissions; and

WHEREAS, Director Sinks assisted in the development and establishment of $10 million in funding for COVID-19 relief programs for residents, businesses, workforce development and community resilience; and

WHEREAS, Director Sinks helped establish reach codes in the City of Cupertino, supporting a healthy community and cost savings; and

WHEREAS, Director Sinks directed SVCEA to provide carbon-free electricity resulting in a 24% reduction in overall community emissions since 2015; and

WHEREAS, while serving on the board of SVCEA, Director Sinks voted for electricity rates that saved Cupertino customers more than $4 million on their energy bills.

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

ADOPTED AND APPROVED this 9th day of December 2020, by the following vote:

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ATTEST:

Chair

Secretary
RESOLUTION NO. 2020-38

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING DIRECTOR JEANNIE BRUINS FOR HER PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HER DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE CITY OF LOS ALTOS.

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

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

WHEREAS, Jeannie Bruins played an important role as Councilmember in the City of Los Altos in promoting community clean energy in Santa Clara County and forming SVCEA with her City as a member; and

WHEREAS, the Los Altos City Council appointed Jeannie Bruins as its first representative on the Board of Directors of SVCEA; and

WHEREAS, Jeannie Bruins actively participated in key decisions setting up the organization and management of SVCEA, which made it possible for SVCEA to launch Community Choice Energy service in April 2017; and

WHEREAS, Director Bruins established and led committees to provide advice, support and program input to SVCEA; and

WHEREAS, Director Bruins, on account of her very broad and deep leadership experience serving on a variety of public agency boards in Silicon Valley, provided very valuable input and direction to SVCEA staff in developing oversight policies that improved the quality of operations enterprise-wide; and

WHEREAS, Director Bruins guided sound financial policy which led to obtaining the first SVCEA credit rating; and

WHEREAS, Director Bruins directed SVCEA to establish the ground-breaking Decarbonization Strategy and Programs Roadmap, adopting strategic plans to reduce not only electricity emissions but also emissions associated with buildings and transportation; and

WHEREAS, Director Bruins guided SVCEA to establish the Electric Vehicle Infrastructure Joint Action Plan, increasing accessibility of electric vehicle chargers throughout Santa Clara County; and

WHEREAS, Director Bruins supported SVCEA’s Building Decarbonization Joint Action Plan, which defines strategies to reduce building emissions; and
WHEREAS, Director Bruins committed SVCEA to over $1 billion in long-term contracts for solar-plus-storage and geothermal power, securing new renewable energy projects and reliability for SVCEA customers; and

WHEREAS, Director Bruins supported the funding of innovative pilot projects to address local emissions; and

WHEREAS, Director Bruins directed SVCEA to provide carbon-free electricity resulting in a 24% reduction in overall community emissions since 2015; and

WHEREAS, while serving on the board of SVCEA, Director Bruins supported electricity rates that saved Los Altos customers more than $2.2 million on their energy bills.

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

ADOPTED AND APPROVED this 9th day of December 2020, by the following vote:

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ATTEST:

Chair
RESOLUTION NO. 2020-39

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING DIRECTOR COURTENAY CORRIGAN FOR HER PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HER DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE TOWN OF LOS ALTOS HILLS.

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

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

WHEREAS, the Los Altos Hills City Council appointed Courtenay Corrigan as its representative on the Board of Directors of SVCEA; and

WHEREAS, Director Corrigan served on committees to provide advice, support and program input to SVCEA; and

WHEREAS, Director Corrigan served as the Chair of the SVCEA Board in 2018; and as the Chair ran meetings very effectively, allowing full dialogue while ensuring discussions were focused and meetings were streamlined to the great joy of her colleagues and all SVCEA staff; and

WHEREAS, Director Corrigan served on the Risk Oversight Committee for many years and invested hours each month reviewing and discussing complex energy risk management strategies; and

WHEREAS, Director Corrigan guided sound financial policy which led to obtaining the first SVCEA credit rating; and

WHEREAS, Director Corrigan directed SVCEA to establish the ground-breaking Decarbonization Strategy and Programs Roadmap, adopting strategic plans to reduce not only electricity emissions but also emissions associated with buildings and transportation; and

WHEREAS, Director Corrigan guided SVCEA to establish the Electric Vehicle Infrastructure Joint Action Plan, increasing accessibility of electric vehicle chargers throughout Santa Clara County; and

WHEREAS, Director Corrigan supported SVCEA’s Building Decarbonization Joint Action Plan, which defines strategies to reduce building emissions; and

WHEREAS, Director Corrigan committed SVCEA to over $1 billion in long-term contracts for solar-plus-storage and geothermal power, securing new renewable energy projects and reliability for SVCEA customers; and
WHEREAS, Director Corrigan supported the funding of innovative pilot projects to address local emissions; and

WHEREAS, Director Corrigan is very strategic and developed her own succession plan, skillfully mentoring her successor while transitioning to an Alternate Board Member role; and

WHEREAS, Director Corrigan established the first formal process to evaluate the SVCEA CEO’s performance; and

WHEREAS, Director Corrigan directed SVCEA to provide carbon-free electricity resulting in a 24% reduction in overall community emissions since 2015; and

WHEREAS, while serving on the board of SVCEA, Director Corrigan supported electricity rates that saved Los Altos Hills customers more than $800,000 on their energy bills.

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

ADOPTED AND APPROVED this 9th day of December 2020, by the following vote:

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ATTEST:

Chair

Resolution 2020-39
Secretary
RESOLUTION NO. 2020-40

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

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

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

WHEREAS, the Santa Clara County Board of Supervisors appointed Dave Cortese as its representative on the Board of Directors of SVCEA; and

WHEREAS, Director Cortese guided sound financial policy which led to obtaining the first SVCEA credit rating; and

WHEREAS, Director Cortese championed clean energy at the state level, through the State Assembly; and

WHEREAS, Director Cortese supported regional clean energy communication efforts; and

WHEREAS, Director Cortese helped SVCEA advance its legislative priorities by reaching out to his elected contacts in Sacramento during the legislative session and also during the critical last days of legislative sessions to advocate for SVCEA’s legislative priorities; and

WHEREAS, Director Cortese directed SVCEA to establish the ground-breaking Decarbonization Strategy and Programs Roadmap, adopting strategic plans to reduce not only electricity emissions but also emissions associated with buildings and transportation; and

WHEREAS, Director Cortese guided SVCEA to establish the Electric Vehicle Infrastructure Joint Action Plan, increasing accessibility of electric vehicle chargers throughout Santa Clara County; and

WHEREAS, Director Cortese supported SVCEA’s Building Decarbonization Joint Action Plan, which defines strategies to reduce building emissions; and

WHEREAS, Director Cortese committed SVCEA to over $1 billion in long-term contracts for solar-plus-storage and geothermal power, securing new renewable energy projects and reliability for SVCEA customers; and
WHEREAS, Director Cortese played a leadership role in having the County of Santa Clara investigate reach codes; and

WHEREAS, Director Cortese supported the funding of innovative pilot projects to address local emissions; and

WHEREAS, Director Cortese directed SVCEA to provide carbon-free electricity resulting in a 24% reduction in overall community emissions since 2015; and

WHEREAS, while serving on the board of SVCEA, Director Cortese supported electricity rates that saved Unincorporated Santa Clara customers more than $6 million on their energy bills.

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

ADOPTED AND APPROVED this 9th day of December 2020, by the following vote:

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ATTEST:

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Chair

______________________________
Secretary
Pursuant to State of California Executive Order N-29-20, dated March 17, 2020, the meeting was conducted via teleconference.

DRAFT MINUTES

Call to Order

Chair Miller called the meeting to order at 3:01 p.m.

Roll Call

Present:
Chair Howard Miller, City of Saratoga
Vice Chair Nancy Smith, City of Sunnyvale
Director Liz Gibbons, City of Campbell
Director Rod Sinks, City of Cupertino
Director Neysa Fligor, City of Los Altos
Director George Tyson, Town of Los Altos Hills
Director Rob Rennie, Town of Los Gatos
Director Carmen Montano, City of Milpitas
Director Javed Ellahie, City of Monte Sereno
Alternate Director Anthony Eulo, City of Morgan Hill
Director Susan Ellenberg, County of Santa Clara

Absent:
Director Fred M. Tovar, City of Gilroy
Director Margaret Abe-Koga, City of Mountain View

All present Board members participated via teleconference.

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

Consent Calendar

MOTION: Director Sinks moved and Vice Chair Smith seconded the motion to approve the Consent Calendar.

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

The motion carried by verbal roll call vote with Directors Tovar and Abe-Koga absent.
1a) Approve Minutes of the October 14, 2020, Board of Directors Meeting
1b) Receive August 2020 Treasurer Report
1c) Adopt Resolution Authorizing the Chief Executive Officer to Enter Into an Agreement with PFM Financial Advisors, LLC to Serve as the Municipal Financial Advisor on Prepayment Transaction
1d) Authorize the Chief Executive Officer to Negotiate and Execute an Amendment to the 17-year Power Purchase Agreement (PPA) for Renewable Supply (PCC1) and Energy Storage with RE Slate 1, LLC, in a Form Approved by SVCE General Counsel, to Adjust Certain Dates and Obligations
1e) Authorize the Chief Executive Officer to Amend 3-year Agreement with Enervee Corporation, Adding New Content and Services for eHub Appliances Assistant
1f) Adopt Resolution Approving Revised Budget Allocation Adjustment to Continue SVCE’s Innovation Programs for Two Additional Years
1g) Executive Committee Report
1h) Finance and Administration Committee Report
1i) Audit Committee Report

Regular Calendar

2) CEO Report (Discussion)

CEO Girish Balachandran introduced SVCE’s Chief Financial Officer and Director of Administrative Services Amrit Singh who provided brief comments; Directors welcomed CFO and Director of Administrative Services Singh. CEO Balachandran announced he would be speaking at the City Manager’s Association meeting on November 18, 2020 about the resiliency program.

Communications Manager Pamela Leonard presented PowerPoint slides on updates to SVCE’s eHub and “The Switch is On” electrification awareness campaign. CEO Balachandran recognized the City of Los Altos and City of Sunnyvale for their adoption of reach codes. Director of Regulatory and Legislative Affairs Melicia Charles provided an update on the 2021 PCIA and direct access; Directors and staff discussed a recent mailer sent by PG&E to customers regarding the PCIA. Directors expressed interest in being proactive to clarify areas of potential confusion and have talking points available.

Director Ellahie requested additional information on the PCIA projections; Director of Regulatory and Legislative Affairs noted she would follow up with Director Ellahie.

CEO Balachandran announced Regulatory and Legislative Manager Hilary Staver would be leaving SVCE; Directors thanked her for her service to SVCE. Regulatory and Legislative Manager Staver provided parting comments and thanked SVCE staff and the board.

Chair Miller announced he would be leaving the SVCE Board in December, as well as Vice Chair Smith, and questioned if there was legal framework to conduct the meeting in January without a Chair or Vice Chair. CEO Balachandran noted staff is working with general counsel to bring a discussion item to the next Executive Committee, followed by the December 9, 2020 Board meeting, to ensure a smooth transition.

Chair Miller opened public comment.

Bruce Karney bid farewell to Regulatory and Legislative Manager Staver, and extended an invitation to her and the departing board directors to join the advocacy community. Karney noted Carbon Free Silicon Valley would love to have their continued participation.

James Tuleya, Sunnyvale resident and Chair of Silicon Valley, echoed Bruce Karney’s comments and noted his appreciation for Regulatory and Legislative Manager Staver’s efforts.
Chair Miller closed public comment.

3) **Adopt Resolution to Approve Building Decarbonization Joint Action Plan, Program Briefs for Cornerstone Programs & Budget Allocation Adjustment for Implementation (Action)**

CEO Balachandran introduced the item and presented a PowerPoint presentation with Director of Decarbonization and Grid Innovation Programs Aimee Bailey; staff responded to board member questions.

Director Ellahie recommended a study be conducted on how much emissions there are from idle vehicles at traffic lights.

Chair Miller opened public comment.

James Tuleya commented his support for the Building Decarbonization Joint Action Plan and thanked staff for their extensive outreach efforts in preparing the plan.

Chair Miller closed public comment.

MOTION: Director Ellenberg moved and Director Gibbons seconded the motion to adopt Resolution 2020-33 to approve the Building Decarbonization Joint Action Plan, new program briefs for the six cornerstone programs, and a budget allocation of $2M per fiscal year for FY21-23 for implementation.

The motion carried by verbal roll call vote with Directors Tovar and Abe-Koga absent.

4) **Adopt Resolution Amending the Positions Chart, Job Classifications, and Salary Schedule to Add Senior Government Affairs Manager Position (Action)**

Alternate Director Eulo announced he would recuse himself from the item out of an abundance of caution and left the virtual meeting at 4:23 p.m.

Director of Regulatory and Legislative Policy Charles presented a PowerPoint presentation and responded to board member questions.

Chair Miller opened public comment.

No speakers.

Chair Miller closed public comment.

MOTION: Director Sinks moved and Director Ellenberg seconded the motion to adopt Resolution 2020-34 amending the Silicon Valley Clean Energy positions chart, job classifications and salary schedule to add the Senior Government Affairs Manager position.

The motion carried by verbal roll call vote with an abstention from Alternate Director Eulo and Directors Tovar and Abe-Koga absent.

Alternate Director Eulo returned to the virtual meeting at 4:31 p.m.

5) **Super Joint Powers Authority Information (Discussion)**

CEO Balachandran and General Counsel Greg Stepanicich presented a PowerPoint presentation and responded to board member questions.

Chair Miller opened public comment.

No speakers.

Chair Miller closed public comment.
**Board Member Announcements and Direction on Future Agenda Items**

Director Ellenberg commented she appreciated the 3:00 p.m. board meeting and would champion for a future change in time; Chair Miller noted the question can be revisited in February when new members join. Director Ellenberg noted she would connect with staff to discuss further.

Director Fligor inquired about the December 4, 2020 holiday social; CEO Balachandran encouraged board members to attend, and noted departing board members would be recognized at the December 9, 2020 Board of Directors meeting.

Director Sinks requested Directors interested in being a part of the program for the holiday social reach out to Communications Manager Pamela Leonard.

Director Gibbons acknowledged Director Rennie’s new position on the Bay Area Air Quality Management District Board.

**Adjourn**

Chair Miller adjourned the meeting at 5:16 p.m.
TREASURER REPORT
Fiscal Year to Date
As of September 30, 2020
(Preliminary & Unaudited)
Issue Date: December 9, 2020

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<tr>
<td>Investments Report</td>
<td>12</td>
</tr>
<tr>
<td>Customer Accounts</td>
<td>13</td>
</tr>
<tr>
<td>Accounts Receivable Aging Report</td>
<td>14</td>
</tr>
</tbody>
</table>
SILICON VALLEY CLEAN ENERGY AUTHORITY

Financial Statement Highlights ($ in 000's)

Financial Highlights for the month of September 2020:

- SVCE operations resulted in a positive change in net position for the month of $0.32 million and year-to-date change in net position of $38.1 million.
- Retail GWh sales for the month landed 1% below budget.
- YTD operating margin of $52.1 million or 17.2% is below budget expectations of a 22.9% operating margin for the fiscal year.
- Power Supply costs are 2.5% above budget for the fiscal year.
- SVCE is investing ~94% of available funds generating year-to-date investment income of $1.7 million

<table>
<thead>
<tr>
<th>Change in Net Position</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actual</td>
<td>14,432</td>
<td>5,732</td>
<td>4,150</td>
<td>2,047</td>
<td>(326)</td>
<td>(6,757)</td>
<td>4,762</td>
<td>2,187</td>
<td>5,086</td>
<td>3,727</td>
<td>2,771</td>
<td>310</td>
<td>38,148</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>50,910</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<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>Adopted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy &amp; REC's</td>
<td>12,881</td>
<td>19,068</td>
<td>13,626</td>
<td>16,581</td>
<td>16,771</td>
<td>23,656</td>
<td>18,474</td>
<td>16,976</td>
<td>17,160</td>
<td>17,666</td>
<td>16,246</td>
<td>22,783</td>
<td>203,714</td>
<td></td>
</tr>
<tr>
<td>Capacity</td>
<td>2,135</td>
<td>1,561</td>
<td>1,757</td>
<td>1,579</td>
<td>1,674</td>
<td>1,939</td>
<td>1,767</td>
<td>1,941</td>
<td>2,222</td>
<td>4,585</td>
<td>4,040</td>
<td>3,974</td>
<td>29,652</td>
<td></td>
</tr>
<tr>
<td>CAISO Charges</td>
<td>451</td>
<td>400</td>
<td>763</td>
<td>579</td>
<td>715</td>
<td>1,211</td>
<td>408</td>
<td>523</td>
<td>(234)</td>
<td>1,102</td>
<td>3,312</td>
<td>904</td>
<td>10,255</td>
<td></td>
</tr>
<tr>
<td>NEM Expense</td>
<td>155</td>
<td>(43)</td>
<td>223</td>
<td>275</td>
<td>90</td>
<td>5</td>
<td>(320)</td>
<td>397</td>
<td>723</td>
<td>741</td>
<td>274</td>
<td>15</td>
<td>1,373</td>
<td></td>
</tr>
<tr>
<td>Charge/Credit (IST/Net Rev)</td>
<td>482</td>
<td>254</td>
<td>(224)</td>
<td>1,738</td>
<td>993</td>
<td>417</td>
<td>36</td>
<td>1,179</td>
<td>865</td>
<td>(653)</td>
<td>3,095</td>
<td>1,215</td>
<td>8,361</td>
<td></td>
</tr>
</tbody>
</table>

Net Power Costs: 15,347 15,251 15,588 19,473 19,047 26,186 20,344 20,717 21,128 23,241 26,520 26,884 251,525 245,340

Other:

<table>
<thead>
<tr>
<th>Capital Expenditures</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>Adopted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>-</td>
<td>6</td>
<td>8</td>
<td>6</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>8</td>
<td>22</td>
<td>400</td>
</tr>
<tr>
<td>Energy Programs</td>
<td>51</td>
<td>101</td>
<td>127</td>
<td>145</td>
<td>102</td>
<td>668</td>
<td>126</td>
<td>202</td>
<td>(101)</td>
<td>158</td>
<td>142</td>
<td>201</td>
<td>1,522</td>
<td>6,380</td>
</tr>
</tbody>
</table>

Load Statistics - GWh:

<table>
<thead>
<tr>
<th>Retail Sales Actual</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>Adopted Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>325</td>
<td>314</td>
<td>332</td>
<td>334</td>
<td>304</td>
<td>311</td>
<td>267</td>
<td>318</td>
<td>332</td>
<td>351</td>
<td>363</td>
<td>335</td>
<td>3,802</td>
<td>3,916</td>
<td></td>
</tr>
<tr>
<td>Retail Sales Budget</td>
<td>325</td>
<td>318</td>
<td>335</td>
<td>329</td>
<td>311</td>
<td>316</td>
<td>308</td>
<td>307</td>
<td>321</td>
<td>360</td>
<td>348</td>
<td>339</td>
<td>3,816</td>
<td>3,916</td>
</tr>
</tbody>
</table>

* These are draft results that are based on the unaudited statements and could change as a result of the audit.
### Other Statistics and Ratios

<table>
<thead>
<tr>
<th>Item</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Working Capital</td>
<td>$180,879,082</td>
</tr>
<tr>
<td>Current Ratio</td>
<td>5.6</td>
</tr>
<tr>
<td>Operating Margin</td>
<td>17%</td>
</tr>
<tr>
<td>Expense Coverage Days</td>
<td>223</td>
</tr>
<tr>
<td>Expense Coverage Days w/ LOC</td>
<td>269</td>
</tr>
<tr>
<td>Long-Term Debt</td>
<td>$0</td>
</tr>
<tr>
<td>Total Accounts</td>
<td>272,117</td>
</tr>
<tr>
<td>Opt-Out Accounts (Month)</td>
<td>56</td>
</tr>
<tr>
<td>Opt-Out Accounts (FYTD)</td>
<td>709</td>
</tr>
<tr>
<td>Opt-Up Accounts (Month)</td>
<td>5</td>
</tr>
<tr>
<td>Opt-Up Accounts (FYTD)</td>
<td>111</td>
</tr>
</tbody>
</table>

**YTD EXPENSES**

- **Power Supply**: 94.2%
- **Personnel**: 1.7%
- **Contract Services**: 3.4%
- **Depreciation**: 0.0%
- **G & A**: 0.6%
## ASSETS

### Current Assets
- Cash & Cash Equivalents: $159,924,735
- Accounts Receivable, net of allowance: 31,458,312
- Market settlements receivable: 107,318
- Accrued Revenue: 17,517,224
- Other Receivables: 208,000
- Prepaid Expenses: 2,590,545
- Deposits: 4,232,418
- Restricted cash: 4,500,000

**Total Current Assets**: $220,538,552

### Noncurrent assets
- Capital assets, net of depreciation: 119,175
- Deposits: 145,130

**Total Noncurrent Assets**: $264,305

**Total Assets**: $220,802,857

## LIABILITIES

### Current Liabilities
- Accounts Payable: 1,333,121
- Accrued Cost of Electricity: 36,744,837
- Accrued Payroll & Benefits: 415,731
- Other accrued liabilities: 10,000
- User Taxes and Energy Surcharges due to other gov'ts: 1,155,781
- Supplier Security Deposits: -

**Total Current Liabilities**: $39,659,470

## NET POSITION

- Net investment in capital assets: 119,175
- Restricted for security collateral: 4,500,000
- Unrestricted (deficit): 176,524,212

**Total Net Position**: $181,143,387
SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2019 through September 30, 2020

<table>
<thead>
<tr>
<th>OPERATING REVENUES</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Sales, Net</td>
<td>$ 295,515,259</td>
</tr>
<tr>
<td>GreenPrime electricity premium</td>
<td>1,315,255</td>
</tr>
<tr>
<td>Liquidated damages</td>
<td>6,600,000</td>
</tr>
<tr>
<td>Other Income</td>
<td>213,207</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING REVENUES</strong></td>
<td><strong>303,643,721</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPERATING EXPENSES</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Electricity</td>
<td>251,525,914</td>
</tr>
<tr>
<td>Contract services</td>
<td>8,970,430</td>
</tr>
<tr>
<td>Staff compensation and benefits</td>
<td>4,603,246</td>
</tr>
<tr>
<td>General &amp; Administrative</td>
<td>1,722,052</td>
</tr>
<tr>
<td>Depreciation</td>
<td>52,979</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING EXPENSES</strong></td>
<td><strong>266,874,621</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPERATING INCOME(LOSS)</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>36,769,100</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NONOPERATING REVENUES (EXPENSES)</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest Income</td>
<td>1,729,841</td>
</tr>
<tr>
<td>Financing costs</td>
<td>(350,511)</td>
</tr>
<tr>
<td><strong>TOTAL NONOPERATING REVENUES (EXPENSES)</strong></td>
<td><strong>1,379,330</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHANGE IN NET POSITION</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Position at beginning of period</td>
<td>142,994,957</td>
</tr>
<tr>
<td><strong>Net Position at end of period</strong></td>
<td><strong>$ 181,143,387</strong></td>
</tr>
</tbody>
</table>
### SILICON VALLEY CLEAN ENERGY AUTHORITY

**STATEMENT OF CASH FLOWS**

October 1, 2019 through September 30, 2020

<table>
<thead>
<tr>
<th>CASH FLOWS FROM OPERATING ACTIVITIES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Receipts from customers</td>
<td>$ 303,275,938</td>
</tr>
<tr>
<td>Liquidated damages</td>
<td>6,600,000</td>
</tr>
<tr>
<td>Other operating receipts</td>
<td>3,433,790</td>
</tr>
<tr>
<td>Payments to suppliers for electricity</td>
<td>(253,669,271)</td>
</tr>
<tr>
<td>Payments for other goods and services</td>
<td>(10,511,455)</td>
</tr>
<tr>
<td>Payments for staff compensation and benefits</td>
<td>(4,542,707)</td>
</tr>
<tr>
<td>Tax and surcharge payments to other governments</td>
<td>(5,640,255)</td>
</tr>
<tr>
<td><strong>Net cash provided (used) by operating activities</strong></td>
<td><strong>38,946,040</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Finance costs paid</td>
<td>(285,301)</td>
</tr>
<tr>
<td><strong>Net cash provided (used) by non-capital financing activities</strong></td>
<td><strong>(285,301)</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of capital assets</td>
<td>(14,151)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest income received</td>
<td>1,729,841</td>
</tr>
</tbody>
</table>

Net change in cash and cash equivalents 40,376,429
Cash and cash equivalents at beginning of year 124,048,306
**Cash and cash equivalents at end of period** $164,424,735
### RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Income (loss)</td>
<td>$36,769,100</td>
</tr>
<tr>
<td><strong>Adjustments to reconcile operating income to net cash provided (used) by operating activities</strong></td>
<td></td>
</tr>
<tr>
<td>Depreciation expense</td>
<td>$52,979</td>
</tr>
<tr>
<td>(Increase) decrease in net accounts receivable</td>
<td>$(1,181,497)</td>
</tr>
<tr>
<td>(Increase) decrease in energy settlements receivable</td>
<td>$59,339</td>
</tr>
<tr>
<td>(Increase) decrease in other receivables</td>
<td>$(190,100)</td>
</tr>
<tr>
<td>(Increase) decrease in accrued revenue</td>
<td>$2,054,876</td>
</tr>
<tr>
<td>(Increase) decrease in prepaid expenses</td>
<td>$(1,321,840)</td>
</tr>
<tr>
<td>(Increase) decrease in current deposits</td>
<td>$(1,987,933)</td>
</tr>
<tr>
<td>Increase (decrease) in accounts payable</td>
<td>$377,109</td>
</tr>
<tr>
<td>Increase (decrease) in accrued payroll &amp; benefits</td>
<td>$60,539</td>
</tr>
<tr>
<td>Increase (decrease) in energy settlements payable</td>
<td>$(472,313)</td>
</tr>
<tr>
<td>Increase (decrease) in accrued cost of electricity</td>
<td>$5,084,841</td>
</tr>
<tr>
<td>Increase (decrease) in accrued liabilities</td>
<td>$(247,530)</td>
</tr>
<tr>
<td>Increase (decrease) in taxes and surcharges due to other governments</td>
<td>$(83,210)</td>
</tr>
<tr>
<td>Increase (decrease) in supplier security deposits</td>
<td>$(28,320)</td>
</tr>
<tr>
<td><strong>Net cash provided (used) by operating activities</strong></td>
<td>$38,946,040</td>
</tr>
</tbody>
</table>
## SILICON VALLEY CLEAN ENERGY AUTHORITY
### BUDGETARY COMPARISON SCHEDULE
#### October 1, 2019 through September 30, 2020

<table>
<thead>
<tr>
<th>Item</th>
<th>FYTD Actual</th>
<th>FYTD Budget</th>
<th>Variance</th>
<th>FY 2019-20 Budget</th>
<th>FY 2019-20 Remaining Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OPERATING REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Energy Sales</td>
<td>$295,515,259</td>
<td>$317,230,000</td>
<td>-$21,714,741</td>
<td>7%</td>
<td>$317,230,000</td>
</tr>
<tr>
<td>Green Prime Premium</td>
<td>1,315,255</td>
<td>940,000</td>
<td>375,255</td>
<td>40%</td>
<td>940,000</td>
</tr>
<tr>
<td>Liquidated Damages</td>
<td>6,600,000</td>
<td>-</td>
<td>6,600,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other Income</td>
<td>213,207</td>
<td>50,000</td>
<td>163,207</td>
<td>326%</td>
<td>50,000</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING REVENUES</strong></td>
<td>303,643,721</td>
<td>318,220,000</td>
<td>(14,576,279)</td>
<td>-5%</td>
<td>318,220,000</td>
</tr>
<tr>
<td><strong>ENERGY EXPENSES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Power Supply</td>
<td>251,525,914</td>
<td>245,340,000</td>
<td>6,185,914</td>
<td>2.5%</td>
<td>245,340,000</td>
</tr>
<tr>
<td>Operating Margin</td>
<td>52,117,807</td>
<td>72,880,000</td>
<td>(20,762,193)</td>
<td>-28%</td>
<td>72,880,000</td>
</tr>
<tr>
<td><strong>OPERATING EXPENSES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Data Management</td>
<td>3,227,256</td>
<td>3,530,000</td>
<td>(302,744)</td>
<td>-9%</td>
<td>3,530,000</td>
</tr>
<tr>
<td>PG&amp;E Fees</td>
<td>1,153,877</td>
<td>1,350,000</td>
<td>(196,123)</td>
<td>-15%</td>
<td>1,350,000</td>
</tr>
<tr>
<td>Salaries &amp; Benefits</td>
<td>4,603,246</td>
<td>5,490,000</td>
<td>(886,754)</td>
<td>-16%</td>
<td>5,490,000</td>
</tr>
<tr>
<td>Professional Services</td>
<td>2,469,870</td>
<td>3,710,000</td>
<td>(1,240,130)</td>
<td>-33%</td>
<td>3,710,000</td>
</tr>
<tr>
<td>Marketing &amp; Promotions</td>
<td>473,380</td>
<td>960,000</td>
<td>(486,620)</td>
<td>-51%</td>
<td>960,000</td>
</tr>
<tr>
<td>Notifications</td>
<td>111,217</td>
<td>160,000</td>
<td>(48,783)</td>
<td>-30%</td>
<td>160,000</td>
</tr>
<tr>
<td>Lease</td>
<td>394,368</td>
<td>600,000</td>
<td>(205,632)</td>
<td>-34%</td>
<td>600,000</td>
</tr>
<tr>
<td>General &amp; Administrative</td>
<td>862,618</td>
<td>1,150,000</td>
<td>(287,382)</td>
<td>-25%</td>
<td>1,150,000</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING EXPENSES</strong></td>
<td>13,295,832</td>
<td>16,950,000</td>
<td>(3,654,168)</td>
<td>-22%</td>
<td>16,950,000</td>
</tr>
<tr>
<td><strong>OPERATING INCOME/(LOSS)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Income</td>
<td>38,821,975</td>
<td>55,930,000</td>
<td>(17,108,025)</td>
<td>-31%</td>
<td>55,930,000</td>
</tr>
<tr>
<td><strong>NON-OPERATING REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investment Income</td>
<td>1,729,841</td>
<td>1,470,000</td>
<td>259,841</td>
<td>18%</td>
<td>1,470,000</td>
</tr>
<tr>
<td>Grant Income</td>
<td>160,000</td>
<td>160,000</td>
<td>-</td>
<td>-100%</td>
<td>160,000</td>
</tr>
<tr>
<td><strong>TOTAL NON-OPERATING REVENUES</strong></td>
<td>1,729,841</td>
<td>1,630,000</td>
<td>99,841</td>
<td>6%</td>
<td>1,630,000</td>
</tr>
<tr>
<td><strong>NON-OPERATING EXPENSES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financing</td>
<td>350,511</td>
<td>180,000</td>
<td>170,511</td>
<td>95%</td>
<td>180,000</td>
</tr>
<tr>
<td><strong>CAPITAL EXPENDITURES, TRANSFERS, &amp; OTHER</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>21,698</td>
<td>400,000</td>
<td>(378,302)</td>
<td>-95%</td>
<td>400,000</td>
</tr>
<tr>
<td>Refund of Bond (Cash Inflow)</td>
<td>-</td>
<td>(100,000)</td>
<td>100,000</td>
<td>0%</td>
<td>(100,000)</td>
</tr>
<tr>
<td>Financial Security Requirement</td>
<td>-</td>
<td>147,000</td>
<td>(147,000)</td>
<td>0%</td>
<td>147,000</td>
</tr>
<tr>
<td>Transfer to Program Fund</td>
<td>6,360,000</td>
<td>6,360,000</td>
<td>-</td>
<td>-</td>
<td>6,360,000</td>
</tr>
<tr>
<td>Transfer to CRCR Fund</td>
<td>8,500,000</td>
<td>8,500,000</td>
<td>-</td>
<td>-</td>
<td>8,500,000</td>
</tr>
<tr>
<td><strong>TOTAL OTHER USES</strong></td>
<td>14,881,698</td>
<td>15,307,000</td>
<td>(425,302)</td>
<td>-3%</td>
<td>15,307,000</td>
</tr>
<tr>
<td><strong>NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE</strong></td>
<td>$25,319,607</td>
<td>$42,073,000</td>
<td>$16,753,393</td>
<td>-40%</td>
<td>$42,073,000</td>
</tr>
</tbody>
</table>

*September 2020 Treasurer Report*
### SILICON VALLEY CLEAN ENERGY AUTHORITY
#### PROGRAM FUND
##### BUDGETARY COMPARISON SCHEDULE
October 1, 2019 through September 30, 2020

<table>
<thead>
<tr>
<th>REVENUE &amp; OTHER SOURCES:</th>
<th>BUDGET</th>
<th>ACTUAL</th>
<th>REMAINING</th>
<th>ACTUAL/ BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer from Operating Fund</td>
<td>$6,360,000</td>
<td>$6,360,000</td>
<td>$0</td>
<td>100%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXPENDITURES &amp; OTHER USES:</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Program expenditures</td>
<td>6,360,000</td>
<td>1,922,430</td>
<td>4,437,570</td>
<td>30.2%</td>
</tr>
</tbody>
</table>

| Net increase (decrease) in fund balance | $0 | $4,437,570 |
| Fund balance at beginning of period    | -   |           |
| Fund balance at end of period          | $4,437,570 | |

### CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND
#### PROGRAM FUND
##### BUDGETARY COMPARISON SCHEDULE
October 1, 2019 through September 30, 2020

<table>
<thead>
<tr>
<th>REVENUE &amp; OTHER SOURCES:</th>
<th>BUDGET</th>
<th>ACTUAL</th>
<th>REMAINING</th>
<th>ACTUAL/ BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer from Operating Fund</td>
<td>$8,500,000</td>
<td>$8,500,000</td>
<td>$0</td>
<td>100%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXPENDITURES &amp; OTHER USES:</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Program expenditures</td>
<td>8,500,000</td>
<td>77,463</td>
<td>8,422,537</td>
<td>0.9%</td>
</tr>
</tbody>
</table>

| Net increase (decrease) in fund balance | $0 | $8,422,537 |
| Fund balance at beginning of period    | -   |           |
| Fund balance at end of period          | $8,422,537 | |

---

*$3.5M of Customer Relief & Community Resiliency efforts aimed at providing bill credits to customers is reflected as a reduction in sales revenue on the main Operating Fund budget. Accordingly, this amount is not reflected in the CRCR budget presented above.
SILICON VALLEY CLEAN ENERGY AUTHORITY

BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2019 through September 30, 2020

Net Increase (decrease) in available fund balance per budgetary comparison schedule $ 25,319,607

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

Subtract depreciation expense (52,979)
Subtract program expense not in operating budget (1,922,433)
Subtract CRCR expense not in operating budget (77,463)
Add back transfer to Program fund 6,360,000
Add back transfer to Customer Relief & Community Resiliency fund 8,500,000
Add back capital asset acquisition 21,698

Change in Net Position 38,148,430
### STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2019 through September 30, 2020

<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>OPERATING REVENUES</strong></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>Green electricity Premium</td>
<td>117,448</td>
<td>97,649</td>
<td>111,859</td>
<td>121,089</td>
<td>103,324</td>
<td>120,092</td>
<td>102,365</td>
<td>80,481</td>
<td>114,482</td>
<td>114,019</td>
<td>110,698</td>
<td>$121,759</td>
<td>1,315,255</td>
</tr>
<tr>
<td>Liquidated damages</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>$6,600,000</td>
</tr>
<tr>
<td>Other income</td>
<td>40,200</td>
<td>53,094</td>
<td>-</td>
<td>29,662</td>
<td>23,767</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$213,207</td>
</tr>
<tr>
<td><strong>Total operating revenues</strong></td>
<td>30,886,662</td>
<td>22,001,584</td>
<td>21,089,033</td>
<td>22,591,506</td>
<td>20,579,107</td>
<td>26,149,791</td>
<td>24,084,540</td>
<td>27,382,501</td>
<td>28,210,606</td>
<td>30,465,203</td>
<td>30,385,503</td>
<td>303,643,721</td>
<td></td>
</tr>
<tr>
<td><strong>OPERATING EXPENSES</strong></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>Staff compensation and benefits</td>
<td>358,403</td>
<td>325,710</td>
<td>427,518</td>
<td>371,306</td>
<td>350,980</td>
<td>411,965</td>
<td>384,658</td>
<td>400,351</td>
<td>405,921</td>
<td>404,609</td>
<td>381,145</td>
<td>380,680</td>
<td>4,603,246</td>
</tr>
<tr>
<td>Data manager</td>
<td>261,256</td>
<td>290,953</td>
<td>291,025</td>
<td>260,475</td>
<td>261,133</td>
<td>261,253</td>
<td>259,596</td>
<td>260,000</td>
<td>262,078</td>
<td>263,195</td>
<td>263,260</td>
<td>263,032</td>
<td>3,227,256</td>
</tr>
<tr>
<td>Service fees - PG&amp;E</td>
<td>96,070</td>
<td>95,877</td>
<td>95,882</td>
<td>95,000</td>
<td>96,846</td>
<td>96,840</td>
<td>97,800</td>
<td>96,020</td>
<td>96,306</td>
<td>96,303</td>
<td>95,305</td>
<td>95,628</td>
<td>1,153,877</td>
</tr>
<tr>
<td>Consultants and other professional fees</td>
<td>249,638</td>
<td>266,760</td>
<td>499,433</td>
<td>353,118</td>
<td>488,259</td>
<td>354,922</td>
<td>292,217</td>
<td>381,993</td>
<td>371,030</td>
<td>449,529</td>
<td>400,862</td>
<td>481,536</td>
<td>4,589,297</td>
</tr>
<tr>
<td>General and administration</td>
<td>153,979</td>
<td>210,400</td>
<td>211,420</td>
<td>183,108</td>
<td>30,495</td>
<td>199,289</td>
<td>110,396</td>
<td>103,391</td>
<td>135,078</td>
<td>104,757</td>
<td>121,718</td>
<td>158,021</td>
<td>1,722,052</td>
</tr>
<tr>
<td>Depreciation</td>
<td>4,375</td>
<td>4,375</td>
<td>4,560</td>
<td>4,612</td>
<td>4,612</td>
<td>4,612</td>
<td>4,612</td>
<td>4,612</td>
<td>2,974</td>
<td>4,308</td>
<td>4,715</td>
<td>52,979</td>
<td></td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td>16,500,329</td>
<td>16,445,331</td>
<td>17,117,709</td>
<td>20,740,996</td>
<td>20,279,269</td>
<td>27,515,239</td>
<td>21,493,042</td>
<td>21,963,288</td>
<td>22,401,609</td>
<td>24,563,548</td>
<td>27,766,583</td>
<td>30,067,678</td>
<td>266,674,621</td>
</tr>
<tr>
<td><strong>Nonoperating revenues (expenses)</strong></td>
<td>14,386,333</td>
<td>5,556,253</td>
<td>3,971,324</td>
<td>1,850,510</td>
<td>(481,584)</td>
<td>(6,938,132)</td>
<td>4,656,749</td>
<td>2,121,252</td>
<td>4,980,992</td>
<td>3,647,058</td>
<td>2,696,620</td>
<td>317,825</td>
<td>36,769,100</td>
</tr>
<tr>
<td>Interest income</td>
<td>180,933</td>
<td>184,968</td>
<td>196,888</td>
<td>206,014</td>
<td>185,526</td>
<td>188,324</td>
<td>144,189</td>
<td>140,441</td>
<td>104,689</td>
<td>80,275</td>
<td>72,331</td>
<td>45,263</td>
<td>1,729,841</td>
</tr>
<tr>
<td>Financing costs</td>
<td>(125,103)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
<td>(9,316)</td>
</tr>
<tr>
<td><strong>Total nonoperating revenues (expenses)</strong></td>
<td>45,830</td>
<td>175,652</td>
<td>187,573</td>
<td>196,698</td>
<td>155,682</td>
<td>179,009</td>
<td>134,673</td>
<td>45,566</td>
<td>104,689</td>
<td>80,275</td>
<td>72,331</td>
<td>1,132</td>
<td>1,379,330</td>
</tr>
<tr>
<td><strong>CHANGE IN NET POSITION</strong></td>
<td>$14,452,163</td>
<td>$5,731,905</td>
<td>$4,158,897</td>
<td>$2,047,208</td>
<td>$(325,902)</td>
<td>$(6,757,123)</td>
<td>$4,791,622</td>
<td>$2,166,638</td>
<td>$5,085,581</td>
<td>$3,727,333</td>
<td>$2,770,951</td>
<td>$318,957</td>
<td>$36,148,430</td>
</tr>
</tbody>
</table>
## SILICON VALLEY CLEAN ENERGY AUTHORITY
### INVESTMENTS SUMMARY
#### October 1, 2019 through September 30, 2020

<table>
<thead>
<tr>
<th>Return on Investments</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$160,933</td>
<td>$184,968</td>
<td>$196,888</td>
<td>$206,014</td>
<td>$185,526</td>
<td>$189,324</td>
<td>$144,189</td>
<td>$140,441</td>
<td>$104,689</td>
<td>$80,275</td>
<td>$72,331</td>
<td>$45,263</td>
<td>$1,729,841</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Portfolio Invested</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Average daily portfolio available to invest</strong></td>
</tr>
<tr>
<td>114,832,942 124,956,925 140,310,822 148,981,775 150,166,653 149,893,470 151,620,999</td>
</tr>
<tr>
<td>150,860,920 149,632,269 144,300,184 150,663,074 147,427,213</td>
</tr>
<tr>
<td><strong>Average daily portfolio invested</strong></td>
</tr>
<tr>
<td>102,127,452 120,538,388 130,715,414 137,957,394 140,649,041 139,005,163 140,220,462</td>
</tr>
<tr>
<td>149,136,404 141,669,779 138,623,502 143,729,680 139,072,628</td>
</tr>
<tr>
<td><strong>% of average daily portfolio invested</strong></td>
</tr>
<tr>
<td>88.9% 96.5% 93.2% 92.6% 91.7% 92.7% 92.5% 93.9% 94.7% 96.1% 95.4% 94.3%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Detail of Portfolio</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Money Market - River City Bank</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Opening Rate</strong></td>
<td>1.26%</td>
</tr>
<tr>
<td><strong>September Rate</strong></td>
<td>0.39%</td>
</tr>
<tr>
<td><strong>Carrying Value</strong></td>
<td>$144,699,663</td>
</tr>
<tr>
<td><strong>Interest Earned</strong></td>
<td>$45,209</td>
</tr>
</tbody>
</table>

*Note: Balance available to invest does not include lockbox or debt service 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>243.2</td>
<td></td>
</tr>
<tr>
<td>Nov</td>
<td>243.3</td>
<td></td>
</tr>
<tr>
<td>Dec</td>
<td>243.3</td>
<td></td>
</tr>
<tr>
<td>Jan</td>
<td>243.5</td>
<td></td>
</tr>
<tr>
<td>Feb</td>
<td>243.7</td>
<td></td>
</tr>
<tr>
<td>Mar</td>
<td>242.9</td>
<td></td>
</tr>
<tr>
<td>Apr</td>
<td>244.0</td>
<td></td>
</tr>
<tr>
<td>May</td>
<td>244.1</td>
<td></td>
</tr>
<tr>
<td>Jun</td>
<td>244.1</td>
<td></td>
</tr>
<tr>
<td>Jul</td>
<td>244.3</td>
<td></td>
</tr>
<tr>
<td>Aug</td>
<td>244.3</td>
<td></td>
</tr>
<tr>
<td>Sep</td>
<td>244.3</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>28.0</td>
<td></td>
</tr>
<tr>
<td>Nov</td>
<td>28.0</td>
<td></td>
</tr>
<tr>
<td>Dec</td>
<td>28.0</td>
<td></td>
</tr>
<tr>
<td>Jan</td>
<td>27.9</td>
<td></td>
</tr>
<tr>
<td>Feb</td>
<td>27.9</td>
<td></td>
</tr>
<tr>
<td>Mar</td>
<td>28.0</td>
<td></td>
</tr>
<tr>
<td>Apr</td>
<td>27.9</td>
<td></td>
</tr>
<tr>
<td>May</td>
<td>27.9</td>
<td></td>
</tr>
<tr>
<td>Jun</td>
<td>27.9</td>
<td></td>
</tr>
<tr>
<td>Jul</td>
<td>27.9</td>
<td></td>
</tr>
<tr>
<td>Aug</td>
<td>27.8</td>
<td></td>
</tr>
<tr>
<td>Sep</td>
<td>27.8</td>
<td></td>
</tr>
</tbody>
</table>
SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT

<table>
<thead>
<tr>
<th></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>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 30 days</td>
<td>86.6%</td>
<td>84.7%</td>
<td>88.3%</td>
<td>87.9%</td>
<td>82.6%</td>
<td>82.8%</td>
<td>83.7%</td>
<td>84.8%</td>
<td>82.3%</td>
<td>81.3%</td>
</tr>
<tr>
<td>31 to 60 days</td>
<td>4.9%</td>
<td>5.1%</td>
<td>4.6%</td>
<td>4.1%</td>
<td>7.9%</td>
<td>6.2%</td>
<td>6.8%</td>
<td>5.6%</td>
<td>7.6%</td>
<td>7.5%</td>
</tr>
<tr>
<td>61 to 90 days</td>
<td>3.0%</td>
<td>2.4%</td>
<td>1.8%</td>
<td>1.8%</td>
<td>2.5%</td>
<td>3.3%</td>
<td>2.7%</td>
<td>2.6%</td>
<td>2.7%</td>
<td>4.0%</td>
</tr>
<tr>
<td>91 to 120 days</td>
<td>0.8%</td>
<td>1.6%</td>
<td>0.9%</td>
<td>1.3%</td>
<td>1.5%</td>
<td>2.1%</td>
<td>1.7%</td>
<td>1.9%</td>
<td>1.9%</td>
<td>1.9%</td>
</tr>
<tr>
<td>Over 120 days</td>
<td>4.7%</td>
<td>6.2%</td>
<td>4.4%</td>
<td>4.9%</td>
<td>5.6%</td>
<td>5.6%</td>
<td>5.0%</td>
<td>5.1%</td>
<td>5.6%</td>
<td>5.4%</td>
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</table>

**AGE SUMMARY**

- Accounts Receivable Days: 41 DAYS
- Total Due: $34,372,996
- Bad Debt % (Budget): 0.5%

September 2020 Treasurer Report
Staff Report – Item 1c

Item 1c: Adopt Resolution Amending SVCE Conflict of Interest Code to Add Senior Government Affairs Manager Position in the List of Designated Positions for Filing

From: Girish Balachandran, CEO

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 12/9/2020

RECOMMENDATION
Adopt Resolution 2020-41 amending the SVCE conflict of interest code to add the Senior Government Affairs Manager position in the list of designated position for filing.

BACKGROUND
Shortly after the formation of SVCEA, the Board of Directors adopted a conflict of interest code as required by the Political Reform Act, commencing at Government Code Section 81000. The code lists the positions within the Authority that are required to file statements of economic interests (Form 700). As a joint powers authority with members located entirely within Santa Clara County, the County Board of Supervisors is the conflict code reviewing body that is required to approve all changes to the conflict of interest code. County Counsel has advised that when positions are added or removed from the conflict code, a new resolution must be adopted approving a new conflict of interest code with the added or removed position(s).

At the November 13, 2020 Board meeting, the Board of Directors approved the addition of a Senior Government Affairs Manager position by adopting Resolution 2020-34 amending the positions chart, job classifications, and salary schedule.

ANALYSIS & DISCUSSION
SVCE staff and general counsel have identified the newly approved Senior Government Affairs Manager position as needing to report financial interests based on the decisions he/she will be making. At this time, all SVCE regulatory and legislative employees are required to file.

In accordance with the requirements of the Political Reform Act and the County of Santa Clara, a new conflict of interest code must be adopted by resolution which includes the newly created or identified position as well as any changes to the existing Conflict of Interest Code. The attached resolution amends Appendix A to SVCE’s code to reflect the addition of “Senior Government Affairs Manager”.

STRATEGIC PLAN
Not applicable.

ALTERNATIVES
None.

FISCAL IMPACT
There is no fiscal impact as a result of adding the position to SVCE’s Conflict of Interest Code.
ATTACHMENT
1. Resolution 2020-41 Amending the Authority’s Conflict of Interest Code to Add Senior Government Affairs Manager
RESOLUTION NO. 2020-41

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE AUTHORITY’S CONFLICT OF INTEREST CODE TO ADD SENIOR GOVERNMENT AFFAIRS MANAGER POSITION

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, the Political Reform Act, Government Code Section 81000, et seq., (the “Political Reform Act”) requires each public agency in California, including the Authority, to adopt and promulgate a conflict of interest code; and

WHEREAS, Government Code Section 87306 requires each public agency in California to amend its conflict of interest code when change is necessitated by a change in circumstances, including the creation of new positions and relevant changes to the duties assigned to existing positions; and

WHEREAS, the Board of Directors of the Authority has adopted a conflict of interest code, and has amended this code as appropriate due to changed circumstances, with the most recent code adopted by Resolution 2020-34; and

WHEREAS, the Board of Directors, after consultation with the County of Santa Clara as its code reviewing body, desires to amend the list of designated positions in Appendix A by adding the position of Senior Government Affairs Manager.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Authority rescinds Resolution No. 2020-34 and adopts the following attached Conflict of Interest Code including its Appendices of Designated Positions and Disclosure Categories.

BE IT FURTHER RESOLVED that The Board of Directors of the Authority hereby directs the Secretary of the Board to coordinate the preparation of a revised Conflict of Interest Code in succeeding even-numbered years following notice and instructions from the County of Santa Clara as the code-reviewing body for the Authority, in accordance with the requirements of Government Code Sections 87306 and 87306.5. Future revisions to the Conflict of Interest Code should reflect changes in employee or official designations. If no revisions to the Code are required, the Authority shall submit a response as indicated in the instructions provided by the County of Santa Clara no later than October 1st of the same year, stating that amendments to the Authority’s Conflict of Interest Code are not required.
ADOPTED AND APPROVED this 9th day of December 2020, by the following vote:

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<tr>
<th>JURISDICTION</th>
<th>NAME</th>
<th>AYE</th>
<th>NO</th>
<th>ABSTAIN</th>
<th>ABSENT</th>
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<td>Director Ellahie</td>
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<td>Director Smith</td>
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</table>

Chair

ATTEST:

Clerk
SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

The Political Reform Act (Government Code § 81000, et seq., hereinafter referred to as the Act) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission (“FPPC”) has adopted a regulation (2 California Code of Regulations § 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency’s code. After public notice and hearing, the standard code may be amended by the FPPC to conform to amendments in the Act. Therefore, the terms of 2 California Code of Regulations § 18730 and any amendments to it duly adopted by the FPPC are hereby incorporated by reference. This regulation and the text here designating positions and establishing disclosure categories shall constitute the conflict of interest code of the Silicon Valley Clean Energy Authority (“Authority”).


Individuals holding a designated position shall file their Statements of Economic Interests with the Authority’s Filing Official, which will make the Statements available for public inspection and reproduction subject to Government Code section 81008. If Statements are received in signed paper format, the Authority’s Filing Official shall make and retain a copy and forward the original Statements to the Filing Officer, the County of Santa Clara Clerk of the Board of Supervisors. If Statements are electronically filed using the County of Santa Clara’s Form 700 e-filing system, both the Authority’s Filing Official and the County of Santa Clara Clerk of the Board of Supervisors will receive access to the e-filed Statements simultaneously.
# DESIGNATED POSITIONS

<table>
<thead>
<tr>
<th>Designated Position</th>
<th>Assigned Disclosure Category</th>
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<tbody>
<tr>
<td>Member of Board of Directors</td>
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<tr>
<td>Alternate Member of Board of Directors</td>
<td>1</td>
</tr>
<tr>
<td>Chief Executive Officer</td>
<td>1</td>
</tr>
<tr>
<td>Chief Financial Officer &amp; Director of Administrative Services</td>
<td>1</td>
</tr>
<tr>
<td>Finance and Administration Committee Member</td>
<td>2</td>
</tr>
<tr>
<td>General Counsel</td>
<td>1</td>
</tr>
<tr>
<td>Account Services Manager</td>
<td>2</td>
</tr>
<tr>
<td>Administrative Services Manager</td>
<td>2</td>
</tr>
<tr>
<td>Communications Manager</td>
<td>2</td>
</tr>
<tr>
<td>Director of Account Services &amp; Community Relations</td>
<td>2</td>
</tr>
<tr>
<td>Director of Decarbonization &amp; Grid Innovation Programs</td>
<td>2</td>
</tr>
<tr>
<td>Director of Power Resources</td>
<td>1</td>
</tr>
<tr>
<td>Director of Regulatory &amp; Legislative Policy</td>
<td>2</td>
</tr>
<tr>
<td>Management Analyst</td>
<td>2</td>
</tr>
<tr>
<td>Manager of Decarbonization &amp; Grid Innovation Programs</td>
<td>2</td>
</tr>
<tr>
<td>Manager of Regulatory &amp; Legislative Affairs</td>
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</tr>
<tr>
<td>Senior Government Affairs Manager</td>
<td>2</td>
</tr>
<tr>
<td>Senior Regulatory Analyst</td>
<td>2</td>
</tr>
<tr>
<td>Power Analyst</td>
<td>1</td>
</tr>
<tr>
<td>Power Resources Manager</td>
<td>1</td>
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</table>
A newly created position that makes or participates in the making of governmental decisions that may foreseeably have a material effect on any financial interest of the position-holders, and which specific position title is not yet listed in the Authority’s conflict of interest code is included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular newly created position, although a “designated position,” is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008.)

As soon as the Authority has a newly created position that must file Statements of Economic Interests, the Authority’s Filing Official shall contact the County of Santa Clara Clerk of the Board of Supervisors Form 700 division to notify it of the new position title to be added in the County’s electronic Form 700 record management system, known as eDisclosure. Upon this notification, the Clerk’s office shall enter the actual position title of the newly created position into eDisclosure and the Authority’s Filing Official shall ensure that the name of any individual(s) holding the newly created position is entered under that position title in eDisclosure.

Additionally, within 90 days of the creation of a newly created position that must file Statements of Economic Interests, the Authority shall update this conflict-of-interest code to add the actual position title in its list of designated positions, and submit the amended conflict of interest code to the County of Santa Clara Office of the County Counsel for code-reviewing body approval by the County Board of Supervisors. (Gov. Code Section 87306.)
SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

APPENDIX "B"

DISCLOSURE CATEGORIES

Designated positions must report financial interests in accordance with the assigned disclosure categories.

Category 1: Persons in this category shall disclose:

(a) investments and business positions in business entities, and income (including gifts, loans, and travel payments) from sources that contract with the Authority, or that provide, plan to provide, or have provided during the previous two years, facilities, goods, technology, equipment, vehicles, machinery, or services, including training or consulting services, of the type utilized by the Authority; and

(b) all interests in real property located: in whole or in part within the jurisdiction of the Silicon Valley Clean Energy Authority, or within two miles of the borders of any of the parties to the Joint Powers Agreement for the Authority, or within two miles of any land owned or used by the Authority.

Category 2: Persons in this category shall disclose investments and business positions in business entities, and income (including gifts, loans, and travel payments) from sources that contract with the Authority, or that provide, plan to provide, or have provided during the previous two years, facilities, goods, technology, equipment, vehicles, machinery, or services, including training or consulting services, of the type utilized by the Authority.

Category 3: Each Consultant, as defined for purposes of the Political Reform Act, shall disclose pursuant to the broadest disclosure category in the Authority’s conflict of interest code subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such a written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer’s written determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.
RECOMMENDATION
Appoint SVCE Chief Financial Officer (CFO) and Director of Administrative Services Amrit Singh as the SVCE Board Treasurer/Auditor through the January 13, 2021 Annual Meeting.

BACKGROUND
Pursuant to Section 4.11.3 of the Joint Powers Agreement, the Board shall appoint a qualified person to act as Treasurer and a qualified person to serve as Auditor. The Board may appoint a qualified person to serve as both Treasurer/Auditor. The Treasurer/Auditor acts as the depository of the Authority’s funds and has custody of all of the money of the Authority. The Treasurer/Auditor reports directly to the Board in the performance of his or her duties as Treasurer/Auditor and must comply with the requirements for treasurers of general law cities. Government Code Section 6505.5 and Section 6 of the Joint Powers Agreement further specifies the duties and obligations of the Treasurer/Auditor.

With the departure of former Director of Finance and Administration Don Eckert in July 2020, the Board appointed Interim CFO Don Rhoads as interim SVCE Board Treasurer/Auditor.

ANALYSIS & DISCUSSION
The interim Treasurer/Auditor appointment made at the August 12, 2020 was intended to be a temporary fill until a candidate had been selected for the vacant CFO position. With Amrit Singh joining SVCE as the CFO and Director of Administrative Services on November 9, 2020, staff would like to propose that he be appointed to fulfill the duties associated with the Treasurer/Auditor position.

Given the Treasurer/Auditor is appointed to a one year term at the Annual Meeting of the Board in January, this current appointment would serve until the January 13, 2021 meeting.

STRATEGIC PLAN
N/A

ALTERNATIVE
The Board can elect to appoint an alternative individual for the role of SVCE Board Treasurer/Auditor.

FISCAL IMPACT
No fiscal impact as a result of the appointment.
Staff Report – Item 1e

Item 1e: Approve and Authorize Amendment No. 1 to the Amended and Restated Engagement Letter with Hall Energy Law PC for Legal Services Related to SVCE’s Energy and Capacity Transaction Needs and Long-term Power Purchase Agreements Not-to-Exceed $400,000 for a Three-Year Term

From: Girish Balachandran, CEO

Prepared by: Monica Padilla, Director of Power Resources

Date: 12/9/2020

RECOMMENDATION
Approve and authorize the Chief Executive Officer to execute the attached Amendment No. 1 to the Amended and Restated Hall Energy Law PC Engagement Letter ("Amended and Restated Agreement") for legal representation related to energy and capacity transactions and negotiations and implementation of long-term Power Purchase Agreements on behalf of Silicon Valley Clean Energy Authority in an amount Not-to-Exceed ("NTE") $400,000 for a three-year term through January 13, 2022.

EXECUTIVE COMMITTEE RECOMMENDATION
The Executive Committee met November 23, 2020 and received a presentation on the request to amend the Amended and Restated Agreement with Hall Energy Law PC. The committee voted unanimously to recommend Board approval of Amendment No. 1 to the Amended and Restated Agreement to spend up to $400,000 inclusive through January 13, 2022.

BACKGROUND
In January 2019, SVCE executed a three-year Engagement Letter Agreement with Hall Energy Law PC for legal support services effective January 14, 2019 through January 13, 2022 with an NTE amount of $100,000 ("Prior Agreement"). In January 2020, the SVCE Board authorized the Amended and Restated Agreement increasing the NTE to $300,000 to cover increased legal support needed to carry out negotiations and execution of several power related activities. The terms, conditions and scope of work of the Amended and Restated Agreement remained the same.

Since approval of the Amended and Restated Agreement, several non-planned negotiations needing extensive legal counsel support have arisen related to existing power supply agreements and transacting for resource adequacy. Additionally, in June 2020 SVCE issued a new joint Request for Offers with Central Coast Community Energy (2020 Joint RFO) to secure at least five additional Renewable Portfolio Standard (RPS) resources under long-term agreements. The existing $300,000 NTE will be expended by the end of 2020 and no further work may be performed unless the NTE is increased.

ANALYSIS & DISCUSSION
Due to increased number of agreements being negotiated and the complexity of new resource adequacy requirements and rules, extensive outside legal counsel is anticipated for 2021. Specifically, SVCE expects extensive support in these areas:

- RPS Power Purchase Agreements (PPAs). Existing PPAs are in need of monitoring and in some cases amendments must be negotiated to ensure a project can move forward. At least five new PPAs are
contemplated under the 2020 Joint RFO. Depending on progress with existing PPAs and those currently under negotiation, additional resource may be selected for PPA negotiations.

- Electric Master Agreements. Given SVCE’s recent awarded credit rating by Moody’s, staff will begin to negotiate more favorable credit terms with suppliers enabled under an Electric Master Agreement with SVCE. Additionally, new suppliers are being considered necessitating negotiations of terms and conditions under new Electric Master Agreements.

- Resource Adequacy. New rules and mandates around the counting of certain resources including resource adequacy from imports into California continue to increase in complexity. Legal support is necessary to help ensure that the products being procured is properly contracted for.

Additional legal support contemplated through 2021 includes: on-going power and capacity related transactions; assistance with assignment of agreements under a future pre-pay structure; and possible support on behalf of SVCE with long-duration storage.

Given Hall Energy Law PC’s extensive knowledge of SVCE’s needs, understanding of all SVCE’s existing supply contracts and relevant experience in negotiating PPAs on SVCE’s behalf Hall Energy Law PC, continues to be the law firm which can best provide legal support for power supply contracts and negotiations. The proposed Amendment No. 1 to the Amended and Restated Agreement, increases the NTE to from $300,000 to $400,000. The scope of work and term remain the same.

STRATEGIC PLAN
The recommendation supports the Power Supply Goals #5 and #6 of the 2020 Strategic Plan.

ALTERNATIVE
SVCE has other law firms on retainer, however the amount of time and cost to bring new counsel up to speed on SVCE’s agreements and negotiations would not be cost effective, therefore staff does not feel there is a prudent alternative than to continue using Hall Energy Law PC to complete negotiations for the remaining PPAs being negotiated under the 2020 Joint RFO and to provide on-going legal support for power supply contracts.

FISCAL IMPACT
Enough funds have been budgeted for legal support services as part of the current fiscal year. Appropriations of funds through the term of the Amended and Restated Agreement will be requested in upcoming budgets.

ATTACHMENTS
1. Amendment No 1. To the Amended and Restated Engagement Letter for Hall Energy Law PC Representation of Silicon Valley Clean Energy Authority
2. Amended and Restated Engagement Letter for Hall Energy Law PC Representation of Silicon Valley Clean Energy Authority
AMENDMENT NO. 1
TO AMENDED AND RESTATED ENGAGEMENT LETTER

This AMENDMENT NO. 1 TO AMENDED AND RESTATED ENGAGEMENT LETTER (this “Amendment”) dated as of December 11, 2020 (“Effective Date”) is entered into by and between Silicon Valley Clean Energy Authority (“SVCEA”) and Hall Energy Law PC (the “Firm”). SVCEA and Firm are each referred to herein as a “Party” and collectively, as the “Parties”.

RECITALS

WHEREAS, the Parties entered into an engagement letter dated January 14, 2019 (the “Prior Agreement”);

WHEREAS, the SVCEA Board at its January 8, 2020 meeting, delegated authority to the Chief Executive Officer to execute an amended and restated engagement letter dated December 18, 2019 (the “Agreement”); and

WHEREAS, the Parties wish to amend the Agreement by increasing the NTE Cap currently in place.

AGREEMENT

NOW THEREFORE, the Parties hereby acknowledge and agree as follows:

1. Amendments to the Agreement.

Paragraph 3 titled ‘Fees and Hourly Rates’ shall be amended by deleting in its entirety the first sentence of the fourth paragraph and replacing it with the following:

“The total amount of legal services for the Engagement for the Term shall not exceed four hundred thousand dollars ($400,000) (the “NTE Cap”) without prior written approval of SVCEA.”

2. Miscellaneous.

(i) Definitions; Interpretation. All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

(ii) Agreement Otherwise not Affected. With the exception of the Amendment pursuant hereto, all other provisions of the Agreement remain unchanged.

(iii) Entire Agreement. This Amendment along with the Agreement constitute the entire agreement between the Parties relating to the subject matter thereof and shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter thereof.

(iv) Effectiveness. This Amendment shall not be effective until signed by both Parties and may only be amended or modified in writing signed by each of the Parties.

[Signatures appear on the following page.]
IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be duly executed as of the Effective Date.

HALL ENERGY LAW PC

By: ___________________________  
Name: ___________________________  
Title: ___________________________

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: ___________________________  
Name: ___________________________  
Title: ___________________________
December 18, 2019

VIA EMAIL
Silicon Valley Clean Energy Authority
Attention: Girish Balachandran
333 W. El Camino Real, Suite 290
Sunnyvale, CA 94087

Re: Amended and Restated Engagement Letter for Hall Energy Law PC
Representation of Silicon Valley Clean Energy Authority

Dear Girish:

We are pleased that you have requested Hall Energy Law PC (the “Firm”) to continue to provide legal services to Silicon Valley Clean Energy Authority (“SVCEA”) and we thank you for the opportunity to be of assistance.

The Firm and SVCEA entered into an engagement letter dated January 14, 2019 (the “Prior Agreement”). Once fully executed, this amended and restated engagement letter (the “Agreement”) shall amend, replace and supersede in its entirety the Prior Agreement.

This Agreement sets forth the scope of our engagement, the financial terms of our engagement, and all other aspects of this engagement, as follows:

1. Scope of Engagement. By means of this Agreement, SVCEA is engaging the Firm to continue to provide the following legal services: SVCEA’s procurement of energy, renewable energy and related products, including the review, drafting, revision, negotiation, amendment, and finalization of (i) EEI Master Agreements and Cover Sheets, amendments to the WSPP agreement, confirmations and any supporting credit documentation such as parent guarantees and letters of credit (collectively, the “Energy Supply Agreements”), (ii) the deposit account control agreement, intercreditor and collateral agency agreement, and security agreement entered into by SVCEA in its 2016 Energy Services Request for Proposals (the “Lockbox Agreements”), (iii) development of a Coordinated Operations Agreement (“COA”) for administration and implementation of long-term power purchase and sale agreements (PPAs) acquired in the 2017 Joint RFO with Monterey Bay Community Power Authority, and continued support in connection with the PPAs already acquired, and additional negotiations, if any, arising from the 2017 Joint RFO (“2017 RFO Additional Follow-Up”), (iv) PPAs currently under negotiation in the 2019 Joint RFO with Monterey Bay Community Power Authority (“2019 Joint RFO”), and (v) procurement of additional renewable energy, resource adequacy, energy storage, and miscellaneous legal advice and analysis, including but not limited to, advice related to any potential bankruptcy by Pacific
Gas & Electric, or services related to any of the foregoing (“Other Services”). The legal services relating to the Energy Supply Agreements, the Lockbox Agreements, the 2017 RFO Additional Follow-Up, the 2019 Joint RFO, and the Other Services are collectively referred to below as the “Engagement.”

2. Term. The term of this Agreement shall commence on January 14, 2019 and will remain in full force and effect through January 13, 2022 (the “Term”), subject to termination by either SVCEA or the Firm by providing thirty (30) days’ written notice of its intent to terminate this Agreement, subject to payment of any amounts owed for services previously rendered and, if requested by SVCEA, completion of any partially completed projects.

3. Fees and Hourly Rates. Our billing practice is to charge for our legal services, based primarily on the amount of time, including travel time, devoted to a matter at hourly rates for the particular professionals involved. These hourly rates are based upon these professionals’ experience, expertise, and standing. I will be the attorney responsible for the performance of the Engagement and my hourly rate for this work is $595/hr. Where appropriate, I may use junior attorneys on this Engagement and the hourly rates for their work would typically range from $375-$540/hr. These rates are modified by the Firm from time to time, and any new rates would be implemented on a prospective basis and would apply only to legal services rendered after the effective date of the new rates.

The Firm and SVCEA agree that SVCEA will be responsible for only fifty-five percent (55%) of the total fees associated with the following portions of the Engagement: 2017 RFO Additional Follow-Up.

The Firm and SVCEA agree that SVCEA will be responsible for only fifty percent (50%) of the total fees associated with the following portions of the Engagement: 2019 Joint RFO.

The total amount of legal services for the Engagement for the Term shall not exceed three hundred thousand dollars ($300,000) (the “NTE Cap”) without prior written approval of SVCEA. SVCEA will not be responsible for any fees incurred in excess of the NTE Cap unless expressly authorized by SVCEA in writing. If additional legal services are required that extend beyond the NTE Cap, SVCEA and the Firm shall agree in writing to the scope and cost of such additional services.

We believe that our hourly rates are comparable with the rates charged for the same kinds of work by lawyers and other professionals of similar experience, expertise and standing. We try to use associate and paralegal support on projects where appropriate, and we will be happy to discuss the staffing of your project with you.

We will charge for all activities undertaken in providing legal services to you under this Agreement, including but not limited to the following: conferences, including preparation and participation; preparation and review of correspondence and other documents; legal research; court and other appearances; including preparation and participation; and telephone calls, including calls with you, other attorneys or persons involved with this matter, and governmental agencies. The legal personnel assigned to your matter will confer among themselves about the matter, as required. When they do confer, each person will charge for the time expended. Likewise, if more
than one of our legal personnel attends a meeting, court hearing or other proceeding, each will charge for the time spent. We will charge for travel time, both local and out of town.

4. **Additional Services and Outside Expenditures.** Our legal representation may also involve additional services provided by vendors. We will obtain your advance approval before incurring any such additional services on your behalf. You will be required either to pay for these outside additional services directly, or to reimburse us if we make payment for these services on your behalf. We sometimes will make payment for, and then bill you for reimbursement of smaller items such as filing fees, photocopying by outside copying services, electronic discovery services, recording fees, messenger services, service of process, and court fees. When there are substantial expenditures involving vendors (such as for discovery management, document production, depositions, expert witnesses, exhibit preparation, or airfare) or substantial out-of-pocket expenditures (such as extended field expenses, large outside copying jobs, or jury fees), we will require either that you pay those sums to us before we expend them, that you provide an advance deposit for such expenditures, or that you directly contract with and pay the vendor. You will not be billed for any internal Firm costs incurred on your behalf, such as telephone (including long distance charges), telecopy charges, word processing, secretarial overtime, firm couriers, postage (including FedEx, UPS or similar overnight delivery services), printing and photocopying performed in-house.

5. **Monthly Statements and Payment Terms.** Our practice will be to send a monthly statement of our charges for legal services and for reimbursement of payments made on our client’s behalf for outside additional services. The detail in the monthly statement will inform you of the nature and progress of our work and of the charges and expenditures being incurred.

   Unless otherwise agreed, each monthly statement is fully due and payable upon receipt, but in no event later than thirty (30) days after its issuance date.

   We specifically reserve the right to withdraw from representation of you and to cease performing immediately all services if we do not receive full payment of any amounts owed to us within forty-five (45) days of any statement.

6. **Withdrawal From Representation.** The attorney-client relationship is one of mutual trust and confidence. If you have any questions at all about the provisions of this Agreement, we invite your inquiries. We encourage our clients to inquire about any matter relating to our engagement agreements or monthly statements which may be in any way unclear or appear unsatisfactory. If you do not meet your obligation of timely payments or deposits under this Agreement, we reserve the right to withdraw from your representation on that basis alone, subject of course to any required judicial, administrative, or other approvals.

   This Agreement is also subject to termination by either party upon reasonable notice for any reason. If there were to be such a termination, however, you would remain liable for all unpaid charges for services provided and expenditures advanced or incurred.

7. **Duties Upon Termination of Active Representation.** Upon termination of our active involvement in a particular matter for which we had previously been engaged, we will have no further duty to inform you of future developments or changes in law which may be relevant to
such matter in which our representation has terminated. Further, unless you and the Firm agree in writing to the contrary, we will have no obligation to monitor renewal or notice dates or similar deadlines which may arise from the matters for which we had been engaged. If your matter involves obtaining a judgment and such judgment is obtained, we will only be responsible for those post judgment services (such as recording abstracts, filing judgment liens, and calendaring renewals of judgments) as are expressly agreed to by you and the Firm in writing and for which you will be obligated to pay.

8. **Document Storage Policies.** The Firm’s policy with regard to documents and other materials at the conclusion of a matter is to maintain them in storage for a period of no more than ten (10) years. All documents and other materials in our file will then be destroyed or discarded without notice to you. Accordingly, if there are any documents or other materials you wish to have retrieved from your file at the conclusion of a matter, it will be necessary for you to advise us of that request to ensure that they are not destroyed.

9. **Consent to Electronic Communications.** In order to maximize efficiency in this matter, we intend to use state of the art communications devices to the fullest extent possible (e.g., E-mail, document transfer by computer, cellular telephones, and facsimile transfers). The use of such devices under current technology may place your confidences and privileges at risk. However, we believe the effectiveness involved in use of these devices outweighs the risk of accidental disclosure. By signing this letter, you acknowledge your consent to the use of these devices.

10. **Disclaimer of Guarantee.** Nothing in this Agreement should be construed as a promise or guarantee about the outcome of any matter which we are handling on your behalf. Our comments about the outcome of your matter are expressions of opinion only. If we should provide you with an estimate of the fees and costs which may be incurred in connection with our representation of you, it is important that you understand and acknowledge that any such estimate is merely an estimate based on numerous assumptions which may or may not prove to be correct and that any estimate is not a guarantee or agreement of what the maximum amount of fees and/or costs will be.

11. **Future Matters.** Unless otherwise agreed in writing between us, all other matters referred to us for representation shall be governed by the terms of this Agreement.

12. **Entire Agreement.** This Agreement contains all terms of the agreement between us applicable to our representation of you, and may not be modified except by a written agreement signed by both of us.

13. **Future Conflict.** Our undertaking to represent you in the above matters will not act as a bar so as to prevent us from representing any existing or future client with respect to a claim, litigation or transaction adverse to you, so long as in the course of our representation of you we have not obtained any information that would be adverse to your interests with respect to such claim, litigation or transaction.

14. **Client.** The Firm’s clients for the purpose of our representation are only the persons and entities identified in this Agreement. Unless expressly agreed, we are not undertaking the
representation of any related or affiliated person or entity, nor any of their shareholders, partners, officers, directors, agents, or employees.

If this Agreement correctly sets forth your understanding of the scope of the services to be rendered to you by the Firm and if all of the terms set forth in this Agreement are satisfactory, then please sign this Agreement and return it to me so that we will be engaged as your legal counsel. If the scope of services described is incorrect or if the terms set forth are not satisfactory to you, please let us know in order that we can discuss either aspect.

I look forward to continuing to work with you and thank you once again for the opportunity to be of service.

Sincerely,

Stephen Hall
Principal

I have read and understand the contents of this Agreement and consent to the Firm representing SVCEA on the terms set forth in this Agreement.

SILICON VALLEY CLEAN ENERGY AUTHORITY:

Dated: **January 9**, 2020

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO

APPROVED AS TO FORM:

Gregory (G.) Stapaniuk
Counsel for Authority

ATTEST:

Andrea Pizano
Authority Clerk
Staff Report – Item 1f

Item 1f: Approve Scholarship Funds for 2021 Climate Resilience Short-Film Competition

From: Girish Balachandran, CEO

Prepared by: Don Bray, Director of Account Services & Community Relations

Date: 12/9/2020

RECOMMENDATION
Approve the allocation of $20,000 from the marketing budget for scholarship prizes to be awarded in the proposed 2021 Climate Resilience Short-Film Competition.

BACKGROUND
The COVID-19 pandemic and subsequent cancellation of in-person events have necessitated new approaches for engaging students and youth in SVCE’s service area. The Climate Resilience Short-Film Competition is being proposed as an alternative to Bike to the Future, an electric-bike-building challenge for high school students that SVCE hosted in 2018 and 2019. The 2020 Bike to the Future event was cancelled in March 2020, only weeks before the event date, due to the rapid onset of COVID restrictions.

In considering ‘virtual’ options to Bike to the Future for 2021, staff is seeking to involve a more diverse pool of students and a wider range of skills and interests – spanning the arts, humanities, and science.

ANALYSIS & DISCUSSION
In this new competition for 2021, high school students in SVCE’s service territory, as individuals or small teams, will submit a short-film (five minutes) depicting a community-driven solution that builds resilience to the impacts of climate change. This competition will not only introduce students to concepts such as climate and energy resilience, but it will allow SVCE to better understand our communities’ strengths and contributions to our mission.

The proposed Climate Resilience Short-Film Competition would be administered from February 2021 to May 2021. The competition would begin with a virtual kick-off event, in which staff would introduce participants to SVCE’s goals and the topics of climate resilience. A panel of judges would select main prize and honorable mention winners. All submissions and winners would be showcased on the SVCE website and promoted in conjunction with a virtual ‘film festival’ event to be held in June 2021.

Staff recommends an allocation of $20,000 for scholarships under this program. Rather than ranking top winners, designating four categories of equal scholarship amounts ($3,000 each) would reward different contributions and skillsets encouraged by the competition. Adding the four honorable mention prizes of $2,000 each will increase the number and diversity of solutions awarded. Staff anticipates that these scholarship prizes will be successful in incentivizing student participation and acknowledging the time and creative effort spent on developing the short-film. Main prizes will include the following:

- The Climate Impact Award (one $3,000 prize) will honor the film that describes a solution likely to have a high impact in building climate resilience at the community level. An emphasis will be placed on solutions that are both implementable and replicable.
• The Resilience Innovation Award (one $3,000 prize) will recognize a creative and unique approach to climate resilience. This award recognizes innovative solutions.
• The Creative Presentation Award (one $3,000 prize) rewards creative storytelling and communication of a climate resilience solution. This award encourages creative artistic expression and a diversity of approaches to film production, such as a music video or animated film.
• The Community Enthusiasm Award (one $3,000 prize) will denote achievement in showcasing widespread and meaningful participation from the community. This award will incentivize solutions that receive broad support or implementation, such as school or neighborhood-wide projects.

The Honorable Mention Awards (four at $2,000 each) would recognize short-films that did not win any of the main prize categories but nevertheless demonstrated strong climate resilience solutions and/or creative communications.

The event and scholarship awards are a great opportunity to communicate SVCE’s dedication to reinvesting in and benefiting the communities it serves, especially given the financial hardships and impacts of COVID-19 experienced by many customers.

**STRATEGIC PLAN**
This event aligns with customer and community goals in SVCE’s board-adopted Strategic Plan, specifically with Goal 10 – Empower customers with the awareness, knowledge and resources needed to make effective clean energy choices. The competition will build grassroots awareness and knowledge about clean energy’s role in community resilience, with an emphasis on supporting our most vulnerable communities.

**ALTERNATIVE**
Approve a general allocation of $20,000 for a 2021 scholarship program. If the Climate Resilience Short-Film Competition is not approved by the SVCE Board as a scholarship program for 2021, staff will explore other prize options, modify award categories, or explore alternative student scholarship competition ideas.

**FISCAL IMPACT**
No incremental fiscal impact. The $20,000 in scholarship monies will be allocated from the board-approved Account Services & Community Relations marketing budget.
Staff Report – Item 1g

**Item 1g:** Authorize the Chief Executive Officer to Execute Agreement with Keyes and Fox, LLP for Regulatory and Legislative Counsel Services

From: Girish Balachandran, CEO

Prepared by: Melicia Charles, Director of Legislative and Regulatory Policy

Date: 12/9/2020

**RECOMMENDATION**

Staff recommends that the Silicon Valley Clean Energy Authority Board ("Board") approve the agreement dated December 10, 2020 with Keyes and Fox, LLP ("K&F") for counsel services for a total amount not to exceed ("NTE") $160,000.

**BACKGROUND**

On November 25, 2020, SVCE management approved the agreement for regulatory and legislative counsel services with Keyes and Fox for $160,000. This agreement is over the $100,000 limit for CEO authorizations and therefore must be approved by the board. The agreement is a joint effort with other PG&E area CCAs to participate jointly in the following proceedings and a continuation of work with Keyes and Fox:

1. PG&E’s 2020-22 General Rate Case (GRC) Phase 1 proceeding Application (A.) 18-12-019
3. PG&E’s 2020-22 General Rate Case (GRC) Phase 2 proceeding (A. 19-11-019) and
4. PG&E’s 2019 ERRA Compliance Proceeding (A.20-02-009)
5. 2020 ERRA Compliance (pending proceeding)
6. 2022 ERRA Forecast (pending proceeding)
7. General Regulatory Support

The group needed legal counsel for joint representation, and after considering a variety of options settled on 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 will enter into a new contract with K&F for a NTE amount of $160,000.

Additions to the scope of work with K&F requires an increase of the total budget above the $100,000 limit for CEO authorizations.

The first is PG&E’s ERRA Forecast proceeding which began in July 2020. The second is PG&E’s 2020 - 2022 Phase 1 GRC which began in November 2019. The third is PG&E’s 2019 ERRA compliance proceeding, which opened in February 2020. The fourth is a budget line for general regulatory support. The fifth and sixth items the upcoming 2020 ERRA Compliance and ERRA Forecast proceedings. Finally, SVCE intends to utilize the K&F team for advisory services as regulatory matters arise that do not fall within the existing proceedings.

The NTE amounts of the individual proceedings are below, for a total contract budget of $160,000.
**ANALYSIS & DISCUSSION**

SVCE frequently collaborates with other CCAs on joint regulatory efforts 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, through the expansion of consulting support to the policy team, SVCE has developed bandwidth to be directly involved in important new proceedings whereas previously SVCE had relied on the efforts of other CCAs and hope their priorities aligned with SVCE’s. Increasing SVCE’s regulatory portfolio has given its customers a voice in proceedings where hundreds of millions of dollars are at stake.

Staff is requesting an extension of the Keyes and Fox contract to continue work in four proceedings and include two new proceedings in the previous scope of work. These tasks will increase the budget over the $100,000 limit for CEO authorizations. The NTE amounts of the individual tasks are in the table above and detailed in the attached contract. When added to the original NTE, the amended budget is $160,000.

**STRATEGIC PLAN**

Approving this contract will directly support Goal 15 of the Strategic Plan is to “Engage regulators, legislators and local electeds in developing policies that protect CCA customer investments and furthers 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. Leaving SVCE with two options: 1) Stop participating in rate 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 2) participate separately from the Joint CCAs. The latter option is likely to be significantly more expensive than joint participation.

**FISCAL IMPACT**

Approval of this new contract with Keyes and Fox, LLC will increase fiscal year 2020/2021’s budget by $160,000 making the total Keyes and Fox budget $160,000 for these tasks.

**ATTACHMENTS**

1. Draft Agreement with Keyes & Fox LLP
2. Joint Representation Agreement between Joint CCAs and Keyes & Fox LLP, 2/7/19
3. Joint Representation Agreement between Joint CCAs and Keyes & Fox LLP, 4/30/20
4. Joint Representation Agreement between Joint CCAs and Keyes & Fox LLP, 9/25/20
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
KEYES & FOX
FOR
LEGISLATIVE SUPPORT & LEGAL REPRESENTATION

THIS AGREEMENT, is entered into this 10th day of December, 2020, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and KEYES & FOX, a limited liability partnership, whose address is 580 California Street, 12th Floor, San Francisco, CA 94104 (hereinafter referred to as "Consultant") (collectively referred to as the “Parties” and individually as a “Party”).

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 legislative support & legal representation upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
The term of this Agreement shall commence on December 10, 2020, and shall terminate on September 30, 2022, unless terminated earlier as set forth herein.

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

3. COMPENSATION TO CONSULTANT
Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed one hundred sixty thousand dollars and no/100 ($160,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. TIME IS OF THE ESSENCE
Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.
5. **STANDARD OF CARE**
Consultant agrees to perform all services required by this Agreement in a manner commensurate with the prevailing standards of specially trained professionals in the San Francisco Bay Area under similar circumstances and in a manner reasonably satisfactory to Authority and agrees that all services shall be performed by qualified and experienced personnel. Consultant shall be responsible to Authority for any errors or omissions in the performance of work pursuant to this Agreement. Should any errors caused by Consultant be found in such services or products, Consultant shall correct the errors at no additional charge to Authority by redoing the professional work and/or revising the work product(s) called for in the Scope of Services to eliminate the errors. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by Authority, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, Authority may deduct the cost of such correction from any retention amount held by Authority or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

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. Consultant shall indemnify and hold harmless Authority and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of Authority officials, from any and all liability, damages, claims, costs, and expenses of any nature to the extent arising from Consultant’s personnel practices. Authority shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to Authority from Consultant as a result of Consultant’s failure to promptly pay to Authority any reimbursement or indemnification arising under this section.

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

8. **NON-DISCRIMINATION**
In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex,
gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law.

9. **HOLD HARMLESS AND INDEMNIFICATION**

   General Indemnification. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Authority and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those Authority agents serving as independent contractors in the role of Authority officials (collectively “Indemnitees”), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively “Liabilities”), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees’ active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees’ choice, and shall pay all costs and expenses, including all attorneys’ fees and experts’ costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

Consultant’s indemnifications and obligations under this section shall survive the expiration 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, its officers, employees, associates and subcontractors, presently have 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, its officers, employees, associates and subcontractors, will not employ any person having such an interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant’s services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the Authority Representative’s prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision
under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this section into any subcontract that Consultant executes in connection with the performance of this Agreement. Consultant understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

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

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

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

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

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

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

   F. Authority shall be the owner of and shall be entitled upon request to immediate possession of accurate reproducible copies of Reports or other pertinent data and information gathered or computed by Consultant prior to termination of this Agreement or upon completion of the work pursuant to this Agreement.

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 (“Authority Representative”) shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Tim Lindl (Consultant Representative”) shall represent Consultant in all matters pertaining to the services to be performed
under this Agreement.

17. INFORMATION AND DOCUMENTS
   A. Consultant covenants that all data, reports, documents, discussion, or other information (collectively “Data”) developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by Authority. Authority shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the Authority Representative or unless requested in writing by the Authority Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the Authority. Response to a subpoena or court order shall not be considered “voluntary,” provided Consultant gives Authority notice of such court order or subpoena.

   B. Consultant shall promptly notify Authority should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the Authority. Authority may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with Authority and to provide Authority with the opportunity to review any response to discovery requests provided by Consultant. However, Authority’s right to review any such response does not imply or mean the right by Authority to control, direct or rewrite the response.

   C. In the event Authority gives Consultant written notice of a “litigation hold”, then as to all data identified in such notice, Consultant shall, at no additional cost to Authority, isolate and preserve all such data pending receipt of further direction from the Authority.

   D. Consultant’s covenants under this section shall survive the expiration or termination of this Agreement.

18. NOTICES
   Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant’s and Authority’s regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

   TO AUTHORITY:
   333 W. El Camino Real
   Suite 330
   Sunnyvale CA 94087
   Attention: Chief Executive Officer
TO CONSULTANT:
Tim Lindl
Keyes & Fox, LLP
580 California Street, 12th Floor
San Francisco, CA 94104

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 Authority Representative may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Authority Representative 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.

In the event of Authority’s termination of this Agreement due to no fault or failure of performance by Consultant, 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. Consultant shall have no other claim against Authority by reason of such termination, including any claim for compensation.

20. **COMPLIANCE WITH LAWS**
Consultant shall keep itself informed of all applicable federal, state and local laws, ordinances, codes, regulations and requirements which may, in any manner, affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall, at all times, observe and comply with all such laws and regulations. Authority, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the Consultant to comply with this paragraph.

Consultant represents and agrees that all personnel engaged by Consultant in performing services are and shall be fully qualified and are authorized or permitted under state and local law to perform such services. Consultant represents and warrants to Authority that it has all licenses, permits, certificates, qualifications, and approvals required by law to provide the services and work required to perform services under this Agreement, including a business license. Consultant further represents and warrants that it shall keep in effect all such licenses, permits, and other approvals during the term of this Agreement.

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.

28. **AUTHORITY’S RIGHTS TO EMPLOY OTHER CONSULTANTS**
   Authority reserves the right to employ other consultants in connection with the subject matter of the Scope of Services.

29. **EXHIBITS**
   The Exhibits referenced in this Agreement are attached hereto and incorporated herein by this reference as though set forth in full in the Agreement. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of
this Agreement and a provision of Consultant’s proposal, the provisions of this Agreement shall control.

30. **FORCE MAJEURE**
    Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in Authority’s sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant’s reasonable control and not due to any act by Consultant.

31. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**
    The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of Authority from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant’s work or services. Acceptance of payment shall be any negotiation of Authority’s check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by Authority shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by Authority for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

32. **ATTORNEY FEES**
    In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys’ fees, experts’ fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

33. **SEVERABILITY**
    If any provision in this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

34. **SUCCESSORS AND ASSIGNS**
    The terms and conditions of this Agreement shall be binding on the successors and assigns of the Parties to this Agreement.

35. **NO THIRD PARTY BENEFICIARIES INTENDED**
    This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.
36. **COUNTERPARTS; FACSIMILE/PDF/ELECTRONIC SIGNATURE**
   This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument. The Parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.

37. **DRAFTING PARTY**
   This Agreement shall be construed without regard to the Party that drafted it. Any ambiguity shall not be interpreted against either Party and shall, instead, be resolved in accordance with other applicable rules concerning the interpretation of contracts.

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

   RECOMMENDED FOR APPROVAL

   Melicia Charles, Director of Regulatory & Legislative Policy

   CONSULTANT NAME  
   KEYES & FOX  
   By: __________________________  Name: Tim Lindl  Title: Partner  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

Keyes & Fox will provide Legal Representation and Legislative Support for SVCE regarding the following:

Application 18-12-019
Application 20-07-002 + Application 20-09-014 (Consolidated)
Application 19-11-019
Application 20-02-009
General Regulatory Support
2020 ERRA Compliance (new)
2022 ERRA Forecast (new)
### Exhibit B
#### Schedule of Performance

<table>
<thead>
<tr>
<th>Proceeding or Legal Matter</th>
<th>(New) End date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application 18-12-019</td>
<td>6/1/2021</td>
</tr>
<tr>
<td>Application 20-07-002 + Application 20-09-014 (Consolidated)</td>
<td>6/30/2021</td>
</tr>
<tr>
<td>Application 19-11-019</td>
<td>9/30/22</td>
</tr>
<tr>
<td>Application 20-02-009</td>
<td>9/30/2022</td>
</tr>
<tr>
<td>General Regulatory Support</td>
<td>9/30/2022</td>
</tr>
<tr>
<td>2020 ERRA Compliance (new)</td>
<td>9/30/2022</td>
</tr>
<tr>
<td>2022 ERRA Forecast (new)</td>
<td>9/30/2022</td>
</tr>
</tbody>
</table>
Exhibit C
Compensation

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of one hundred sixty thousand dollars and no/100 ($160,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

<table>
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<tr>
<th>Proceeding or Legal Matter</th>
<th>Do-Not-Exceed Amount</th>
<th>(New) End date</th>
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<td>Application 18-12-019</td>
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<td>Application 20-07-002 + Application 20-09-014</td>
<td>Twenty-Six Thousand Dollars ($26,000.00)</td>
<td>6/30/2021</td>
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<tr>
<td>Application 19-11-019</td>
<td>Nineteen Thousand Dollars ($19,000.00)</td>
<td>9/30/22</td>
</tr>
<tr>
<td>Application 20-02-009</td>
<td>Twenty-Two Thousand Dollars ($22,000.00)</td>
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<tr>
<td>General Regulatory Support</td>
<td>Four Thousand Dollars ($4,000.00)</td>
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<td>2020 ERRA Compliance</td>
<td>Twenty-Six Thousand Dollars ($26,000.00)</td>
<td>9/30/2022</td>
</tr>
<tr>
<td>2022 ERRA Forecast</td>
<td>Twenty-Six Thousand Dollars ($26,000.00)</td>
<td>9/30/2022</td>
</tr>
</tbody>
</table>

Rates

Keyes & Fox LLP 2021 Hourly Rate Sheet

<table>
<thead>
<tr>
<th>ATTORNEYS</th>
<th>CCA RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kevin Fox</td>
<td>$395</td>
</tr>
<tr>
<td>Jason Keyes</td>
<td>$330</td>
</tr>
<tr>
<td>Tim Lindl</td>
<td>$320</td>
</tr>
<tr>
<td>Jake Schlesinger</td>
<td>$295</td>
</tr>
<tr>
<td>Sheridan Pauker</td>
<td>$385*/$350</td>
</tr>
<tr>
<td>Scott Dunbar</td>
<td>$260</td>
</tr>
<tr>
<td>Beren Argetsinger</td>
<td>$225</td>
</tr>
<tr>
<td>Julia Kantor</td>
<td>$240</td>
</tr>
<tr>
<td>Melissa Birchard</td>
<td>$235</td>
</tr>
<tr>
<td>Lilly McKenna</td>
<td>$265</td>
</tr>
<tr>
<td>Ann Springgate</td>
<td>$295</td>
</tr>
</tbody>
</table>

* Sheridan’s rate with one asterisk is for transactional work.
<table>
<thead>
<tr>
<th>ATTORNEYS</th>
<th>CCA RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miriam Makhyoun</td>
<td>$190/$255*</td>
</tr>
<tr>
<td>Amanda Vanega</td>
<td>$185</td>
</tr>
<tr>
<td>Justin Barnes</td>
<td>$185/$265*</td>
</tr>
<tr>
<td>Ben Inskeep</td>
<td>$150/$205*</td>
</tr>
<tr>
<td>Heather DePouw</td>
<td>$105</td>
</tr>
<tr>
<td>Vanessa Luthringer</td>
<td>$100</td>
</tr>
<tr>
<td>Alicia Zaloga</td>
<td>$95</td>
</tr>
</tbody>
</table>

*Non-Attorney rates with an asterisk are expert witness rates.*

**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). Authority shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth herein. Authority does not pay interest on past due amounts.

**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 Representative prior to commencement of any additional services. Consultant shall submit, at the Authority Representative’s request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.
Exhibit D
Insurance Requirements and Proof of Insurance

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.
February 7, 2019

East Bay Community Energy
Nick Chaset
Chief Executive Officer
1111 Broadway, 3rd Floor
Oakland, California 94607

San José Clean Energy
Lori Mitchell
Director
200 E. Santa Clara Street, 14th Floor
San José, California 95113

Marin Clean Energy
Dawn Weisz
Chief Executive Officer
1125 Tamalpais Avenue
San Rafael, California 94901

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

Peninsula Clean Energy Authority
Jan Pepper
Chief Executive Officer
2075 Woodside Road
Redwood City, California 94061

Sonoma Clean Power
Geof Syphers
Chief Executive Officer
50 Santa Rosa Avenue, 5th Floor
Santa Rosa, California 95404

Pioneer Community Energy
Jenine Windeshausen
Executive Director
2976 Richardson Drive
Auburn, California 95603


Keyes & Fox LLP (“K&F”) is delighted that East Bay Community Energy (“EBCE”), Marin Clean Energy (“MCE”), Peninsula Clean Energy Authority (“PCE”), Pioneer Community Energy (“Pioneer”), San José Clean Energy (“SJCE”), Silicon Valley Clean Energy (“SVCE”), and Sonoma Clean Power (collectively, “Joint Clients”) have decided to engage K&F to provide legal representation before the California Public Utilities Commission (“Commission”) in Application 18-12-009 (the “Legal Services”). This letter describes the basis of the attorney-client relationship between K&F and the Joint Clients with respect to the Legal Services. The terms and conditions regarding how K&F will bill for the Legal Services are set forth in an
engagement letter or other agreement with each of the Joint Clients. It is the intent of the Joint Clients and K&F that this Joint Representation Agreement be effective as of January 10, 2019.

1. Joint Representation

K&F will represent each of the Joint Clients with respect to the Legal Services, and all appearances and filings made in connection with the Legal Services shall be made in the name of all of the Joint Clients or the “Joint CCAs”. By executing this Joint Representation Agreement, each of the Joint Clients agrees that K&F will take direction from Jeremy Waen at PCE or Todd Edmister at EBCE in this matter. In addition, each of you agrees that if any of EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP requests in writing – for any reason or for no reason – to withdraw from this Joint Representation Agreement, that withdrawal would be effective immediately, and from that point forward, K&F would not have an attorney-client relationship or further attorney-client obligations with the withdrawn party with respect to the Legal Services.

K&F will coordinate projects with either Jeremy Waen at PCE and/or Todd Edmister at EBCE, as the designated representatives of the Joint Clients for the Legal Services, or with whomever Mr. Waen or Mr. Edmister may specifically delegate that authority. We understand that Mr. Waen and/or Mr. Edmister have the authority to make decisions on behalf of the Joint Clients in connection with the Legal Services proposed, and we are relying on that understanding.

Because K&F will be representing multiple clients in this engagement, the applicable rules of professional conduct require that we inform you of actual and potential conflicts of interest with respect to joint representation, and that we obtain informed, written consent from each of the Joint Parties agreeing to the joint representation.

K&F has run a conflict check as it relates to the Legal Services. Based on the information we have been provided, we do not believe representation of the Joint Clients with respect to the Legal Services involves an actual conflict of interest between any of the Joint Clients. If any one of the Joint Clients is aware of an actual conflict of interest as between them, please let K&F know immediately.

Even though there may be no actual conflict, there are potential conflicts. K&F currently represents MCE, Monterey Bay Community Power (“MBCP”), PCE, Pioneer, SCP, SVCE, Valley Clean Energy Alliance (“VCEA”) and other organizations and companies in California’s energy industry in matters that do not pertain to the Legal Services. In addition, K&F has provided, or continues to provide, representation to MBCP, MCE, PCE, Pioneer, SCP, SVCE, and VCEA in a number of dockets before the Commission in which one or more of the Joint Clients have been, or continue to be, a party or participant.

Differences in respective financial resources, prior experience, interests, and objectives of the Joint Clients could make one approach to K&F’s responsibilities more favorable to one of the Joint Clients than to the others, or could lead to disputes among the Joint Clients. For example, if K&F was to represent only one client, rather than all the Joint Clients, K&F might be able to obtain more favorable treatment for that one. Because K&F will be representing all the Joint Clients, it will be necessary to balance the interests of the Joint Clients rather than prioritizing the interests of only one client.
If any of the Joint Clients becomes concerned with any relationship K&F may have with particular clients, companies, or individuals, we encourage the Joint Clients to bring those concerns to our attention. If a potential conflict arises, either among the Joint Clients or between one or more of the Joint Clients and other K&F clients that may impact our ability to fully represent the Joint Clients with respect to the Legal Services, we will promptly bring that conflict to the attention of the Joint Clients.

In the event the Joint Clients become adverse to each other with respect to the Legal Services, each of the Joint Clients agree that they shall not seek disqualification of K&F from representation of the other Joint Client with respect to the Legal Services on the basis of this Joint Representation Agreement, K&F’s access to confidential information obtained from the Joint Clients in connection with the Legal Services, or K&F’s separate representation of any of the Joint Clients on matters unrelated to the Legal Services; provided, however, that nothing in this Joint Representation Agreement authorizes K&F to represent any of the Joint Clients in any action brought by or against any of the other Joint Clients.

2. Confidentiality of Communications and Work Product

It is in the Joint Clients’ interest to preserve confidentiality of all communications and work product related to the Legal Services. If any of the Joint Clients discloses such communications or work product to persons or entities that are not a party to this Joint Representation Agreement, it jeopardizes the privileged and confidential nature of that communication or work product. Accordingly, we advise the Joint Clients to take care not to disclose privileged information or work product to any person or entity that is not a party to this Joint Representation Agreement.

The Joint Clients understand and acknowledge that any communications between each of the Joint Clients and K&F regarding the Legal Services may not be kept confidential from the other Joint Clients. In addition, should any future dispute among you concerning the matter on which you have engaged us to represent you lead to litigation, the attorney-client privilege may not protect communications that were shared.

If any of the Joint Clients wishes to communicate confidentially with K&F about matters outside the scope of the Legal Services, that client should: 1) exclude all third parties from the communication, including the other members of the Joint Clients, and 2) ensure K&F is aware the correspondence is on behalf of the individual company or organization and is not related to the Legal Services subject to this Joint Representation Agreement.

Through this Joint Representation Agreement, the Joint Clients authorize 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 the Joint Clients 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. Termination of K&F’s Representation

EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP may terminate K&F’s representation of that Joint Client at any time and for any reason. K&F may terminate its representation of the
Joint Clients or one of EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP at any time and for any reason, subject to the California State Bar Rules of Professional Conduct.

4. Miscellaneous

This letter is the entire agreement between the Joint Clients and K&F concerning the joint representation of the Joint Clients in the provision of Legal Services. This Joint Representation Agreement and the scope of Legal Services provided under it may be amended from time to time by mutual agreement among K&F and the Joint Clients. California law will govern this agreement and any subsequent amendments.

5. Conclusion

If the terms of K&F’s representation as explained in this Joint Representation Agreement 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 the Joint Clients.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP
EBCE, MCE, PCE, Pioneer, SJCE, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation 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 Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: Nick Chaset
Title: Chief Executive Officer
Date: ________________

MARIN CLEAN ENERGY

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

By: Dawn Weisz
Title: Chief Executive Officer
Date: ________________

PENINSULA CLEAN ENERGY AUTHORITY

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

By: Jan Pepper
Title: Chief Executive Officer
Date: ________________
PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: Jenine Windeshausen

Title: Executive Director

Date: 

SAN JOSE CLEAN ENERGY

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

By: Lori Mitchell

Balachandran

Title: Director

Date: 

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

Title: Chief Executive Officer

Date: 3/1/2019
SONOMA CLEAN POWER

I have read the foregoing engagement letter, understand it and agree to it on behalf of Sonoma Clean Power.

By: ______________________

Geof Syphers

Title: Chief Executive Officer

Date: ______________________

Approved as to form by SCP:

__________________________

By:

Title:
January 17, 2020

East Bay Community Energy
Nick Chaset
Chief Executive Officer
1111 Broadway, 3rd Floor
Oakland, California 94607

Marin Clean Energy
Dawn Weisz
Chief Executive Officer
1125 Tamalpais Avenue
San Rafael, California 94901

Peninsula Clean Energy Authority
Jan Pepper
Chief Executive Officer
2075 Woodside Road
Redwood City, California 94061

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Auburn, California 95603

San José Clean Energy
Richard Doyle
City Attorney
200 E. Santa Clara Street, 14th Floor
San José, California 95113

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

Sonoma Clean Power
Geof Syphers
Chief Executive Officer
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Santa Rosa, California 95404


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K&F will coordinate projects with either Poonum Agrawal at SVCE, Jeremy Waen at PCE and/or Todd Edmister at EBCE, as the designated representatives of the Joint Clients for the Legal Services, or with whomever Ms. Agrawal, Mr. Waen or Mr. Edmister may specifically delegate that authority. We understand that Ms. Agrawal, Mr. Waen and/or Mr. Edmister have the authority to make decisions on behalf of the Joint Clients in connection with the Legal Services proposed, and we are relying on that understanding.

Because K&F will be representing multiple clients in this engagement, the applicable rules of professional conduct require that we inform you of actual and potential conflicts of interest with respect to joint representation, and that we obtain informed, written consent from each of the Joint Parties agreeing to the joint representation.

K&F has run a conflict check as it relates to the Legal Services. Based on the information we have been provided, we do not believe representation of the Joint Clients with respect to the Legal Services involves an actual conflict of interest between any of the Joint Clients. If any one of the Joint Clients is aware of an actual conflict of interest as between them, please let K&F know immediately.

Even though there may be no actual conflict, there are potential conflicts. K&F currently represents MCE, Monterey Bay Community Power (“MBCP”), PCE, Pioneer, SCP, SVCE, Valley Clean Energy Alliance (“VCEA”) and other organizations and companies in California’s energy industry in matters that do not pertain to the Legal Services. In addition, K&F has provided, or continues to provide, representation to MBCP, MCE, PCE, Pioneer, SCP, SVCE, and VCEA in a number of dockets before the Commission in which one or more of the Joint Clients have been, or continue to be, a party or participant.

Differences in respective financial resources, prior experience, interests, and objectives of the Joint Clients could make one approach to K&F’s responsibilities more favorable to one of the Joint Clients than to the others, or could lead to disputes among the Joint Clients. For example, if K&F was to represent only one client, rather than all the Joint Clients, K&F might be able to obtain more favorable treatment for that one. Because K&F will be representing all the Joint Clients, it will be necessary to balance the interests of the Joint Clients rather than prioritizing the interests of only one client.
If any of the Joint Clients becomes concerned with any relationship K&F may have with particular clients, companies, or individuals, we encourage the Joint Clients to bring those concerns to our attention. If a potential conflict arises, either among the Joint Clients or between one or more of the Joint Clients and other K&F clients that may impact our ability to fully represent the Joint Clients with respect to the Legal Services, we will promptly bring that conflict to the attention of the Joint Clients.

In the event the Joint Clients become adverse to each other with respect to the Legal Services, each of the Joint Clients agree that they shall not seek disqualification of K&F from representation of the other Joint Client with respect to the Legal Services on the basis of this Joint Representation Agreement, K&F’s access to confidential information obtained from the Joint Clients in connection with the Legal Services, or K&F’s separate representation of any of the Joint Clients on matters unrelated to the Legal Services; provided, however, that nothing in this Joint Representation Agreement authorizes K&F to represent any of the Joint Clients in any action brought by or against any of the other Joint Clients.

2. Confidentiality of Communications and Work Product

It is in the Joint Clients’ interest to preserve confidentiality of all communications and work product related to the Legal Services. If any of the Joint Clients discloses such communications or work product to persons or entities that are not a party to this Joint Representation Agreement, it jeopardizes the privileged and confidential nature of that communication or work product. Accordingly, we advise the Joint Clients to take care not to disclose privileged information or work product to any person or entity that is not a party to this Joint Representation Agreement.

The Joint Clients understand and acknowledge that any communications between each of the Joint Clients and K&F regarding the Legal Services may not be kept confidential from the other Joint Clients. In addition, should any future dispute among you concerning the matter on which you have engaged us to represent you lead to litigation, the attorney-client privilege may not protect communications that were shared.

If any of the Joint Clients wishes to communicate confidentially with K&F about matters outside the scope of the Legal Services, that client should: 1) exclude all third parties from the communication, including the other members of the Joint Clients, and 2) ensure K&F is aware the correspondence is on behalf of the individual company or organization and is not related to the Legal Services subject to this Joint Representation Agreement.

Through this Joint Representation Agreement, the Joint Clients authorize 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 the Joint Clients 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. Termination of K&F’s Representation

EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP may terminate K&F’s representation of that Joint Client at any time and for any reason. K&F may terminate its representation of the
Joint Clients or one of EBCE, MCE, PCE, Pioneer, SJCE, SVCE, or SCP at any time and for any reason, subject to the California State Bar Rules of Professional Conduct.

4. Miscellaneous

This letter is the entire agreement between the Joint Clients and K&F concerning the joint representation of the Joint Clients in the provision of Legal Services. This Joint Representation Agreement and the scope of Legal Services provided under it may be amended from time to time by mutual agreement among K&F and the Joint Clients. California law will govern this agreement and any subsequent amendments.

5. Conclusion

If the terms of K&F’s representation as explained in this Joint Representation Agreement 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 the Joint Clients.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP
EBCE, MCE, PCE, Pioneer, SJCE, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation 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 Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

**EAST BAY COMMUNITY ENERGY**

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: Nick Chaset
Title: Chief Executive Officer
Date: 3/30/2020

**MARIN CLEAN ENERGY**

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

By: Dawn Weisz
Title: Chief Executive Officer
Date: ______________

**PENINSULA CLEAN ENERGY AUTHORITY**

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

By: Jan Pepper
Title: Chief Executive Officer
Date: ______________
EBCE, MCE, PCE, Pioneer, SJCE, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation 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 Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

**EAST BAY COMMUNITY ENERGY**

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: Nick Chaset
Title: Chief Executive Officer
Date: ______________

**MARIN CLEAN ENERGY**

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

By: Dawn Weisz
Title: Chief Executive Officer
Date: 2/24/2020

**PENINSULA CLEAN ENERGY AUTHORITY**

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

By: Jan Pepper
Title: Chief Executive Officer
Date: ______________
EBCE, MCE, PCE, Pioneer, SJCE, SVCE, and SCP authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation 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 Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: ______________________

Nick Chaset
Title: Chief Executive Officer
Date: ______________________

MARIN CLEAN ENERGY

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

By: ______________________

Dawn Weisz
Title: Chief Executive Officer
Date: ______________________

PENINSULA CLEAN ENERGY AUTHORITY

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

By: ______________________

Jan Pepper
Title: Chief Executive Officer
Date: 2-7-2020
PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: Jenine Windeshausen  
Title: Executive Director  
Date: ____________

APPROVED AS TO FORM:

“City”

City OF SAN JOSE, a municipal corporation

---

SAN JOSE CLEAN ENERGY

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

APPROVED AS TO FORM:

“City”

City OF SAN JOSE, a municipal corporation

---

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  
Title: Chief Executive Officer  
Date: ____________________
POINTER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: ____________________

Jenine Windeshausen
Title: Executive Director
Date: ____________________

SAN JOSE CLEAN ENERGY

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

APPROVED AS TO FORM:

“City”

City OF SAN JOSE, a municipal corporation

Luisa F. Elkins
Senior Deputy City Attorney

RICHARD DOYLE
City Attorney

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
Title: Chief Executive Officer
Date: ____________________
PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: Jenine Windeshausen
Title: Executive Director
Date: ____________________________

SAN JOSE CLEAN ENERGY

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

APPROVED AS TO FORM: “City”
City OF SAN JOSE, a municipal corporation

__________________________
Luisa F. Elkins
Senior Deputy City Attorney

__________________________
RICHARD DOYLE
City Attorney

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
Title: Chief Executive Officer
Date: 3/27/2020

Page 6
SONOMA CLEAN POWER

I have read the foregoing engagement letter, understand it and agree to it on behalf of Sonoma Clean Power.

By:

Neal Reardon

Title: Director, Regulatory Affairs

Date: 4/2/2020
KEYES&FOX LLP

September 25, 2020

TO: Joint Northern California Community Choice Aggregators

FROM: Tim Lindl, Partner, Keyes & Fox LLP

RE: Joint Representation Agreement Between Keyes & Fox LLP and the Joint Clients re Pacific Gas and Electric Company’s 2021 ERRA Forecast Application (“Joint Representation Agreement”)

Keyes & Fox LLP (“K&F”) is delighted the below-signed Northern California Community Choice Aggregators (“Joint Clients”) collectively have decided to engage K&F to provide legal representation before the California Public Utilities Commission (“Commission”) in Pacific Gas and Electric Company’s 2021 ERRA Forecast Application (the “Legal Services”). This letter describes the basis of the attorney-client relationship between K&F and the Joint Clients with respect to the Legal Services. The terms and conditions regarding how K&F will bill for the Legal Services are set forth in an engagement letter or other agreement with each of the Joint Clients.

This Agreement creates an on-going attorney-client relationship between K&F and Joint Clients. The attorney-client relationship shall remain in place at all times from the effective date of this Agreement until such time as a Party provides written notice of its intent to terminate the attorney-client relationship. The attorney-client relationship will remain in place continuously under this Agreement until such notice is provided, regardless of whether K&F is actively performing legal work for Joint Parties at any given time.

1. Joint Representation

K&F will represent each of the Joint Clients with respect to the Legal Services, and all appearances and filings made in connection with the Legal Services shall be made in the name of all of the Joint Clients. By executing this Joint Representation Agreement, each of the Joint Clients agrees that K&F will take direction from each of them jointly in this matter.

The representation of multiple clients with common positions generally presents the advantage of allowing the groups to speak with a common voice in mutually determined strategies. However, it also presents the unlikely risk that the clients’ positions may at some point diverge and become inconsistent. K&F and Joint Clients will attempt to work together to avoid this potential problem. In the unlikely event that the clients cannot agree on a common position, K&F may be required to discontinue representation of one or more clients.

Each of the Joint Clients agrees that if any of the Joint Clients requests in writing – for any reason or for no reason – to withdraw from this Joint Representation Agreement, that withdrawal would be effective immediately, and from that point forward, K&F would not have
an attorney-client relationship or further attorney-client obligations with the withdrawn party with respect to the Legal Services. The withdrawing Client can continue to participate in the proceeding as a party with its own representation.

K&F will coordinate projects with Poonum Agrawal, Silicon Valley Clean Energy, Todd Edmister, East Bay Community Energy, or Jeremy Waen, Peninsula Clean Energy, as the designated representatives of the Joint Clients for the Legal Services, or with whomever Ms. Agrawal, Mr. Edmister or Mr. Waen may specifically delegate that authority. We understand that Ms. Agrawal, Mr. Edmister and Mr. Waen have the authority to make decisions representing the majority position of the Joint Clients in connection with the Legal Services proposed, and we are relying on that understanding. It is the understanding of the Joint Clients that Ms. Agrawal, Mr. Edmister and Mr. Waen will work with the Joint CCAs to ensure decisions will be made based on the majority position of the Joint CCAs. Generally, however, Joint Clients will work to make consensus decisions. If any CCA raises an issue with any position taken by another, the Joint CCAs will first attempt to come to a consensus on that point before holding a vote amongst the parties.

Because K&F will be representing multiple clients in this engagement, the applicable rules of professional conduct require that we inform you, as a Joint Client, of actual and potential conflicts of interest with respect to joint representation, and that we obtain informed, written consent from each of the Joint Clients agreeing to the joint representation.

K&F has run a conflict check as it relates to the Legal Services. Based on the information we have been provided, we do not believe representation of the Joint Clients with respect to the Legal Services involves an actual conflict of interest between any of the Joint Clients. If any one of the Joint Clients is aware of an actual conflict of interest as between them, please let K&F know immediately.

Even though there may be no actual conflict, there are potential conflicts. K&F currently represents many of the Joint Clients and other organizations and companies in California’s energy industry in matters that do not pertain to the Legal Services. In addition, K&F has provided, or continues to provide, representation to one or more of the Joint Clients in a number of dockets before the Commission in which one or more of the other Joint Clients have been, or continue to be, a party or participant.

Differences in respective financial resources, prior experience, interests, and objectives of the Joint Clients could make one approach to K&F’s responsibilities more favorable to one of the Joint Clients than to the others, or could lead to disputes among the Joint Clients. For example, if K&F was to represent only one client, rather than all the Joint Clients, K&F might be able to obtain more favorable treatment for that one. Because K&F will be representing all the Joint Clients, it will be necessary to balance the interests of the Joint Clients rather than prioritizing the interests of only one client.

If any of the Joint Clients becomes concerned with any relationship K&F may have with particular clients, companies, or individuals, we encourage the Joint Clients to bring those concerns to our attention. If a potential conflict arises, either among the Joint Clients or between
one or more of the Joint Clients and other K&F clients that may impact our ability to fully represent the Joint Clients with respect to the Legal Services, we will promptly bring that conflict to the attention of the Joint Clients.

In the event the Joint Clients become adverse to each other with respect to the Legal Services, each of the Joint Clients agree that they shall not seek disqualification of K&F from representation of the other Joint Client with respect to the Legal Services on the basis of this Joint Representation Agreement, K&F’s access to confidential information obtained from the Joint Clients in connection with the Legal Services, or K&F’s separate representation of any of the Joint Clients on matters unrelated to the Legal Services; provided, however, that nothing in this Joint Representation Agreement authorizes K&F to represent any of the Joint Clients in any action brought by or against any of the other Joint Clients.

2. Confidentiality of Communications and Work Product

It is in the Joint Clients’ interest to preserve confidentiality of all communications and work product related to the Legal Services. If any of the Joint Clients discloses such communications or work product to persons or entities that are not a party to this Joint Representation Agreement, it jeopardizes the privileged and confidential nature of that communication or work product. Accordingly, we advise the Joint Clients to take care not to disclose privileged information or work product to any person or entity that is not a party to this Joint Representation Agreement.

The Joint Clients understand and acknowledge that any communications between each of the Joint Clients and K&F regarding the Legal Services may not be kept confidential from the other Joint Clients. In addition, should any future dispute among the Joint Clients concerning the matter on which the Joint Clients have engaged us to represent you lead to litigation, the attorney-client privilege may not protect communications that were commonly shared.

If any of the Joint Clients wishes to communicate confidentially with K&F about matters outside the scope of the Legal Services, that client should: 1) exclude all third parties from the communication, including the other members of the Joint Clients, and 2) ensure K&F is aware the correspondence is on behalf of the individual agency, company or organization and is not related to the Legal Services subject to this Joint Representation Agreement.

Through this Joint Representation Agreement, the Joint Clients authorize 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 the Joint Clients 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. Termination of K&F’s Representation

Any of the Joint Clients may terminate K&F’s representation of that individual Joint Client at any time and for any reason. K&F may terminate this agreement with ten business days
notice for any reason allowed by the applicable California State Bar Rules of Professional Conduct. For any party to terminate this agreement, written notice is required.

4. Additional Parties

Additional parties may be added to this Joint Representation Agreement by such party’s addition of their signature to the Joint Client signature page(s) of this Agreement, and delivery of the completed signature page(s) to K&F and the Joint Clients. Consent to such addition of an additional party will be deemed to have been given by each Joint Client, unless any of the then-current Joint Clients object to the additional party and transmit a written objection to K&F, the other Joint Clients, and the additional party within ten (10) business days after receipt of the executed additional party signature page(s). In the event of any objection by a current Joint Client, the additional party shall not be added to this Joint Representation Agreement.

5. Miscellaneous

This letter is the entire agreement between the Joint Clients and K&F concerning the joint representation of the Joint Clients in the provision of Legal Services. This Joint Representation Agreement replaces in its entirety that specific July 2, 2020 and August 4, 2020 Joint Representation Agreement executed by certain, but not all, of the Joint Clients. This Joint Representation Agreement and the scope of Legal Services provided under it may be amended from time to time by mutual agreement among K&F and the then-current Joint Clients. Amendments shall be in writing and signed by all parties. California law will govern this agreement and any subsequent amendments.

6. Conclusion

If the terms of K&F’s representation as explained in this Joint Representation Agreement 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 the Joint Clients.

Sincerely,

Tim Lindl, Partner
Keyes & Fox LLP
Each of the Joint Clients authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that they do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her agency, company or organization to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: Nick Chaset
Title: Chief Executive Officer
Date: 9/28/2020

APPROVE AS TO FORM:

Inder Khalsa, General Counsel

MARIN CLEAN ENERGY

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

By: Dawn Weisz
Title: Chief Executive Officer
Date: ________________

PENINSULA CLEAN ENERGY AUTHORITY

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

By: Jan Pepper
Title: Chief Executive Officer
Date: ________________
Each of the Joint Clients authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that they do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her agency, company or organization to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: Nick Chaset
Title: Chief Executive Officer
Date: ______________________

MARIN CLEAN ENERGY

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

By: Dawn Weisz
Title: Chief Executive Officer
Date: 10/27/2020

PENINSULA CLEAN ENERGY AUTHORITY

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

By: Jan Pepper
Title: Chief Executive Officer
Date: ______________________
Each of the Joint Clients authorize K&F to represent their interests with respect to the Legal Services. Each of the Joint Clients also acknowledge, by signing this letter, that they have had the opportunity to consult with other counsel about the consequences of joint representation and that K&F recommends that they do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her agency, company or organization to the terms set forth in this Joint Representation Agreement. This Joint Representation Agreement shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until each of the Joint Clients have returned a signed copy of this letter.

EAST BAY COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of East Bay Community Energy.

By: Nick Chaset
Title: Chief Executive Officer
Date: ________________

MARIN CLEAN ENERGY

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

By: Dawn Weisz
Title: Chief Executive Officer
Date: ________________

PENINSULA CLEAN ENERGY AUTHORITY

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

By: Janis C. Pepper
Jan Pepper
Title: Chief Executive Officer
Date: 11/17/20
PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: [Signature]
Don Eckert
Title: Executive Director
Date: November 6, 2020

SAN JOSE CLEAN ENERGY

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

APPROVED AS TO FORM:

“City”

City OF SAN JOSE, a municipal corporation

__________________________
Luisa F. Elkins
Senior Deputy City Attorney

__________________________
By__________________________
RICHARD DOYLE
City Attorney

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
Title: Chief Executive Officer
Date: ________________________
PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: __________________________

Jenine Windeshausen

Title: Executive Director

CITY AND COUNTY OF SAN FRANCISCO (CLEANPOWERSF)

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of CleanPowerSF.

Date: Nov. 17, 2020

DENNIS J. HERRERA
City Attorney

THERESA L. MUELLER
Chief Energy and Telecommunications Deputy

WILLIAM ROSTOV
Deputy City Attorney

By: __________________________

WILLIAM ROSTOV

Attorneys for

CITY AND COUNTY OF SAN FRANCISCO
PIONEER COMMUNITY ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Pioneer Community Energy.

By: ____________________________

Jenine Windeshausen
Title: Executive Director
Date: ____________________________

SAN JOSE CLEAN ENERGY

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

APPROVED AS TO FORM: CITY OF SAN JOSE, a municipal corporation

___/___/___

Luisa F. Elkins
Senior Deputy City Attorney

NORA FRIMANN
City Attorney

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
Title: Chief Executive Officer
Date: ____________________________
SAN JOSE CLEAN ENERGY

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

APPROVED AS TO FORM:

“City”

City OF SAN JOSE, a municipal corporation

______________________________  ________________________________
Luisa F. Elkins  RICHARD DOYLE
Senior Deputy City Attorney  City Attorney

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: 9/28/2020

SONOMA CLEAN POWER AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Sonoma Clean Power Authority.

By: Neal Reardon

Title: Director, Regulatory Affairs

Date: ________________
SAN JOSE CLEAN ENERGY

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

APPROVED AS TO FORM: “City”

City OF SAN JOSE, a municipal corporation

______________________________  ________________________________
Luisa F. Elkins                   RICHARD DOYLE
Senior Deputy City Attorney      City Attorney

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

Title: Chief Executive Officer

Date: ____________________

SONOMA CLEAN POWER AUTHORITY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Sonoma Clean Power Authority.

By: Neal Reardon

Title: Director, Regulatory Affairs
VALLEY CLEAN ENERGY ALLIANCE

I have read the Agreement, understand it and agree to it on behalf of Valley Clean Energy Alliance.

By: ______

Mitch Sears

Title: Interim General Manager

Date: September 29, 2020
CENTRAL COAST COMMUNITY ENERGY

I have read the foregoing letter, understand it and agree to it on behalf of MBCP:

By: Tom Habashi
Title: Chief Executive Officer
Date: 9/26/2020

Approved as to Form and Legality

BY: Robert M. Shaw
Title: Chief Operating Officer & General Counsel
Date: 9/25/2020
Staff Report – Item 1h

**Item 1h:** Authorize the Chief Executive Officer to Execute Amendment to Agreement Amending Not-to-Exceed Amount with MRW & Associates Inc.

**From:** Girish Balachandran, CEO

**Prepared by:** Melicia Charles, Director of Legislative and Regulatory Policy

**Date:** 12/9/2020

**RECOMMENDATION**
Staff recommends that the Silicon Valley Clean Energy Authority Board ("Board") approve the proposed amendment to add $50,000 to the agreement with MRW & Associates, Inc ("MRW") for counsel services for a total amount not to exceed ("NTE") $130,000.

**BACKGROUND**
On November 14, 2019, SVCE management approved the agreement for regulatory and legislative counsel services with MRW for $80,000. The agreement was amended on October 9, 2020, to extend the term of the agreement through September 30, 2021. This agreement was under the $100,000 limit for CEO authorizations and was therefore executed by the CEO. The scope of the agreement includes collaborating with SVCE staff to develop a plan to meet all CPUC and SVCE Board Integrated Resource Planning (IRP) requirements.

MRW is an Oakland-based legal firm specializing in energy law that was already providing regulatory support services to SVCE. SVCE entered into an initial contract with MRW for a NTE amount of $80,000.

Additions to the scope of work with MRW requires an increase of the total budget above the $100,000 limit for CEO authorizations. This increase to the original scope is needed to provide additional technical support for the IRP proceedings at the CPUC.

**ANALYSIS & DISCUSSION**
Through the expansion of consulting support to the policy team, SVCE has developed bandwidth to be directly involved in important new proceedings that directly impact SVCE whereas previously SVCE had relied on the efforts of other CCAs and hope their priorities aligned with SVCE's. Increasing SVCE's regulatory portfolio has given its customers a voice in proceedings where hundreds of millions of dollars are at stake.

Staff is requesting an increase to the budget for additional technical support within the IRP and Resource Adequacy proceedings at the CPUC to the scope of work under the MRW contract. These tasks will increase the budget over the $100,000 limit for CEO authorizations.

The NTE amounts of the individual activities are below and detailed in the attached letter, for a total contract budget of $130,000.
**Agenda Item: 1h**

**Activity** | **Total NTE Amount**
--- | ---
Regulatory Monitoring | $ 24,230
Weekly Meetings | $ 16,146
Workshop Attendance | $ 7,176
Filed Comments, as needed | $ 5,980
RA Technical Support, as needed | $ 4,784
IRP Filing Support | $ 11,960
Additional Technical Support, as needed | $ 9,724

$ 80,000 Subtotal
$ (30,000) Remaining Existing Budget
$ 50,000 Total NTE

**STRATEGIC PLAN**

Approving this contract will directly support Goal 15 of the Strategic Plan is to “Engage regulators, legislators and local electeds in developing policies that protect CCA customer investments and furthers 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 efforts on the critical proceedings related to resource planning and reliability. Leaving SVCE with two options: 1) Stop participating in IRP and RA proceedings entirely, which involves significant loss of visibility into resource procurement and planning policies. This option increases the risk of outcomes that are misaligned with SVCE’s current resource planning and procurement practices.

**FISCAL IMPACT**

Approval of the amendments to the MRW & Associates, Inc. contract will increase fiscal year 2021’s budget by $50,000 making the total MRW budget $130,000 for these tasks.

**ATTACHMENTS**

1. Draft Amendment to Agreement for Services with MRW & Associates Inc.
2. MRW & Associates Inc. engagement letter proposing amended Scope of Work and budget
SECOND AMENDMENT TO AGREEMENT WITH MRW & ASSOCIATES INC.

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and MRW entered into that certain agreement entitled 2020 IRP DEVELOPMENT SERVICES, effective on November 20, 2019, hereinafter referred to as “Original Agreement”; and

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

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

1. SECTION 3 COMPENSATION TO CONSULTANT of Original Agreement shall be amended to read as follows:

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed one hundred thirty thousand dollars and no/100 ($130,000.00) based on the rates and terms set forth in Exhibit "B," which is attached hereto and incorporated herein by this reference.

2. SECTION EXHIBIT A SCOPE OF SERVICES of Original Agreement shall be amended to read as follows:

SVCE has requested MRW perform regulatory monitoring in the IRP proceeding, and possibly some technical support for the resource adequacy (RA) proceeding. MRW envisions this work will include the following tasks:

- Monitoring all activity in the current IRP docket (R.20-05-003), which includes both the procurement track and planning track. MRW will read and summarize materials in collaboration with CalCCA on an ongoing basis. MRW will make recommendations to SVCE staff as to particular issues to follow and comment on within the proceeding.
- Participation in weekly meetings with SVCE and CalCCA, including SVCE’s weekly policy meeting and CalCCA’s procurement meeting. SVCE anticipates approximately 3 hours of meetings per week will be required.
- Attendance at all workshops in the IRP docket, including the procurement track workshop on December 18, 2020.
- Drafting comments to file in the proceeding, if necessary. MRW and SVCE anticipate that CalCCA will take the lead role in drafting and filing comments within the proceeding. However, SVCE may wish to file comments to supplement CalCCA on particular issues.
- RA technical support, as needed. MRW understands SVCE Senior Analyst Poonum Agrawal will continue to lead the regulatory monitoring of the RA proceeding. However, from time-to-time, MRW may assist SVCE with technical questions and concerns within the RA proceeding, especially as the CPUC pursues changes to the RA framework in Track 3B.
- IRP filing support. MRW will continue its work to provide responses to all CPUC staff questions regarding the September 2020 IRP filing, with the ultimate goal of CPUC approval of the filing document as compliant with all CPUC standards. MRW will act in a project management role and collaborate with SVCE staff as necessary for this task.
- Other support SVCE may request on an as-needed basis.
3. SECTION EXHIBIT B COMPENSATION of Original Agreement shall be amended to read as follows:

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of one hundred thirty thousand dollars and no/100 ($130,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

4. This Amendment shall be effective on December 10, 2020.

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

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

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

RECOMMENDED FOR APPROVAL

______________________________
Melicia Charles, Director of Regulatory & Legislative Policy

RECOMMENDED FOR APPROVAL

______________________________
Amrit Singh, Director of Chief Financial Officer/Director of Administrative Services
CONSULTANT NAME
MRW

By: __________________________
Name: Mark Fulmer
Title: _________________________
Date: __________________________

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

__________________________
Counsel for Authority

ATTEST:

__________________________
Authority Clerk
December 1, 2020

Melicia Charles
Silicon Valley Clean Energy

Via Email to melicia.charles@svcleanenergy.org

RE: TECHNICAL SUPPORT FOR RESOURCE PLANNING-RELATED CPUC PROCEEDINGS

Dear Melicia,

MRW welcomes the opportunity to continue our work with Silicon Valley Clean Energy (SVCE) as it continues to participate in Integrated Resource Planning (IRP) activities before the California Public Utilities Commission (CPUC).

Scope of Work

SVCE has requested MRW perform regulatory monitoring in the IRP proceeding, and possibly some technical support for the resource adequacy (RA) proceeding. MRW envisions this work will include the following tasks:

- Monitoring all activity in the current IRP docket (R.20-05-003), which includes both the procurement track and planning track. MRW will read and summarize materials in collaboration with CalCCA on an ongoing basis. MRW will make recommendations to SVCE staff as to particular issues to follow and comment on within the proceeding.
- Participation in weekly meetings with SVCE and CalCCA, including SVCE’s weekly policy meeting and CalCCA’s procurement meeting. SVCE anticipates approximately 3 hours of meetings per week will be required.
- Attendance at all workshops in the IRP docket, including the procurement track workshop on December 18, 2020.
- Drafting comments to file in the proceeding, if necessary. MRW and SVCE anticipate that CalCCA will take the lead role in drafting and filing comments within the proceeding. However, SVCE may wish to file comments to supplement CalCCA on particular issues.
- RA technical support, as needed. MRW understands SVCE Senior Analyst Poonum Agrawal will continue to lead the regulatory monitoring of the RA proceeding. However, from time-to-time, MRW may assist SVCE with technical questions and concerns within the RA proceeding, especially as the CPUC pursues changes to the RA framework in Track 3B.
- IRP filing support. MRW will continue its work to provide responses to all CPUC staff questions regarding the September 2020 IRP filing, with the ultimate goal of CPUC approval of the filing document as compliant with all CPUC standards. MRW will act in a project management role and collaborate with SVCE staff as necessary for this task.
• Other support SVCE may request on an as-needed basis.

Proposed Schedule

SVCE has requested regulatory monitoring support through the first quarter 2021. Support for the IRP filing will extend as long as necessary, up through contract expiration in 2021.

Personnel and Proposed Budget

MRW proposes to perform the work on a time and materials basis at the billing rates specified in the attached budget spreadsheet. As shown in the attached budget spreadsheet, MRW proposes that Mary Neal, MRW’s current project manager for SVCE, perform the bulk of the work for this engagement, overseen by Mark Fulmer. SVCE has already authorized MRW to bill up to $80,000 for IRP-related work. Based on our estimates, we can fulfill the requested scope of work for an additional $50,000 and will not exceed this amount without further authorization from SVCE. If SVCE is not satisfied with this amount, MRW is happy to work with SVCE on a scope and budget that meets its needs.

Conclusion

We look forward to hearing from you and welcome the opportunity to continue our work with you on this exciting project.

Best Regards,

Mark Fulmer
FIRST AMENDMENT TO AGREEMENT WITH MRW

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and MRW entered into that certain agreement entitled 2020 IRP DEVELOPMENT SERVICES, effective on November 14, 2019, hereinafter referred to as “Original Agreement”; and

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

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

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

   The term of this Agreement shall commence on November 20, 2019, and shall terminate on September 30, 2021, unless terminated earlier as set forth herein.

2. This Amendment shall be effective on October 9, 2020.

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

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

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

RECOMMENDED FOR APPROVAL

Melicia Charles, Director of Regulatory & Legislative Policy

CONSULTANT NAME

MRW

By: Mark Fulmer

Name: Mark Fulmer
Title: Chief Executive Officer
Date: 10/12/2020

SILICON VALLEY CLEAN ENERGY AUTHORITY

A Joint Powers Authority

By: Girish Balachandran

Name: Girish Balachandran
Title: Chief Executive Officer
Date: 10/12/2020
AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
MRW
FOR
2020 IRP DEVELOPMENT SERVICES

THIS AGREEMENT, is entered into this 14th day of November, 2019 by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and MRW, a Limited Liability Corporation (LLC) whose address is 1736 Franklin Street, Suite 700, Oakland California, 94612 (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 2020 IRP development upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. TERM
   The term of this Agreement shall commence on November 20, 2019, and shall terminate on October 31, 2020, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED
   Consultant shall perform each and every service set forth in Exhibit "A" of which is attached hereto and incorporated herein by this reference.

3. COMPENSATION TO CONSULTANT
   Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed eighty thousand and no/100 dollars ($80,000.00) based on the rates and terms set forth in Exhibit "B," which is attached hereto and incorporated herein by this reference.

4. TIME IS OF THE ESSENCE
   Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

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

6. **INDEPENDENT PARTIES**

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

7. **NO RECOULSE 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. Mark Fulmer 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:
Mark Fulmer
MRW
1736 Franklin Street
Oakland CA, 94612

19. **TERMINATION**
   In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be not less than 10 days) and according to the requirements set forth in Authority’s written notice of default, and in addition to any other remedy available to the Authority by law, the Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.
   Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority.

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

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

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

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

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

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

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

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

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

---

RECOMMENDED FOR APPROVAL

Hilary Staver: Manager of Regulatory & Legislative Affairs
RECOMMENDED FOR APPROVAL

Don Eckert: Director of Finance & Administration

CONSULTANT NAME
MRW
By: Mark Fulmer
Name: Mark Fulmer
Title: Chief Executive Officer
Date: 11/20/2019

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority
By: Girish Balachandran
Name: Girish Balachandran
Title: Chief Executive Officer
Date: 11/20/2019
Exhibit A Scope of Services

1. **Understand SVCE** – In the kick-off phase, MRW will issue a data request for basic information to understand SVCE’s loads, contracts, procurement schedule, procurement goals, additional Board directives, and IRP modeling. Any data exchanged are subject to the nondisclosure provisions described in this contract. MRW will review the information and resolve any questions through communication with SVCE staff.

2. **Project Management** – MRW will lead a collaboration with SVCE staff to develop a specific plan to meet all CPUC and SVCE Board IRP requirements. This may involve but is not limited to:
   a. A series of meetings or teleconferences to walk through the CPUC requirements matrix, report template, and Excel templates, in detail;
   b. Drafting memos to document the agreed-upon approach to meeting all requirements, including timeline, personnel, and analytic methodology, as required;
   c. Coordination with CalCCA and other CCAs on IRP activity.

3. **Drafting and Quality Control** – MRW will draft sections of the IRP narrative report and perform overall IRP document control. MRW will also review IRP deliverables from SVCE staff and potentially other consultants and provide feedback, especially regarding anticipated complications around meeting CPUC requirements.

4. **Workshop Participation** – MRW may participate in workshops on the IRP and ask questions of Energy Division on SVCE’s behalf upon discussion and agreement with SVCE staff. Because MRW will be likely to assist at least one other entity with its IRP, any time at a workshop in which MRW is representing multiple clients will be split evenly among them.

5. **IRP Filing Follow-Up** – After the IRP is filed, MRW may assist with post-filing activities such as presentations of the results and follow-up work if the IRP is not certified by the CPUC initially. The specific scope of these activities is to be determined after the IRP is filed.
Exhibit B
Compensation

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of eighty thousand dollars and no/100 ($80,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

<table>
<thead>
<tr>
<th>MRW Staff Person</th>
<th>$/hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark Fulmer</td>
<td>$330</td>
</tr>
<tr>
<td>David Howarth</td>
<td>$330</td>
</tr>
<tr>
<td>Mary Neal</td>
<td>$274</td>
</tr>
<tr>
<td>Brandon Charles</td>
<td>$252</td>
</tr>
<tr>
<td>Carlo Bencomo-Jasso</td>
<td>$224</td>
</tr>
<tr>
<td>Associate</td>
<td>$167</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 C
Insurance Requirements and Proof of Insurance

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

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

   (1) **Workers' Compensation:**
   Statutory coverage as required by the State of California.

   (2) **Liability:**
   Commercial general liability coverage with minimum limits of $1,000,000 per occurrence and $2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.

   (3) **Automotive:**
   Comprehensive automotive liability coverage with minimum limits of $1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.

   (4) **Professional Liability**
   Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least $1,000,000.
At the November 23, 2020 Executive Committee meeting, the committee received an update and supported the proposed process and timeline for 2021 Board Elections, and received information on a “Digital Pivot” Update and Customer Engagement Survey Results, which will be brought to the Board as an informational item in January.

The committee received a presentation from Director of Power Resources Monica Padilla to support an amendment to the Amended and Restated Engagement Letter with Hall Law PC, for a total not to exceed amount of $400,000 inclusive through January 13, 2022. The recommendation passed unanimously, and is on the consent calendar for the Board’s consideration for the December 9, 2020 meeting.

The committee discussed and voted to recommend a process for continuing meetings without a Chair or Vice Chair present. The recommendation being brought to the board is: the previous chair of that body will serve as Interim Chair, and if that individual is unavailable, the longest serving member of that body will serve as Interim Chair. This recommendation will be discussed on our regular calendar at the December 9, 2020 meeting.

Materials from this November meeting can be found here: [SVCE Executive Committee Meeting Materials, 11/23/20](#)

The next meeting of the Executive Committee will be in January following the appointment of the 2021 Executive Committee. Materials will be posted no later than 72 hours in advance of the meeting.
Staff Report – Item 1j

Item 1j: Financial and Administration Committee Report

To: Silicon Valley Clean Energy Board of Directors

From: Rob Rennie, Chair of the Finance and Administration Committee

Date: 12/9/2020

The Finance and Administration Committee met November 30, 2020. Topics of discussion included California Community Power next steps, status and timeline of long-term power prepay activities, and SVCE rates.

The committee discussed California Community Power (CC Power) super JPA with CEO Girish Balachandran and General Counsel Greg Stepanicich, who both responded to questions regarding the JPA representatives, RFP process, and next steps in the JPA formation. Approval of SVCE’s participation in CC Power is up for consideration at the December board meeting.

CEO Balachandran and Michael Berwanger of PFM Financial Advisors presented a status update on the long-term power prepay activities. The municipal conduit JPA approval is anticipated to be brought to the Board in January for approval.

Director of Account Services and Community Relations Don Bray presented information on the projected rate structure beginning January 1, 2021. The committee discussed and supported the rate setting strategy, which is being presented as an item on the Board Meeting agenda.

Materials from this meeting can be found here: SVCE Executive Committee Meeting Materials, 11/30/20

The next meeting of the committee is to be decided; materials will be posted no later than 72 hours in advance of the meeting.
Item 1k: Audit Committee Report

From: Girish Balachandran, CEO

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 12/9/2020

No report as the Audit Committee has not met since September 2, 2020; the next meeting of the committee is to be decided and will be announced at a later date.
Staff Report – Item 2

Item 2: CEO Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Girish Balachandran, CEO

Date: 12/9/2020

REPORT

SVCE Staff Update
Sanjay Natu joined SVCE November 22, 2020 as part of the Intel Encore Fellows program, which places experienced professionals from the business sector with organizations making contributions to their community. Sanjay is a recently retired engineer from Intel with over 30 years in R&D and program management. Sanjay will be assisting Silicon Valley Clean Energy (SVCE) with implementing a process for tracking and measuring progress toward our recently adopted 2020-2021 workplan, which ties directly into the Board-adopted Strategic Plan.

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

1) Extensible Energy, INC: Smart and Resilient Schools, not to exceed $99,000
2) Gridwell Consulting, Amendment: CAISO Technical Support and Integration of Electric Resource Services, 11/20/2019-9/30/21
3) Nathan Associates: SVCE Decision Analysis Support, not to exceed $29,000
4) Karen Nelson, Amendment: Consulting Services – Workforce Training, not to exceed $30,000
5) Make Media Studios: Photography and Videography Services, not to exceed $80,000
6) Enervee, Change Order #1: Appliance Marketplace, a key component of the SVCE Online Customer Resource Center, adds $22,500
7) Enervee, Change Order #2: Appliance Marketplace, a key component of the SVCE Online Customer Resource Center, adds $4,000
8) TRC Engineers, Inc., Amendment: Streamlining Community-Wide Electrification Program, time extension to 3/31/2021
9) MRG Training Services, Amendment: Organizational Team Training Services, not to exceed $21,380
10) Creative F5: Graphic and web design services, not to exceed $95,000
11) Outthink, LLC: Project Chrysalis Pilot, not to exceed $69,250
12) San Jose Evergreen Community College District – Workforce Institute, Amendment: Developing an online asynchronous training, 7/15/20 – 6/30/21
13) PFM, Financial Advisor Services, not to exceed $30,000
14) Orrick, Herrington & Sutcliffe, LLP: legal services, not to exceed $15,000 each agency
15) Wilson Sonsini Goodrich & Rosati: Advising and Consulting services regarding renewable energy supply agreements, time extension to 12/31/21
CEO Power Supply Agreements Executed

<table>
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<tr>
<th>Counterparty Name</th>
<th>Execution Date</th>
<th>Transaction Type</th>
<th>Product</th>
<th>Start Date</th>
<th>End Date</th>
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<td>11/10/2020</td>
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<td>$3,400,512</td>
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These agreements are included in the Board packet as Appendix A.

Presentations & Relevant Meetings Attended by CEO

- Participated in CalCCA Monthly board, executive, and legislative meetings;
- Long-Duration Storage Super-JPA and RFO: Updates to various CCAs, CPUC, CAISO and legislative staff
- City Manager’s Association Meeting, Nov. 18th, Community Energy Resilience Program presentation

ATTACHMENTS
1. Decarb & Grid Innovation Programs Update, December 2020
2. Account Services & Community Relations Update, December 2020
3. Regulatory and Legislative Update, December 2020
5. SVCE Director Requests Update
Decarb & Grid Innovation Programs Update

December 2020
1. Customer Relief & Community Resilience (1 of 4)

Staff has begun work on three new programs approved by the SVCE Board in May 2020:

<table>
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<tr>
<th>Program</th>
<th>Est $</th>
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<tr>
<td><strong>Customer Relief</strong></td>
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<tr>
<td>1a) $100 bill credit to all residential CARE/FERA customers</td>
<td>$2.5M</td>
<td>September 2020</td>
</tr>
<tr>
<td>1b) $250 bill credit to qualifying/responding small business customers</td>
<td>$1.0M</td>
<td>September 2020</td>
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<td><strong>Workforce Relief</strong></td>
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<tr>
<td>2a) Workforce Electrification Training with $500 Stipend</td>
<td>$1.0M</td>
<td>August 2021</td>
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<tr>
<td>2b) Workforce Home Electrification Installation</td>
<td>$0.5M</td>
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<td><strong>Community Resiliency</strong></td>
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<tr>
<td>3a) Resiliency Infrastructure Planning Support</td>
<td>$1.0M</td>
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<tr>
<td>3b) Resiliency Infrastructure Capital Project Support</td>
<td><strong>$4.0M</strong></td>
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~$10M
1. Customer Relief & Community Resilience (2 of 4)

Customer Relief

Residential
• 26,853 Residential CARE/FERA customers received credits as of 9/30
  • $2.82M of $2.5M budget. **Phase 1 and Phase 2 complete**

Small Commercial
• 3,139 local small businesses awarded $250 bill credits as of 10/07
  • $785k of $1.0M budget. **Commercial credits complete**

$3.6M of $3.5M budget combined
1. Customer Relief & Community Resilience (3 of 4)

Workforce Relief

Future Fundamentals – Contractor Training

• Primary content recorded, currently being edited
• Supplemental content under development
• Partnered with Redwood Energy and Workforce Institute
• Initial online asynchronous curriculum going live in Q1 ‘21
1. Customer Relief & Community Resilience (4 of 4)

Community Resiliency

• Began vulnerability assessment
• Presented program to City Managers Association
• SVCE staff has been in contact with all 13 member agencies to answer questions on project ideas
• One jurisdiction – Monte Sereno – has submitted an application
2. Reach Code Initiative (1 of 2)

• Buildings
  
  • **Eleven cities have adopted Reach Codes** – Morgan Hill, Mountain View, Milpitas, Saratoga, Monte Sereno, Los Gatos, Cupertino, Campbell, Los Altos Hills, Sunnyvale, and Los Altos.
  
  • Technical support platform available for electrification at [www.AllElectricDesign.org](http://www.AllElectricDesign.org)
  
  • Morgan Hill council briefed on amending existing code with additional battery storage considerations

• EVs
  
  • **Nine member agencies adopted EV reach codes**
  
  • Morgan Hill council briefed on adding EV codes
## 2. Reach Code Initiative (2 of 2)

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<tr>
<th>Member Agency</th>
<th>Status</th>
<th>Next Meeting</th>
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<th>Code Language</th>
<th>Building Reach</th>
<th>EV Reach</th>
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</table>

### Key

**Status**
- Approved
- 2nd Reading
- 1st Reading
- Staff Proposal
- Council Briefing

**Building Reach**
- 1 - All-electric buildings
- 2 - Mixed fuel has higher requirements
- 2A - Mostly electric/electric heating only

---

*Decarb and Grid Innov. Programs Update, December 2020*
Phase 1 & 2 focus on Heat Pump Water Heaters

Phase 1 - Co-funded by Air District grant is closed
  • **99 Completed**. Processing remaining reservations
  • EM&V phase to be completed Q1 2021

Phase 2 - launched August 24, 2020
  • **135 Applications. 26 Completed installations, 1 CARE**
  • More HPWH units are eligible
  • Continues incentive for service panel upgrade
4. Streamlining Community-Wide Electrification

- **Purpose**: Review member agency’s permitting and inspection processes and identify barriers and opportunities
- 1) Baseline Assessment and 2) Best Practices Guide
- Data collection began in August
  - 12 of 13-member agency interviews complete
  - Held private roundtable discussion with industry experts to further inform study
    - Participants included building department staff from San Francisco, Palo Alto, and Santa Clara
  - Consultants presented first draft of Baseline Assessment Report, currently under review
5. Building Decarb Plan

- BOD approved Building Decarb Joint Action Plan in Nov 2020 and $6M over three years for implementation

- Purpose: *articulate a shared vision for how SVCE and member agencies can continue to work to decarbonize the built environment & establish prioritized actions*

- **Implementation to begin in Q1 2021**
6. EV Programs (1 of 2)

- CALeVIP webpage is now open (calevip.org/incentive-project/peninsula-silicon-valley) - accepting applications on 12/16/20
- Three sites selected for SVCE's Priority Zone DC Fast Charging incentives that stack on top of CALeVIP
- Silicon Valley Transportation Electrification Clearinghouse resources online at svcleanenergy.org/svtec/. Working group actively engaged on streamlining interconnection process.
- Selected and notified Regional Recognition awardees.
6. EV Programs (2 of 2)

FutureFit Assist: EV Charging - Now Live!

- Participation summary:
  - 534 sites/owners have received information
  - 128 direct conversations
  - 8 active participants, including three member agencies—Sunnyvale, Saratoga and Gilroy

- Concierge support to multifamily and small/medium business to install EV charging – education through installs

- SVCE will continue to adapt this offering based on lessons learned

- Apply at: https://svcleanenergy.org/ev-charging-assist/

Administered by CLEAResult

Decarb and Grid Innov. Programs Update, December 2020
7. Lights On Silicon Valley

- Partnership with Sunrun that will lead to resilience for thousands of SVCE customers (at single- and multi-family homes) by installing solar+storage systems
- Batteries form "virtual power plant" (VPP) to provide energy to the grid when not in use for back-up power
- Customers receive $1,250 up-front rebate for enrolling in the VPP program
- Ads and outreach by Sunrun commencing soon – finalizing language, requirements and disclaimer
- Interested customers can sign up online at: svcleanenergy.org/lights-on-sv/
8. Customer Resource Center - eHub

- Currently running holiday promotions via Appliances Assistant from Nov. 24 – Jan. 8
  - Deals on portable induction cooktops ($50 off, downstream rebate), LED lightbulbs, and smart power strips
- Developing additional email marketing campaigns for EV Assistant and Solar+Battery Assistant
- Launching paid ad campaign in January to drive traffic to the site and increase electrification awareness
9. Innovation Programs

• Staff in **final stages of negotiating pilot agreements** with 5 proposing teams from latest application round focused on **resilience**

• **SVCE Data Hive pilot with UtilityAPI named as “gold standard”** in Maryland, North Carolina, and New Hampshire public utility commission proceedings on data access

• Currently **enrolling participants for smart charging pilot** with ev.energy

• **EVmatch and Ecology Action currently installing chargers to test their solutions for increasing reliable EV charging access at MUD sites**

• Staff **planning next call for applications**
10. Other Updates

• Panel presentation at CA Efficiency and Demand Management Council fall conference on Nov 12, speaking on decarb programs

• Panel presentation at Association for Energy Service Professionals’ webinar series on DERs on Nov 19, speaking on Sunrun partnership
1. Outreach Events & Sponsorships

SVCE is supporting and engaging in virtual events, meetings and conferences allowing us to continue sharing information and resources with the community.

Past and upcoming events:

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<tr>
<th>Date</th>
<th>Time</th>
<th>Description</th>
<th>Location</th>
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<tbody>
<tr>
<td>Nov. 19</td>
<td>7 - 8:15 PM</td>
<td>Milpitas BayREN Home+ Workshop - presentation</td>
<td>Virtual</td>
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<tr>
<td>Nov. 20</td>
<td>All Day</td>
<td>Resource and Hot Meal Drive for Seniors in Affordable Housing – supplies donation</td>
<td>Gilroy</td>
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<td>Dec. 3</td>
<td>6 – 7:30 PM</td>
<td>Sunnyvale Sustainability Speaker Series – presentation</td>
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<td>Dec. 9</td>
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## 2. Customer Participation

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<tr>
<td>Commercial</td>
<td>96.33%</td>
<td>96.27%</td>
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3. Member Agency Working Group Update

The recent MAWG meeting was held virtually on November 19, 2020 and was attended by 13 different agencies and organizations with a total of 25 participants.

The following agenda items were presented and discussed:

- Community Energy Resilience Program
- Innovation Onramp – Outthink: Project Chrysalis
- Clean Building Compass (guest presentation by Neal DeSnoo)
- SVCE Digital Pivot and Customer Awareness Survey Results
- Electrification Technical Assistance Program
4. Latest SVCE News

- SV Clean Energy Appoints New Chief Financial Officer & Director of Administrative Services, *Press Release, 11-02-20*

5. Media Mentions

- *California CCAs have signed 6 GW of long-term clean energy deals*, Solar Builder, 11-19-20
- *EVs for Everyone*, Palo Alto Online, 11-15-20
- *California Energy Crisis 2.0: it’s time to use our smart meters*, Energy Central, 11-09-20
- *California Community Choice power carrier proceeds respected run of dispatchable solar procurements*, list.solar, 11-06-20
5. Media (Continued)

- **A New Form of Public Power - Community Choice Energy Aggregation (CCA)**, *Energy Central*, 11-04-20
- **North Bay clean energy agencies seek storage options**, *North Bay Business Journal*, 11-04-20
- **Bay Area, Central Coast CCAs Launch $65 Million in EV-Charging Infrastructure Deployment Programs to Support California’s Transportation Shift**, *AiTHORITY*, 10-31-20
- **The drama and intrigue of a long-duration storage bill in California**, *PV Magazine*, 10-31-20
SVCE Legislative and Regulatory Update

December 9, 2020
Policy Updates

- 2021 PCIA Forecast and Settlement
- Greenhouse Gas Planning (Integrated Resource Planning)
- Reliability (Resource Adequacy)
- PG&E General Rate Case
PCIA Update: ERRA Forecast Background

• 7/1/20: PG&E filed its 2021 ERRA Forecast Application(a.20-07-002) proposing a 10% increase to the 2021 PCIA.

• The Joint CCAs argued for a 1% increase in September.

• PG&E submitted a subsequent filing indicated a 12-month amortization of unpaid PCIA balance resulting in a higher PCIA.
PCIA Update: ERRA Forecast Settlement

• 11/20/20: SVCE and other joint CCAs, CalCCA and The Utility Reform Network (TURN) submitted a settlement agreement for 2021 ERRA Forecast to the CPUC
  • Agreement amortizes unpaid PCIA balance over 36 months.
  • Eliminates the cap and trigger going forward.
  • PG&E to submit data on future ERRA forecasts to CCAs.

• Settlement helps ensure more rate certainty in coming years, reduces rate shock and increases transparency into IOU PCIA calculations.

• Next steps: CPUC expected to act on the settlement agreement in December.
GHG Reduction Planning/Integrated Resource Planning

- 11/29/20: CPUC adopted a new IRP Rulemaking that will focus on expedited procurement of resources to prevent future blackouts
  - Focus is on supply-side resources and demand response
  - **Next Steps:**
    - A ruling requesting comments from stakeholders is expected this month.
    - Party proposals on procurement framework are due on 1/25/2021
    - Proposed decision is expected by end of April 2021

- 11/18/20: CPUC issued a Staff Proposal proposing a standardized framework for planning and procurement mandates moving forward
  - Proposal supports CCA self-procurement and resource flexibility but suggests possible increased oversight and enforcement
  - **Next Steps:**
    - A workshop discussing the Staff Proposal is scheduled for 12/18/2020
Reliability/Resource Adequacy

- Central Procurement Entity (CPE)
  - 10/23/20: The CPUC issued a decision establishing a mechanism for crediting LSEs for Local RA
    - Largely accepts CalCCAs proposals and improves the CPE model.
    - **Next steps:** Decision expected to be voted on 12/3.

- Resource Adequacy Reform
  - Workshops were held in November to discuss proposals for reforming the RA model
  - **Next steps:**
    - Comments on proposals are due on 1/15/21
    - A decision on RA reform expected in June 2021

SILICON VALLEY CLEAN ENERGY

Regulatory and Legislative Update, December 2020
PG&E General Rate Case (A.18-12-009)

- Phase 1 of the GRC establishes PG&E’s total revenue requirement over various customer classes from 2020 – 2022

- 10/23/20: the CPUC issues a proposed decision on PG&E’s Phase 1 GRC.

- **Next Steps:** CPUC is expected to vote on the decision on 12/3
GHG Reduction
Community Choice Energy - single most effective and large-scale action our communities can take to curb climate change.

A True Choice
More than one choice of electricity innovator and business.

Competition
Maintaining the retail energy market with retail energy options to choose from.

Local Investment
Renewed opportunity to save money, reduce energy costs, and generate local clean energy and jobs.
<table>
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<th>DECEMBER 2020</th>
<th>JANUARY 2021</th>
<th>FEBRUARY 2021</th>
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<td>Committee Selections</td>
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<td>Digital Pivot Update and Customer Engagement Survey Results</td>
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**MILESTONES**

**ADMINISTRATION, POLICIES, ETC.**

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Staff Report – Item 3

Item 3: Adopt Resolution to Implement SVCE Generation Rate Changes Effective January 2021

From: Girish Balachandran, CEO

Prepared by: Don Bray, Director of Account Services and Community Relations
Amrit Singh, Director of Finance and Administration

Date: 12/9/2020

RECOMMENDATION
Adopt Resolution 2020-42

1. authorizing the CEO to implement SVCE generation rate changes effective January 1, 2021 or within three weeks thereafter, at a 1% discount to PG&E generation rates.

FINANCE COMMITTEE RECOMMENDATION
At the November 30, 2020 Finance and Administration Committee meeting, the committee supported staff’s recommendation for reducing SVCE’s discount to PG&E generation rates from the current level of 4% to 1%, effective January 1st 2021, as originally assumed in the Board-approved SVCE operating budget for FY 2020-21. The planned reduction in discount was needed to help offset a large increase in the PCIA expected in fall of 2020, and now scheduled for January 2021.

BACKGROUND
In April 2020, the SVCE Board voted to maintain a 4% discount to PG&E’s new generation rates, effective as of May 1st, 2020. In so doing, SVCE lowered its generation rates to offset a large 21% increase in PG&E’s PCIA rate occurring on May 1st. This minimized the impact of the PCIA increase for SVCE customers.

The resulting May 1, 2020 SVCE generation rates are currently in effect. PG&E has made minor adjustments to their unbundled generation rates since last summer, but SVCE’s effective discount to PG&E remains at or very near 4% across all residential and commercial rate classes.

In September 2020, SVCE’s FY2020-21 operating budget was approved by the SVCE Board. It anticipated a dramatic 50% increase in the PCIA, from 3.2 to 4.8 cents/kWh, to occur in October 2020. A corresponding reduction of SVCE generation rates and lowering of the SVCE discount to 1% was assumed in the budget, to maintain rates competitive with PG&E. The budget also assumed a subsequent reduction in the PCIA to 3.7 cents/kWh in January of 2021, no change in PG&E’s generation rates, and a continuation of SVCE’s 1% discount. Resulting contributions to SVCE reserves for FY2020-21 were projected to be $8.2M.

Since September, the timing and magnitude of increases to PG&E’s PCIA have changed. The increase expected in October 2020 was delayed until January 2021. Rather than an increase to 4.8 cents/kWh in October falling to 3.7 cents/kWh in January, there will now be a single increase in January to 4.56 cents/kWh. In addition, PG&E’s generation rates are expected to decrease by approximately 2.5% as of January 2021, and then increase by 3.5% in March.
ANALYSIS & DISCUSSION

SVCE’s operating budget for FY2020-21 planned for a significant increase in the PCIA. To maintain rate competitiveness with PG&E, the budget assumed that SVCE generation rates would be reduced. The Board-approved budget assumed a lowering of SVCE’s discount to 1%.

The PCIA increase to 4.56 cents/kWh on January 1 represents an increase of 42%, greater than what was anticipated for FY 2020-21. PG&E’s generation rates are expected to fall by 2.5% in January, and then increase by 3.5% in March, which is not very different from the assumptions in the adopted budget. PG&E’s actual January 2021 rates are expected to be released late in December. Given SVCE’s policy of maintaining competitive rates, and the magnitude of the PG&E rate changes, it is critical that SVCE’s rates are adjusted as close to the effective date of PG&E’s changes as possible (January 1st).

SVCE’s Data Services partner Calpine requires a minimum of two weeks to implement new rates into the billing system. So that SVCE’s rate update is not delayed, it is critical that the Board pre-approve a new discount percentage. This can be rapidly applied to PG&E’s new rates when they are published later in December, such that SVCE can determine its new rates and have them go into effect in early January.

Rate Design and Update Methodology

Effective January 1st, 2021, SVCE plans to update all GreenStart generation rates to be exactly 1% 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 1% for all customer rate classes.

100% Renewable Energy Option

The GreenPrime rate for 2021, SVCE’s 100% renewable energy option, will remain unchanged from 2020. 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 2021 Rate Updates

If this recommendation is approved by the Board, SVCE rate tables will be updated between January 1 and January 15, 2021 to reflect a 1% discount across all rate schedules. Exact timing will depend upon when PG&E’s updated rates are received in late December, and the required two-week window for implementing new generation rates in SVCE’s billing system.

STRATEGIC PLAN

Rate setting is directly supported by SVCE Strategic Plan Goal 13 – “Commit to maintaining a strong financial position” and the accompanying measure, “Set balanced rates that maintain customer value and support SVCE’s financial stability.”

FISCAL IMPACT

As the net effect of the PCIA increase was greater than anticipated for 2021, the fiscal impact of this recommendation is a reduction in reserve contribution on the order of $5M. For FY2020-21, the projected contribution to operating reserves would be reduced from $8.2M to $3.2M. This would be reflected in more detail in the mid-year budget update, in February 2021.

ATTACHMENT

1. Resolution 2020-42, Approving Customer Generation Rates
SILICON VALLEY CLEAN ENERGY AUTHORITY
RESOLUTION NO. 2020-42

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, 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, on April 8, 2020, the Board of Directors adopted Resolution No. 2020-14 which approved the methodology for the customer generation rates that currently are in effect; and

WHEREAS, due to the expected significant increase in the Power Cost Indifference Charge (PCIA) and for the reasons described in more detail in the agenda report, staff is recommending a decrease in SVCE’s generation rate discount from 4% to 1%, effective in January 2021; and

WHEREAS, since PG&E will not issue its final customer generation rates until later in December 2020, 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 when PG&E finalizes its 2021 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 2020 Electric Generation Rates Schedule adopted by Resolution No. 2020-14 to provide for a 1% discount from PG&E’s generation rates.

Section 2. The Authority’s electric generation rates, as adjusted by the Chief
Executive Officer pursuant to Section 1 above, shall become effective on January 1, 2021, or within 15 days after PG&E releases its final 2021 customer generation rates, whichever is later.

The Authority’s adjusted electric generation rates shall be set forth in a 2021 Electric Generation Rates Schedule. The Chief Executive Officer shall provide a copy of the 2021 Electric Generation Rates Schedule to the Board of Directors at its first meeting after the 2021 electric generation rates are adjusted.

Section 3. Resolution No. 2020-14 is hereby rescinded upon the effective date of the 2021 Electric Generation Rates Schedule.

PASSED AND ADOPTED this 9th day of December 2020, by the following vote:

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____________________________________
Chair

ATTEST:

____________________________________
Andrea Pizano, Board Secretary

RESOLUTION 2020-42
Staff Report – Item 4

Item 4: Approve Policy Platform and Identify Priorities for the 2021 Legislative and Regulatory Ad Hoc Committee

From: Girish Balachandran, CEO

Prepared by: Melicia Charles, Director of Regulatory and Legislative Policy

Date: 12/9/2020

RECOMMENDATION
Staff recommends that the SVCE Board of Directors vote to approve:
1. A Policy Platform for 2021;
2. Renew the Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition ("Committee") for 2021; and adopt specific priorities for the Committee so that SVCE can continue to strengthen our advocacy and improve our legislative and regulatory outcomes.

BACKGROUND
Policy Platform

In November 2019, the Board approved the most recent version of SVCE’s legislative platform. Through approval of this platform, the Board gives SVCE staff the ability to take positions on bills for SVCE without having the Board vote on individual bills. The platform is an important component of SVCE’s legislative advocacy process, because having the Board vote on every position is not compatible with the pace of events in Sacramento.

Because legislative and regulatory issues are closely intertwined, the platform has been expanded to also include SVCE’s overall advocacy strategy on key issues at both the legislative and regulatory level in addition to positions it will take on bills. The platform has been renamed “Policy Platform”.

Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition

The Committee was created by a vote of the Board at the monthly SVCE Board of Directors meeting in 2018. The purpose of the Committee was to improve SVCE’s advocacy and outcomes by increasing engagement between SVCE staff and those Board members most interested in legislative matters. The Committee was renewed in 2019 and 2020. In 2020, the Committee met in March and in September and the Committee expired on September 30, 2020.

The voices of local elected officials are highly regarded in Sacramento, and the Committee has become a key part of SVCE’s legislative and regulatory infrastructure for both planning and outreach purposes. SVCE’s advocacy would be significantly less effective without the Committee. Staff therefore requests a renewal for 2021.
ANALYSIS & DISCUSSION

Policy Platform

California’s energy landscape continues to evolve rapidly in 2020. The COVID-19 pandemic and resulting economic crisis has put issues related to affordability and equity. Wildfires continue to raise issues related to safety and resiliency for SVCE’s customers. And, the August heat storm and blackouts have made grid reliability a top priority for policymakers. As a result, SVCE must actively engage legislators and regulators to ensure policies support SVCE customers and allow us to meet our short and long-term goals. The Policy Platform presents a framework for focusing SVCE resources on the policies and issues that most impact the agency and our member communities.

To that end, the 2021 Policy Platform continues to focus on the three policy areas identified in the 2020 platform, specifically: 1) SVCE Customer Welfare and the CCA Model; 2) Climate Mitigation and Clean Energy Technologies; and 3) California’s Energy Regulatory and Market Structures. The platform identifies key priorities under each policy areas, as well SVCE’s advocacy and legislative strategy for each priority. Details on policy areas and priorities can be found in the attached Policy Platform.

Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition

In 2021, anticipated activities of the Committee include:

- Planning outreach to and conducting meetings with legislators
- Coalition-building with stakeholders who share SVCE’s legislative and regulatory priorities
- General advocacy strategy development
- Planning for the 2021 session

Staff recommends to following key policy areas for 2021:

- Expansion of Direct Access
- Reliability Planning and Procurement
- Transparency and Accountability in Ratemaking
- Public Safety Power Shutoffs & Wildfire Prevention and Cost Recovery

SVCE staff encourage all Board members with an interest in legislative and regulatory activities to consider joining the Committee, with the understanding that Committee membership involves additional time on top of regular Board duties.

STRATEGIC PLAN

Approving the Policy Platform, renewing the Committee and approving the Committee Policy Areas for 2021 directly support Goal 15 of the Strategic Plan to “Engage regulators, legislators and local electeds in developing policies that protect CCA customer investments and furthers decarbonization, grid reliability, affordability, and social equity”, and Goal 17 of the Strategic Plan to “Influence policy makers by building and leveraging local electeds, diverse stakeholders, and regional agencies.

ALTERNATIVE

If the Board does not renew the Committee for 2021, SVCE staff will need to a) find alternative ways of including the Board in SVCE’s policy advocacy, or b) conduct SVCE’s 2021 legislative and regulatory activities with less involvement of the Board entirely. The former is likely to be more logistically complicated than renewing the Committee and may increase email/communications traffic for the entire Board. The latter, given the high regard for local elected voices in Sacramento, is likely to make SVCE’s advocacy significantly less effective.
**FISCAL IMPACT**
Renewal of the Committee for 2021 is not expected to have any fiscal impact on SVCE.

**ATTACHMENTS**
1. 2021 Policy Platform
Silicon Valley Clean Energy Policy Platform
December 2020

**Purpose**

Active participation in California’s legislative process is an important tool for ensuring that SVCE can continue to serve our customers and uphold our commitment to decarbonization. When the California legislature is in session, it is crucial that SVCE staff be able to quickly and efficiently determine SVCE’s positions on bills or amendments, communicate those positions to legislators, and apply pressure where needed. This platform is therefore designed to:

- Articulate SVCE’s legislative and regulatory priorities for the 2021 legislative session and beyond
- Allow SVCE staff to take positions on bills for SVCE without explicit Board approval as long as they are consistent with this platform
- Guide optimal use of SVCE advocacy time and resources at both the legislative and regulatory level

**Process**

SVCE will review the policy platform every October at the conclusion of the legislative session. The purpose of the review will be to discuss the outcomes of that year’s legislative session, develop goals and priorities for the upcoming session and regulatory proceedings for the following year, and identify any desired updates to this legislative and regulatory platform. Updates to the platform will be drafted by SVCE staff and formally presented for a vote at the December Board meeting.

**Platform**

The Platform includes SVCE’s overall advocacy strategy for each focus areas at both the legislative and regulatory level, as well our legislative strategy (i.e., the positions we will take on bills).

*Note that “oppose” and “support” as used below do not exclusively refer to taking those positions on bills or proceedings publicly. As per existing legislative norms, SVCE staff may contact bill authors directly to amend or remove problematic language before going public with a position on a bill. This approach minimizes misunderstandings and avoids wasting advocacy resources opposing bills whose authors are open to feedback and collaboration.

I. **SVCE Customer Welfare and the CCA Model**

Bills that directly threaten SVCE’s ability to provide its customers with reliable, affordable, carbon-free energy, or those that penalize CCA customers for leaving bundled service with the investor-owned utilities (IOUs). These include but are not limited to bills that affect:

1. **CCA Procurement Autonomy:** Advocate for legislative and regulatory requirements that ensure CCAs’ ability to procure on behalf of their customers and improve system function.
   a. **Legislative Strategy:** SVCE opposes bills that compromise CCAs’ ability to procure energy on behalf of their customers or seek to diminish the role of the Board of Directors as the primary governing body of a CCA. Exceptions will be made only if there is a compelling case for the unique value of increased external regulatory oversight as determined by SVCE staff.
2. **Right to Set Retail Generation Rates**: Advocate for rules that reduce barriers to CCAs exercising their right to set their own electric generation rates.
   a. *Legislative Strategy*: SVCE opposes bills that infringe on CCAs’ right to set their own retail electric generation rates, including rates with structures different from those of the IOU serving as the billing agent for the CCA in question. SVCE supports bills that help reduce technical, institutional, and operational barriers to CCAs exercising this right. This includes bills that facilitate time-varying rates by allowing generation-side nonbypassable charges to be collected through structures other than a flat volumetric charge. SVCE similarly supports bills that encourage access to IOU customer data that allows CCA to more accurately design rates that benefit their customers.

3. **Cost Shifts and Customer Indifference**: Advocating for legislation/regulation that uphold customer indifference and don’t penalize CCA customers for taking service from a CCA over another load-serving entity (LSE).
   a. *Legislative Strategy*: SVCE opposes bills that violate the principle of customer indifference; penalize CCA customers financially for taking generation service from a CCA over any other kind of LSE; and/or shift costs from bundled IOU customers onto CCA customers (or vice versa). SVCE opposes further expansion of direct access unless its implementation includes establishing a) an exit fee or some other mechanism to prevent cost shifts onto CCA customers the same way the PCIA prevents such shifts onto bundled IOU customers, and b) a mechanism to ensure that direct access providers adopt the same or greater renewable power and carbon free power commitment of the CCA that serves the customer.

4. **Non-Bypassable Charges (NBs)**: Advocate for NBs that provide CCAs the opportunity to self-procure new generation resources rather than paying for cost recovery and place the NBC on the generation side of the bill. Oppose any legislation/regulation that imposes NBs that don’t meet these criteria.
   a. *Legislative Strategy*: SVCE opposes bills that would create a new non-bypassable charge (NBC) unless such bills a) provide CCAs an opportunity to self-procure rather than paying cost recovery if the charge is related to new generation resources or contracts, and b) place the new NBC on the generation side of the bill only if it is recovering costs incurred for generation resources. Charges associated with cost recovery of other investments and assessed on the delivery side of the bill still allow for meaningful comparison of generation rates between LSEs, and will not necessarily trigger opposition.

5. **Affordability and Equity**: Advocate for legislation/regulation that encourage affordable rates and access to clean energy technologies for CCA customers in low-income and disadvantaged areas.
   a. *Legislative Strategy*: SVCE supports bills that allow CCAs the autonomy to create programs that a) increase access to clean energy technologies to underserved communities, and b) keep rates and bills affordable for vulnerable customers.

II. **Climate Mitigation and Clean Energy Technologies**
Bills that may not affect SVCE directly but are relevant to our values of promoting climate mitigation, electrification, and carbon-free energy. This is a broad category, and SVCE involvement will depend on bill specifics and require more staff discretion than the previous two. Can include but is not limited to:
1) **Grid Resilience**: Advocate for legislation/regulations that give CCAs the chance to direct their fire prevention and mitigation investments in these areas where applicable rather than automatically paying cost recovery for IOU investments.
   a) *Legislative Strategy*: SVCE supports including CCAs as a full partner in grid resilience and fire prevention and mitigation planning to the extent that each individual CCA Board of Directors would like to participate. SVCE similarly supports bills that give CCAs the chance to direct their own investments in these areas where applicable rather than automatically paying cost recovery for IOU investments.

2) **Ability to Invest in Grid-Edge Resources**: Advocate for legislation/regulation that provide equal opportunity for CCAs to encourage, invest in, and benefit from distributed energy resources, microgrids, and fuel-switching technologies. This includes access to state funding resources and jurisdiction over dispatch.
   a) *Legislative Strategy*: SVCE supports bills that foster and opposes bills that restrict equal opportunity for CCAs to encourage, invest in, and benefit from grid-edge resources, including distributed energy resources, microgrids, and fuel-switching technologies. This includes access to state funding resources and jurisdiction over dispatch.

3) **Fuel-Switching and Electrification**: Advocate for legislation/regulation that facilitate electrification and fuel-switching in the transportation and built environment spaces and encourage implementation of SVCE’s programs in these areas.
   a) *Legislative Strategy*: SVCE supports bills that facilitate electrification and fuel-switching in the transportation and built environment spaces. This includes exempting load growth due to fuel-switching from the Power Charge Indifference Adjustment (PCIA). Conversely, SVCE will oppose bills that interfere with implementation of SVCE’s own programs in these areas.

## III. California’s Energy Regulatory and Market Structures

Bills that seek to modify or reshape California’s broader energy regulatory and market structures. By engaging on bills in this category, SVCE will help California develop a regulatory paradigm for a world of urgent climate mitigation and grid resiliency needs, diversifying distributed energy resources, and increasing consumer interest in active management of their energy use and procurement. SVCE’s top priorities in this category include:

1) **Creation/development towards an Open Access Distribution Platform to unlock demand response and DER potential**: Advocate for increased visibility into the distribution grid so that DERs and other grid-edge technologies can be fully incorporated into reliability and decarbonization planning.
   a) *Legislative Strategy*: SVCE supports increasing visibility into the distribution grid so that distributed energy resources (DERs), non-wires alternatives to traditional grid infrastructure, and other grid-edge technologies can be fully and optimally incorporated into decarbonization and reliability planning. SVCE supports defining an open access platform providing clear information and signals about where DER buildout is optimal for replacing expansions of the traditional grid infrastructure.

2) **CCAs as Providers of Last Resort and Sole Providers**: Advocate for policies that give CCAs the opportunity to serve as providers or last resort or, in the event of IOU departure from retail generation service, solar providers of their territories.
a) *Legislative Strategy*: SVCE supports giving CCAs the opportunity to serve as provider of last resort (POLR) or, in the event of IOU departure from retail generation service, sole providers in their service territories.

3) **Restructuring of Investor-Owned Utilities**: Advocate for IOU restructuring such that IOU business interests and incentives are more closely aligned with customer interests and ensure that CCAs be given a meaningful role in determining what such a transition would look like and how its impacts on the energy system would be managed.
   a) *Legislative Strategy*: Along with the departure of the IOUs from retail generation service and development of an open access platform, SVCE supports bills and regulatory initiatives that restructure investor-owned utility incentives such that their business interests are more closely aligned with customer interests.

4) **Residual Central Procurement Where It Improves System Function** – Advocate for central procurement only if it’s conducted in a residual manner.
   a) *Legislative Strategy*: SVCE supports bills that modify the existing procurement structure to allow for residual central procurement, preserving LSEs’ financial incentives to build new resources and preventing the creation of stranded assets.
Staff Report – Item 5

Item 5: Approve Participation in California Community Power Joint Powers Authority

From: Girish Balachandran, CEO

Prepared by: Girish Balachandran, CEO and Greg Stepanicich, General Counsel

Date: 12/9/2020

RECOMMENDATION
Staff recommends that the Board of Directors approve the California Community Power Agency Joint Powers Agreement and authorize the CEO to execute this Agreement with any minor, nonsubstantive modifications also approved by the General Counsel.

COMMITTEE REVIEW
At its meeting on October 23, 2020, the Executive Committee was given a presentation by the CEO and General Counsel on the reasons for entering into the California Community Power Agency ("CC Power") Joint Powers Agreement and its key terms. After asking several questions about the agreement, the Executive Committee supported having staff bring the Agreement forward to the full Board for consideration.

At its meeting on November 30, 2020, the Finance and Administration Committee also was given a presentation by the CEO and General Counsel on the CC Power Joint Powers Agreement. One of the members of this Committee questioned whether the members of the Board of Directors should be appointed by the governing bodies of the members, rather than having the Agreement provide that the directors will be the CEO’s or their designees. After discussion, the Finance and Administration Committee also supported having staff bring the agreement forward to the full Board for consideration.

BACKGROUND
The CEO updated the Board at the June and August Board meetings on the rationale and activities being undertaken to form CC Power. At the October Board meeting the CEO made a presentation discussing CC Power and the first project contemplated to be transacted by CC Power, namely long duration energy storage. At its November meeting, the Board received a presentation by the CEO and General Counsel on the advantages to SVCE of joining CC Power and the key terms of the JPA Agreement. Since then the terms of the JPA Agreement have been finalized and distributed to the currently proposed members for adoption. The JPA Agreement is before this Board for approval and execution by the CEO with any minor, nonsubstantive modifications also approved by the General Counsel in the event that minor corrections or clarifications are raised by any of the members during the approval process.

STRATEGIC PLAN
The approval of the California Community Power Joint Powers Agreement will further Goals #5 and #6 of the SVCE Strategic Plan

Goal #5: Acquire clean and reliable electricity in a cost effective, equitable and sustainable manner

Goal #6: Manage and optimize power supply resources to meet affordability, GHG reduction and reliability objectives.
ANALYSIS & DISCUSSION

The proposed JPA Agreement creates a new public agency called California Community Power or CC Power for short. Its initial members are all CCA’s and if the agreement is approved by their Boards of Directors, the initial members will be SVCE, 3CE, MCE, EBCE, PCE, SCP, SFCleanPower, San Jose Clean Energy and Redwood Coast Energy Authority. The JPA Agreement provides that the CC Power Board of Directors may adopt a policy establishing the criteria for other public agencies that are not CCA’s to become members with the approval of the Board.

The purpose of CC Power is to acquire energy, capacity, storage or other energy products on a scale that the individual members most likely will not be able to achieve individually. The first proposed project will pursue entering one or more long-duration storage contracts. This will be a procurement and project based public agency, rather than policy making agency. The agreement states that “CC Power is not intended to be a policy-maker or advocate, though it may, from time to time, advance or support public policies in support of its purpose that do not conflict with interests or policies advanced by any Member.”

The liability firewall of the JPA structure will apply here. As a member, SVCE will not be liable for the debts, liabilities, or obligations of CC Power. However, SVCE will take on legal obligations with respect to each project it decides to join. These projects must be approved by the SVCE Board of Directors by way of a project agreement. The project agreement will define the legal obligations of the parties to it. Therefore, the SVCE Board will have the opportunity to fully consider the benefits, obligations, and risks of each project that SVCE may want to join.

The JPA Agreement provides that CC Power will be governed by a Board of Directors with each member having one director and one vote. The director will be the CEO or General Manager (or their designee) of the Member. The manner of selecting the director is a policy question. In the preparation of the proposed JPA Agreement, the CEO’s and General Counsels decided to propose that the directors be administrative staff of the members due to the very technical nature of this JPA which is project rather than policy oriented. It is relevant to this choice that the CC Power Board will not be able to commit Members to any obligations other than the annual payment for administrative costs of the JPA. Also, it was felt that continuity on the Board is important due to the fact that the project agreements will be long-term obligations and having directors with a long-term knowledge base is important with respect to decision-making on this Board. It is more likely that staff members on the Board will have greater tenure with their agency than elected officials.

At the same time, it will be important for the SVCE Board to be kept apprised of the activities of CC Power. Mr. Balachandran is proposing that he provide quarterly written reports to the Board. The Board can direct the type and frequency of reporting that it desires.

The only costs imposed by the JPA Agreement on the members are the administrative costs of CC Power which do not include any project costs. All project related costs, including costs of consultants, will be allocated to the projects and the project participants. Administrative costs will be paid on an equal share basis by the members unless the Board decides by a two-thirds vote to provide for a different method of cost sharing. Project cost sharing will be determined by each project agreement and may take into account several factors such as the level of participation and credit strength of the project participants.

The JPA Agreement makes it easy for a member to withdraw from CC Power. The process simply involves notice of withdrawal by the member and the satisfaction of any outstanding obligations to CC Power by it. As long as there are no outstanding obligations, the CC Power Board is required to approve the withdrawal. For SVCE, there should be no outstanding obligations to CC Power itself as any such obligations would require SVCE Board approval. However, if SVCE enters into any project agreements, it will remain bound to the project agreement even if it withdraws from CC Power. The project agreement will define the manner in which project participants may withdraw from the project and at what cost.
By entering in the CC Power JPA Agreement, SVCE will have the opportunity but not the obligation to participate in energy projects that most likely will not be otherwise available to it as an individual CCA. The costs of entry are not substantial as the staffing of this JPA will be limited with most staffing and operating costs allocated to individual projects that will be paid by project participants. SVCE will only incur significant financial obligations if it later decides to join specific CC Power projects.

**FISCAL IMPACT**

It is anticipated that the annual administrative and general costs to operate CC Power will be approximately $80,000 to $120,000, with SVCE’s share being approximately $10,000 to $15,000, if eight entities join CC Power. The cost of setting up CC Power has been budgeted at $120,000 to be shared by 9 entities, with SVCE’s share being $13,133.

**ATTACHMENTS**

1. Resolution 2020-43 Approving the California Community Power Agency Joint Powers Agreement and Authorizing the Chief Executive Officer to Execute the Agreement
2. California Community Power Agency Joint Powers Agreement
A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY APPROVING THE CALIFORNIA COMMUNITY POWER AGENCY JOINT POWERS AGREEMENT AND AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO EXECUTE THE AGREEMENT

WHEREAS, the Silicon Valley Clean Energy Authority (“SVCE”) 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, a number of CCA’s have been exploring the establishment of a Joint Powers Authority made up of CCA’s to procure energy, capacity, storage and other energy products for members of the Authority; and

WHEREAS, a draft Joint Powers Agreement has been prepared after extensive review by the CEO’s and General Counsels of the interested parties; and

WHEREAS, the proposed Joint Powers Agreement has been reviewed by the SVCE Executive Committee and Finance and Administration Committee with both committees recommending that the Agreement be considered by the full Board of Directors; and

WHEREAS, the Board desires to enter into the California Community Power Agency Joint Powers Agreement in order to acquire energy resources and promote energy resilience that would be difficult for SVCE to achieve by itself.

NOW THEREFORE, the Board of Directors of the Silicon Valley Clean Energy Authority does hereby approve the California Community Power Agency Joint Powers Agreement and authorizes the Chief Executive Officer to execute the attached Agreement with any minor, nonsubstantive modifications also approved by General Counsel.

PASSED AND ADOPTED this 9th day of December, 2020, by the following vote:

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Chair

ATTEST:

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Andrea Pizano, Board Secretary
CALIFORNIA COMMUNITY POWER AGENCY
JOINT POWERS AGREEMENT

This Joint Powers Agreement ("Agreement") is made by and among those public agencies who are
signatories to this Agreement, and those public agencies which may hereafter become signatories to this
Agreement, for the purpose of operating a separate joint powers agency, which is named “California
Community Power” or “CC Power.”

WITNESSETH

WHEREAS, it is to the mutual benefit of the Members and in the public interest that the Members
join together to engage in the exercise of powers they have in common including, but not limited to, (i) the
acquisition and operation of wholesale power supplies, resource adequacy and renewable attributes, (ii) the
 provision of joint consulting and contracting services via master agreements and bulk purchasing and
 financing of decarbonization products, (iii) the offering of energy risk management and California
 Independent System Operator (“CAISO”) scheduling services; and (iv) other energy services or programs
 which may be of benefit to Members (collectively, hereinafter “energy related programs”);

WHEREAS, CC Power’s primary objective is to provide for joint procurement of electrical power
and storage and other energy projects for its Members, as set forth in this Agreement;

WHEREAS, the Members intend that CC Power shall better position the Members to administer
community choice energy programs, and achieve their local agency goals, including but not limited to
meeting or exceeding California’s greenhouse gas emission reduction targets through procurement of
renewable resources.

WHEREAS, each of the public community choice aggregation agencies which is a Member to this
Agreement has the power to establish, manage, operate and maintain Community Choice Aggregation
(“CCA”) programs, electric service enterprises available to cities and counties pursuant to California Public
Utilities Code Section 331.1(c) and 366.2 and to study, promote, develop, conduct, operate and manage
energy related programs; and

WHEREAS, Title I, Division 7, Chapter 5, Article 1 of the California Government Code (the “Joint
Powers Act” or “Act”) authorizes the joint exercise by two or more public agencies of any power which is
common to each of them.

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements
herein contained, do hereby agree as follows:

Article I. DEFINITIONS

In addition to the other terms defined herein, the following terms, whether in the singular or in the
plural, when used herein and initially capitalized, shall have the meanings specified throughout this
Agreement.

Section 1.01 “Board” means the Board of Directors of CC Power as established by this Agreement.

Section 1.02 “CC Power” means the Joint Powers Authority established by this Agreement.

Section 1.03 “Member” means a Public CCA Agency, or other public agency the Board determines to be
eligible pursuant to Section 3.02, that is a signatory to this Agreement and has met the requirements of
Article III; the term “Member” shall, however, exclude any Public CCA Agency or other eligible public agency which shall have withdrawn or been excluded from CC Power pursuant to Section 3.04 below.

Section 1.04 “Project” means any and all of the following matters, which are approved by the Board pursuant to Article VI: (i) the construction, financing or acquisition of a wholesale power resource, resource adequacy and/or renewable and environmental attributes for use by the Members, and such other transactions, services, and goods that may be necessary or convenient to construct, finance, acquire or optimize the value of such resources, (ii) the bulk purchasing and/or financing of decarbonization products, including, but not limited to, heat pump water heaters, space heater heat pumps and electric vehicle charging services, (iii) energy risk management and CAISO scheduling products and services, (iv) acquisition, construction and financing of facilities for the generation or transmission of electrical energy and any related transactions, services, and goods that may be necessary or convenient to acquire, construct, and finance these facilities, (v) grid integration services, (vi) acquisition of capacity rights in any facility for the generation or transmission of electric energy, and (vii) any other energy related programs.

Section 1.05 “Project Agreement” means a contract between and among CC Power and Project Participants.

Section 1.06 “Project Participants” means any Member or group of Members who participate in a Project pursuant to Article VI below.

Section 1.07 “Public CCA Agency” means any public agency, or such joint powers agencies/authorities consisting of one or more public agencies, that has implemented a CCA program pursuant to California Public Utilities Code Sections 331.1 and 366.2.

Article II. FORMATION OF AUTHORITY

Section 2.01 Creation of CC Power. Pursuant to the Joint Powers Act, there is hereby created a public entity, to be known as “CC Power,” which shall be a public entity separate and apart from its Members.

Section 2.02 Purpose. The purpose of this Agreement is for CC Power to develop, acquire, construct, own, manage, contract for, engage in, finance and/or provide energy related programs for the use of and by its Members. CC Power is not intended to be a policy-maker or advocate, though it may, from time to time, advance or support public policies in support of its purpose that do not conflict with interests or policies advanced by any Member.

Section 2.03 Powers. CC Power is authorized, in its own name, to do all acts necessary to fulfill the purposes of this Agreement as referred to in Section 2.02 above, and engage in the exercise of powers the Members have in common including, but not limited to, each of the following:

(a) Acquire, purchase, finance, offer, arrange, construct, maintain, utilize and/or operate one or more Projects;
(b) Establish, operate, maintain and/or fund energy related programs;
(c) Make and enter into contracts;
(d) Employ agents and employees;
(e) Acquire, contract, manage, maintain, sell or otherwise dispose of real and personal property and operate any buildings, infrastructure, works, or improvements;
(f) Receive contributions and donations of property, funds, services and other forms of assistance from any source;
(g) Lease real or personal property as lessee and as lessor;
(h) Sue and be sued in its own name;
(i) Incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Sections 53850 et seq. and authority under the Act;

(j) Receive, collect, invest and disburse moneys;

(k) Issue revenue bonds and other forms of indebtedness, as provided by law;

(l) Apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;

(m) Make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer energy related programs;

(n) Adopt from time to time such policies, procedures, bylaws, rules or regulations for the conduct of its affairs as deemed necessary by the Board;

(o) Exercise all other powers necessary and proper to carry out this Agreement; and

(p) Defend, hold harmless, and indemnify, to the fullest extent permitted by law, each Member from any liability, claims, suits, or other actions.

Such powers shall be exercised in the manner provided in Section 6509 of the Government Code of the State of California, as amended, subject only to such restrictions upon the manner of exercising such powers as are imposed upon Silicon Valley Clean Energy in the exercise of similar powers. Should Silicon Valley Clean Energy withdraw or be excluded from this Agreement pursuant to Section 3.04 hereof, the manner of exercising any power shall be subject only to the restrictions upon the manner of exercising such powers as are imposed upon Marin Clean Energy.

Section 2.04 Compliance with Local Zoning and Building Laws and CEQA. Unless state or federal law provides otherwise, any facilities, buildings or structures located, constructed, or caused to be constructed by CC Power within the territory of CC Power shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act.

Article III. MEMBERSHIP

Section 3.01 Member Agencies. Any Public CCA Agency, or other public agency determined by the Board to be eligible pursuant to Section 3.02, may become a Member upon meeting the following conditions:

(a) The Public CCA Agency or other eligible public agency shall file with the Board a certified copy of a resolution of its governing body whereby it (i) agrees to the provisions of this Agreement, and (ii) requests to become a Member; and

(b) No such Public CCA Agency or other eligible public agency shall become a Member until (i) its admission is approved at a regular or special meeting of the Board by at least two-thirds (2/3) of the entire Board, and (ii) it deposits or agrees to pay CC Power a share of organization, planning and other costs and charges as determined by the Board to be appropriate, if any.

Upon completion of the foregoing, the Public CCA Agency or other eligible public agency shall become a Member for all purposes of this Agreement.

Section 3.02 Eligible Public Agency Members. The Board may adopt policies to determine whether public agencies that are not Public CCA Agencies may be eligible to become a Member of CC Power.

Section 3.03 Cost Allocations.

(a) Unless otherwise determined by a two-thirds (2/3) vote of the entire Board, each Member shall pay an equal share of one member one share for general and administrative costs as determined by the Board associated with all operations of CC Power. General and administrative costs do not include any costs that relate solely to any specific Project Agreement.
(b) Project Agreements and other program agreements between and among any Member and/or CC Power will determine cost allocation and may consider, among other relevant factors, credit strength of the Members and may differ in price and collateral requirements as determined solely for such Project Agreement or other program agreements.

Section 3.04 Withdrawal or Exclusion of Member.

(a) Any Member may withdraw from CC Power upon the following conditions:

(i) The Member shall have filed with the Board Secretary a certified copy of a resolution of its governing body expressing its desire to so withdraw. Once a Member files a resolution to withdraw with the Board Secretary, that Member no longer has any voting rights on the Board;

(ii) Members participating in Projects, programs or services pursuant to Project Agreements or other program agreements approved by the Board are subject to the participation and withdrawal terms and conditions described in the applicable agreement; and

(iii) Prior to accepting the Member’s filing of such resolution, any Member so terminating shall be obligated to pay its share of all debts, liabilities, and obligations of CC Power specifically assumed by the Member. However, this obligation shall take into account any refunds due to the Member and shall not extend to debts, liabilities and obligations secured or otherwise committed pursuant to Project Agreements or other program agreements between and among any Member and/or CC Power. The debts, liabilities and obligations of the Members to such Project Agreements or other program agreements shall be determined by their terms. Any obligations under this Agreement are subject to the limitations set forth in Article VIII.

(b) Upon compliance with the conditions specified in Section 3.04(a), the Board shall accept the withdrawing Member’s resolution and the withdrawing Member shall no longer be considered a Member for any reason or purpose under this Agreement and its rights and obligations under this Agreement shall terminate. The withdrawal of a Member shall not affect any obligations of such Member under any Project Agreement or other program agreement.

(c) Any Member which has (i) defaulted under this Agreement, a Project Agreement, or other program agreement, (ii) failed to appoint a Director to serve on the Board in accordance with Section 4.02 below, or (iii) failed to pay any required share of costs in accordance with Sections 3.01 and 3.03 above, may have its rights under this Agreement terminated and may be excluded from participation in CC Power by the vote (taken at a regular or special meeting of the Board) of at least two-thirds (2/3) of the entire Board (including the Director representing the defaulting Member). Prior to any vote to terminate participation of any Member, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Member whose termination is proposed at least 60 days prior to the Board meeting at which such matter shall first be discussed as an agenda item. The written notice of the proposed termination shall specify the particular provisions of this Agreement or a Project Agreement or other program agreement which the Member has allegedly defaulted on, or whether the proposed termination is based on failure to appoint a Director or pay any required share of costs. The Member subject to possible termination shall have the opportunity to cure the violation prior to the meeting at which termination will be considered. At the meeting where termination of the Member is considered, the Member shall be given the opportunity to respond to any reasons and allegations that may be cited as a basis for termination prior to a termination vote. Any excluded Member shall continue to be liable for its obligations under any Project Agreement or other program agreement and for any unpaid contribution, payment, or advance approved by the Board prior to such Member’s exclusion.
(d) The withdrawal or termination of a Member shall not affect the provisions or obligations set forth in Article VIII or Section 11.03 below.

Article IV. POWERS OF BOARD & MANAGEMENT OF CC POWER

Section 4.01 Board. CC Power shall be administered by a Board which shall consist of one Director representing each Member. Such Board shall be the governing body of this CC Power, and, as such, shall be vested with the powers set forth in this Agreement, and shall execute and administer this Agreement in accordance with the purposes and functions provided herein. The Board shall have the authority to provide for the general management and oversight of the affairs, property and business of CC Power.

Section 4.02 Appointment and Vacancies. Each Director shall be the Chief Executive Officer, General Manager, or designee of the Chief Executive Officer or General Manager of each Member and shall be appointed by and serve at the pleasure of the Member that the Director represents, and may be removed as Director by such Member at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed by the Member to fill the position of the previous Director in accordance with the provisions of this Article IV within 60 days of the date that such position becomes vacant or the Member shall be subject to the exclusion procedures in Section 3.04(c) above. Each Director may appoint an alternate to serve in their absence.

Section 4.03 Notices. The Board shall comply with the applicable provisions of Sections 6503.5, 6503.6 and 53051 of the Government Code requiring the filing of notices and a statement with the Secretary of State, the State Controller, the applicable county clerk and local agency formation commissions, including, but not limited to:

(a) Causing a notice of the Agreement or any amendment to the Agreement to be prepared and filed with the office of the Secretary of State within 30 days of the effective date of the Agreement or amendment, and

(b) Filing a statement of facts with the Secretary of State within 70 days after the date of commencement of CC Power's legal existence. Upon any change in the statement of facts presented to the Secretary of State, an amended statement of facts shall be filed with the Secretary of State within 10 days of the change.

Section 4.04 Committees. The Board may create committees to provide advice to the Board or conduct the business of CC Power subject to delegation of authority from the Board.

Section 4.05 Director Compensation. Compensation for work performed by Directors, including alternates, on behalf of CC Power shall be borne by the Member that appointed the Director. The Board, however, may adopt by resolution a policy relating to the reimbursement of expenses incurred by Directors.

Section 4.06 Board Officers. At its first meeting in each calendar year, the Board shall elect or re-elect a Chair and a Vice-Chair each of whom shall be selected from among the Directors and shall also appoint or re-appoint a Secretary and a Treasurer/Controller each of whom may, but need not, be selected from among the Directors.

(a) Chair and Vice-Chair. The duties of the Chair shall be to preside over the Board meetings, sign all ordinances, resolutions, contracts and correspondence adopted or authorized by the Board, and to help ensure the Board’s directives and resolutions are carried out. In the absence or inability of the Chair to act, the Vice Chair shall act as Chair.

(b) Treasurer and Controller. The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Controller, neither of whom needs to be a Director. If the Board so designates, and in accordance with the provisions of applicable law,
a qualified person may hold both the office of Treasurer and the office of Controller of CC Power. The Treasurer shall be the depository of CC Power to have custody of all the money of CC Power, from whatever source. The Controller shall draw warrants to pay demands against CC Power when the demands have been approved by the Chair or Vice Chair of CC Power. The Treasurer and Controller shall have the other powers, duties and responsibilities of such officers as specified in Section 6505 of the Government Code of the State of California, as amended, except insofar as such powers, duties and responsibilities are assigned to a trustee appointed, as is provided for and authorized in Section 6550 of the Government Code of the State of California, as amended, pursuant to any resolution, indenture or other instrument providing for the issuance of bonds or notes of CC Power pursuant to this Agreement. The Board may require the Treasurer and/or Controller to file with CC Power an official bond in an amount to be fixed by the Board, and if so requested CC Power shall pay the cost of premiums associated with the bond. The Treasurer and Controller shall cause an independent audit to be made by a certified public accountant, or public accountants, in compliance with Section 6505 of the Government Code.

(c) Secretary. The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of CC Power, and responding to public records requests of the JPA.

Section 4.07 Management of CC Power. The Board shall appoint a part-time or full-time General Manager, and may appoint one or more part-time or full-time Assistant General Managers, to serve at the pleasure of the Board. The General Manager shall be responsible for the day-to-day operation and management of CC Power. The General Manager may enter into and execute contracts in accordance with the policies established and direction provided by the Board, and shall file an official bond in the amount determined from time to time by the Board.

Section 4.08 Other Officers and Employees. The Board shall have the power to appoint such other officers and staff as it may deem necessary who shall have such powers, duties and responsibilities as are determined by the Board, and to retain independent accountants, legal counsel, engineers and other consultants. The Members may contract with CC Power to provide staff to perform services for CC Power, but such employees shall at all times, and for all purposes including benefits and compensation, remain employees of the Member only.

Section 4.09 Budget. The budget shall be approved by the Board. The Board may revise the budget from time-to-time as may be reasonably necessary to address contingencies and expected expenses. All subsequent budgets of CC Power shall be approved by the Board in accordance with rules as may be adopted by the Board from time to time. All expenditures must be made in accordance with the adopted budget.

Article V MEETINGS OF THE BOARD

Section 5.01 Regular Meetings. The Board shall hold at least one regular meeting per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution of the Board. Regular meetings may be adjourned to another meeting time.

Section 5.02 Special Meetings. Special and emergency meetings of the Board may be called in accordance with the provisions of California Government Code Sections 54956 and 54956.5, as amended.

Section 5.03 Brown Act Compliance. All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Section 54950 et seq.), and as
augmented by rules of the Board not inconsistent therewith. Directors may participate in meetings telephonically or by other electronic means, with full voting rights, only to the extent permitted by law.

Section 5.04 Minutes. The Secretary shall cause to be kept minutes of the meetings of the Board, both regular and special, and shall cause a copy of the minutes to be forwarded promptly to each Director.

Section 5.05 Quorum. A quorum of the Board shall consist of a majority of the Directors, except that less than a quorum may adjourn from time to time in accordance with law.

Section 5.06 Voting. Except to the extent set forth in a Project Agreement or as otherwise specified in this Agreement, each Member shall have one vote, which may be cast on any matter before the Board by each Director or alternate. Except to the extent otherwise specified in this Agreement, or by law, a vote of the majority of the Directors in attendance shall be sufficient to constitute action, provided a quorum is established and maintained.

(a) Special Voting Requirements as specified in this Agreement:
   (i) Action of the Board to amend Section 3.03 related to cost allocations shall require the affirmative vote of at least two-thirds (2/3) of the entire Board.
   (ii) Action of the Board on the matters set forth in Section 3.04(c) related to involuntary termination of a Member shall require the affirmative vote of at least two-thirds (2/3) of the entire Board.
   (iii) Action of the Board on the matters set forth in Section 9.01 related to termination of this Agreement shall require the affirmative vote of at least two-thirds (2/3) of the entire Board approved by resolution of each Member’s governing body.
   (iv) Action of the Board to amend this Agreement shall be subject to the voting requirements set forth in Section 11.02 below.

Article VI. PROJECTS

Section 6.01 Projects. The Board has the power, upon majority vote of the Directors in attendance, provided a quorum is established and maintained, to establish Projects within the purpose and power of CC Power and to adopt guidelines for their implementation.

Section 6.02 Right to Participate in Projects. The Board shall provide at least sixty (60) days prior written notice to all Members, unless such notice is otherwise waived, before any Project may be considered for adoption by a vote of the Board. Such notice shall be provided to the Director of each Member. Once a Project is approved by the Board as set forth in Section 6.01 above, all Members shall have the right, but not the obligation, to participate in a pro-rata share in the Project as determined by the Project Agreement. All Members who elect not to participate in the Project have no obligations under the Project.

Section 6.03 Project Agreement. All expenses, rights and obligations to any specific Projects will be handled through Project Agreements that will be separate and distinct from this Agreement.

Article VII. BONDS AND OTHER INDEBTEDNESS

CC Power shall also have the power to issue, sell and deliver bonds in accordance with the provisions of the Joint Powers Act for the purpose of acquiring, financing, performing or constructing one or more Projects and to enter into other indebtedness for the purpose of financing one or more studies or Projects and for the purpose of providing temporary financing of costs of development, construction or acquisition of one or more Projects. The terms and conditions of the issuance of any such bonds or indebtedness shall be set forth in such resolution, indenture or other instrument, as required by law and as approved by the Board. Bonds issued under this article and contracts or obligations entered into to carry out the purposes for which bonds are issued, payable in whole or in part from the proceeds of said bonds, shall not constitute a debt, liability or
obligation of any of the Members unless the governing body of the Member by resolution expressly agrees that the Member will be obligated under the bond or other indebtedness or the Member takes on obligations pursuant to a Project Agreement.

Article VIII. LIMITATION ON LIABILITY OF MEMBERS

Section 8.01 Pursuant to Section 6508.1 of the Government Code of the State of California, no debt, liability or obligation of CC Power shall be a debt, liability or obligation of any Member unless such Member agrees in writing to assume any of the debts, liabilities, or obligations of CC Power pursuant to a Project Agreement. Nothing contained in this Article VIII shall in any way diminish the liability of any Member with respect to any Project Agreement such Member enters into pursuant to this Agreement.

Section 8.02 Individual Member Provisions.
(a) The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of the Agreement. Any obligations under this Agreement and any Project Agreement are special limited obligations of San José Clean Energy payable solely from the Designated Fund (defined as the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 et seq.) (“Designated Fund”) and shall not be 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.

(b) CleanPowerSF’s payment obligations under this Agreement are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. CleanPowerSF’s payment obligations under this Agreement are not a charge upon the revenues or general fund of the San Francisco Public Utilities Commission or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the San Francisco Public Utilities Commission or the City and County of San Francisco. CleanPowerSF’s obligations hereunder shall not at any time exceed the amount certified by the San Francisco City Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of CleanPowerSF are not authorized to request, and CleanPowerSF is not required to reimburse CC Power for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of CleanPowerSF are not authorized to offer or promise, nor is CleanPowerSF required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the San Francisco City Controller. The San Francisco City Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

Article IX. TERM; TERMINATION; LIQUIDATION; DISTRIBUTION

Section 9.01 Term and Termination. This Agreement shall become effective when at least two Members execute this Agreement. This Agreement shall continue in full force and effect until terminated as provided in this Article; provided however, this Agreement cannot be terminated until such time as all principal of and interest on bonds and other forms of indebtedness issued by CC Power are paid in full. Thereafter, this Agreement may be terminated by a two-thirds (2/3) vote of the entire Board approved by resolution of each Member’s governing body; provided, however, that this Agreement and CC Power shall continue to exist after termination for the purpose of disposing of all claims, distribution of assets and all other functions necessary to conclude the obligations and affairs of CC Power. In no event shall this
Agreement or the powers herein granted to CC Power be terminated until (a) all bonds and other indebtedness of CC Power and the interest thereon shall have been paid or adequate provision for such payment shall have been made in accordance with the instruments governing such bonds and indebtedness and (b) all other obligations and liabilities of CC Power shall have been met or adequately provided for.

Section 9.02 Liquidation; Distribution. Upon termination of this Agreement, the Board shall liquidate the business and assets and the property of CC Power as expeditiously as possible, and distribute any net proceeds, after the conclusions of all debts and obligations of CC Power, to any Members in proportion to the contributions made or in such manner as otherwise provided by law. The Board is vested with all powers of CC Power for the purpose of concluding and dissolving the business affairs of CC Power.

ARTICLE X. ACCOUNTS AND REPORTS

Section 10.01 Establishment and Administration of Funds. CC Power is responsible for the strict accountability of all funds and reports of all receipts and disbursements. It will comply with every provision of law relating to the establishment and administration of funds, particularly Section 6505 of the California Government Code. CC Power shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any resolution, indenture or other instrument of CC Power securing its bonds or other indebtedness, except insofar as such powers, duties and responsibilities are assigned to a trustee appointed pursuant to such resolution, indenture or other instrument. The books and records of CC Power shall be open to inspection at all reasonable times to each Member and its representatives.

Section 10.02 Annual Audits and Audit Reports. The Treasurer/Controller shall cause an annual independent audit of the accounts and records of CC Power to be made by a certified public accountant or public accountant in accordance with all applicable laws. If permitted by applicable law and authorized by the Board, the audit(s) may be conducted at the longer interval authorized by applicable law. A report of the financial audit will be filed as a public record with each Member. CC Power will pay the cost of the financial audit and charge the cost against the Members in the same manner as other administrative costs.

ARTICLE XI. GENERAL PROVISIONS

Section 11.01 Successors and Assigns. No Member may assign any right or obligation under this Agreement without the consent of all other Members. This section shall not affect, in any respect, any right of assignment under any Project Agreement.

Section 11.02 Amendments. Subject to any requirements of law, a two-thirds (2/3) vote of the entire Board will be required to amend Articles II, III, VIII, and IX of this Agreement. Once an amendment of Articles II, III, VIII, or IX is adopted by the Board, the amendment must be approved by two-thirds of the Members pursuant to that Members’ applicable approval process. All other provisions of this Agreement may be amended at any time or from time to time by an amendment approved by at least two-thirds (2/3) vote of the entire Board. Written notice shall be provided to all Members of proposed amendments to this Agreement, including the effective date of such amendments, at least 60 days prior to the date upon which the Board votes on such amendments.

Section 11.03 Indemnification and Insurance. To the fullest extent permitted by law, CC Power shall defend, indemnify, and hold harmless the Members and each of their respective Directors, alternates, officers, employees and agents from any and all claims losses damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of CC Power under this Agreement to the extent not otherwise provided under a Project Agreement. CC Power shall acquire such insurance coverage as the Board deems is necessary and appropriate to protect the interests of CC Power and the Members.
Section 11.04  Notices. The Board shall designate its principal office as the location at which it will receive notices, correspondence, and other communications, and shall designate one of its Directors or staff as an officer for the purpose of receiving service on behalf of the Board. Any notice given pursuant to this Agreement shall be in writing and shall be dated and signed by the Member giving such notice. Notice to each Member under this Agreement is sufficient if mailed to the Member and separately to the Member’s Director to their respective addresses on file with CC Power.

Section 11.05  Severability. Should any portion, term, condition, or provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the remaining portions, terms, conditions, and provisions shall not be affected thereby.

Section 11.06  Section Headings. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section to which they refer.

Section 11.07  Choice of Law. This Agreement will be governed and construed in accordance with the laws of the State of California.

Section 11.08  Counterparts. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all Members had signed the same instrument.

Section 11.09  Dispute Resolution. The Members shall make reasonable efforts to informally settle all disputes arising out of, or in connection with, this Agreement. Should such informal efforts to settle a dispute fail, the dispute shall be mediated in accordance with policies and procedures established by the Board.

[Signature Page Follows]
IN WITNESS WHEREOF, each of the Members hereto has caused this Agreement to be executed as an original counterpart by its duly authorized representative on the date indicated below.

(Seal)

Attest: __________________________

Date: __________________________

CCA Name: _______________________

Address: _________________________

(Seal)

Attest: __________________________

Date: __________________________

CCA Name: _______________________

Address: _________________________

(Seal)

Attest: __________________________

Date: __________________________

CCA Name: _______________________

Address: _________________________

(Seal)

Attest: __________________________

Date: __________________________

CCA Name: _______________________

Address: _________________________

Page 11 of 13
RECOMMENDATION
Staff recommends the SVCE Board of Directors approve General & Administrative Policy (GAP) 6: Chair and Vice Chair Vacancy Policy.

EXECUTIVE COMMITTEE RECOMMENDATION
The Executive Committee met November 23, 2020 and discussed planning for the absence of the outgoing Chair and Vice Chair for the January Board of Directors meeting. The committee developed a process for conducting meetings when the Chair and Vice-Chair of the Board of Directors or a Board created committee are absent: The previous chair of that body will serve as Chair. In the event the previous chair is unavailable, the recommendation is for the longest serving member to serve as Interim Chair. The committee voted unanimously to recommend this policy to the Board of Directors.

BACKGROUND
Our first Board meeting of the year on January 13th, 2021 is the Annual Meeting of the Board, where a new Chair and Vice Chair will be selected. Chair Miller and Vice Chair Smith will not be returning to SVCE’s Board in 2021 and will not be present to begin the meeting. Being this will likely not be the last time a Chair and Vice Chair are not present at a meeting, it is in the best interest of the organization to develop a policy to address similar situations in the future.

ANALYSIS & DISCUSSION
Following feedback and direction from members of the Executive Committee, staff has developed GAP6: Chair and Vice Chair Vacancy Policy. This policy states that in the absence of a Chair and Vice Chair at an SVCE meeting, the previous Chair of that body will serve as Interim Chair. If that person is not present, the recommendation is for the longest serving member to serve as Interim Chair. If the committee is new with no previous history, members of the committee will draw lots to determine who will serve as Interim Chair.

If GAP6 is approved and adopted by the SVCE Board, staff will proceed with including language on how to proceed with a meeting if the Chair and Vice Chair are not present in SVCE’s Operating Rules and Regulations. Staff will bring this item back to the Board on consent for the January meeting following written notice of the amendment at least 10 days prior, per the ORR amendment process (Article VI).

STRATEGIC PLAN
Not applicable.

ALTERNATIVE
Staff is open to suggestions from the Board of Directors.
FISCAL IMPACT
No fiscal impact as a result of planning for succession and developing a written policy.

ATTACHMENT
1. GAP6: Chair and Vice Chair Vacancy Policy
CHAIR AND VICE CHAIR VACANCY POLICY

I. PURPOSE
To establish a procedure for conducting Silicon Valley Clean Energy (SVCE) meetings in the absence of a Chair and Vice Chair.

II. SCOPE
All SVCE board members and staff participating in public meetings.

III. DEFINITIONS
“Meeting” shall mean any meeting of the SVCE Board of Directors or a Board approved committee.

IV. POLICY
SVCE recognizes there will be times when a) the Board/Committee Chair and Vice Chair are absent from a meeting, or b) the Board/Committee Chair and Vice Chair positions have not been filled. This policy establishes the method by which an Interim Chair is selected:

At any meeting where the Chair and Vice Chair are not present, the previous Chair of that body will serve as Interim Chair. If that person is not present, the longest serving member of that body will serve as Interim Chair. If it is a new committee, members will draw lots to determine who will serve as Interim Chair.
Staff Report – Item 7

Item 7: SVCE Information Update on 2021 SVCE Board Elections

From: Girish Balachandran, CEO

From: Andrea Pizano, Board Clerk/Executive Assistant

Date: 12/9/2020

RECOMMENDATION
Staff recommends that the Board review the selection process and timeline for SVCE’s Chair, Vice Chair, and Committee members.

EXECUTIVE COMMITTEE RECOMMENDATION
The Executive Committee heard this item at the November 23, 2020 Executive Committee meeting and was supportive of the process and timeline.

BACKGROUND
At the October 24, 2018 meeting, the Board approved a timeline to appoint SVCE’s Chair, Vice Chair and Executive Committee members in January, with remaining committees assigned at the February Board of Directors meeting. SVCE’s Operating Rules and Regulations were then amended in November 2018 to reflect the timing of selections.

SVCE has been using a selection process for the positions of Chair, Vice Chair, and committees which includes the Board Clerk requesting letters of interest for the positions of Chair and Vice Chair prior to the board meeting to be included in the agenda packet, and requesting board members complete a committee matrix which indicates interest in either continuing their membership in a committee, dropping their membership in a committee, or joining a committee.

The roles of Chair, Vice Chair, and the Executive Committee are scheduled to be selected at the January 13, 2021 meeting, with remaining committee assignments made at the February 10, 2021 meeting.

ANALYSIS & DISCUSSION
Using a similar process followed in previous years, the Board Clerk will send information to the Board of Directors following the December 2020 board meeting with a call for letters of interest for the positions of Chair and Vice Chair; letters of interest received for these positions will be included in the January Board of Directors meeting agenda packet. Directors interested in serving on the Executive Committee will also be asked to notify the Board Clerk during this time and names will be included in the staff report for the January board meeting. Nominations will also be accepted from the floor for Chair, Vice Chair and Executive Committee membership.

Following the January board meeting, the Board Clerk will distribute a matrix to board members to indicate interest in SVCE’s other committees (Finance and Administration Committee, Audit Committee, and any additional committees formed by the Board between now and January). These spreadsheets will be collected prior to the February board meeting, and staff will include the names of interested directors for each
committee in the February board meeting staff report. Requests to join committees will be accepted from the floor.

**STRATEGIC PLAN**
Appointing SVCE's representatives supports our mission and goals of the Strategic Plan.

**ALTERNATIVE**
Staff is open to suggestions from the committee on the process for Chair/Vice Chair and committee selections.

**FISCAL IMPACT**
There would be no fiscal impact as a result of making appointments.

**ATTACHMENTS**
1. 2021 Deadline Spreadsheet
2. Committee Matrix for 2021
2021 SVCE Board Elections Timeline

**December 9, 2020:** Staff presents item at the Board meeting outlining process for 2021 elections based on Executive Committee feedback

**December 11, 2020:** Board Clerk will send a request for letters/indications of interest for the Chair/Vice Chair positions as well as interest from members looking to serve on the Executive Committee for 2021

**January 4, 2021:** Letters of interest for Chair/Vice Chair and expression of interest for Executive Committee membership responses due to Board Clerk

**January 13, 2021:** Chair, Vice Chair, and Executive Committee selections made at the Board of Directors meeting

**January 15, 2021:** Board Clerk will distribute Committee Matrix worksheet to Directors to indicate interest in serving/continuing to serve on remaining committees

**February 1, 2021:** Committee Matrix worksheets due to Board Clerk

**February 10, 2021:** SVCE Committee assignments made at the Board of Directors meeting
# 2021 Committee Matrix Worksheet

<table>
<thead>
<tr>
<th>Committee</th>
<th>Description</th>
<th>Meeting Details</th>
<th>Current Roster</th>
<th>Interest in serving for 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Committee</td>
<td>The Executive Committee is a subset of the Board of Directors; they provide input and support to SVCE on operational and policy matters. The Executive Committee is made up of five Directors of the Board.</td>
<td>Time: 8:30am-10:30am</td>
<td>• Howard Miller (Chair) - Outgoing&lt;br&gt;• Nancy Smith (Vice Chair) - Outgoing&lt;br&gt;• Margaret Abe-Koga&lt;br&gt;• Liz Gibbons&lt;br&gt;• Rod Sinks - Outgoing</td>
<td>Yes  No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Frequency: Monthly, 4th Friday&lt;br&gt;Location: Virtual</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finance &amp; Administration Committee</td>
<td>The Finance &amp; Administration Committee consists of no fewer than three members and no greater than six members, and can be Board members, Alternate Board members, or a Board appointed Agency staff member. The Finance and Administration Committee works with SVCE staff on items related to financial and administrative issues that impact the agency.</td>
<td>Time: TBD&lt;br&gt;Frequency: Quarterly &amp; as needed&lt;br&gt;Location: Virtual</td>
<td>• Rob Rennie (Chair)&lt;br&gt;• Javed Ellahie (Vice Chair)&lt;br&gt;• Howard Miller - Outgoing&lt;br&gt;• Liz Gibbons&lt;br&gt;• Maria Öberg</td>
<td>Yes  No</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>Audit Committee</td>
<td>The Audit Committee consists of no fewer than three members and no greater than six members, and can be Board members, Alternate Board members, or a Board appointed Agency staff member. The Audit Committee works with SVCE staff on the initiation and receiving of the annual audit.</td>
<td>Time: TBD&lt;br&gt;Frequency: Twice yearly &amp; as needed&lt;br&gt;Location: Virtual</td>
<td>• Nancy Smith (Chair) - Outgoing&lt;br&gt;• Elaine Marshall (Vice Chair)&lt;br&gt;• George Tyson</td>
<td>Yes  No</td>
</tr>
</tbody>
</table>

Not on committee, but interested for 2021
Silicon Valley Clean Energy
Board of Directors Meeting
December 9, 2020

Appendix A

Power Resource Contracts Executed by CEO
LONG FORM CONFIRMATION
FOR RESOURCE ADEQUACY CAPACITY PRODUCT
Resource Adequacy Contract Number: SDGE_SVCE_Sell_2021_Jan_Syst_RA

This confirmation letter ("Confirmation") confirms the transaction (the "Transaction") between San Diego Gas & Electric Company ("Party A" or "Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Party B" or "Buyer"), each individually a "Party" and together the "Parties", dated as of November 10, 2020 (the "Confirmation Execution Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Section 3 of this Confirmation. This Transaction shall be deemed to have been entered into pursuant to, and shall supplement, form a part of, and be governed by the terms and conditions of the form of Master Power Purchase and Sale Agreement published by the Edison Electric Institute and the National Energy Marketers Association (version 2.1 dated 4/25/00) (the "EEI Agreement") with a Cover Sheet containing the elections and other changes contained herein as if the Parties have executed the EEI Agreement (with such Cover Sheet the "Master Agreement"). The Parties agree that the only transactions to be concluded pursuant to such Master Agreement shall be the Transaction documented in this Confirmation. 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). 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.

Name: Party A / Seller

All Notices:
San Diego Gas & Electric Company
8315 Century Park Court CP 21D
San Diego CA 92123-1593
Attn: Contract Administration
Telephone: (858) 650-6176
Facsimile: (858) 650-6190

Invoices:
San Diego Gas & Electric Company
8315 Century Park Court
San Diego CA 92123-1593
Attn: Energy Accounting Manager
Telephone: (858) 650-6177
Facsimile: (858) 650-6190

Name: Party B / Buyer

All Notices:
SILICON VALLEY CLEAN ENERGY AUTHORITY
333 West El Camino Real, Suite 290
Sunnyvale, CA 94087
Attn: Girish Balachandran, CEO
Telephone: 408-721-5301
Facsimile: 408-721-5301

Invoices:
SILICON VALLEY CLEAN ENERGY AUTHORITY
333 West El Camino Real, Suite 290
Sunnyvale, CA 94087
Attn: SVCE Power Settlements
Telephone: 408-721-5301
Facsimile: 408-721-5301
Scheduling:
San Diego Gas & Electric Company
8315 Century Park Court, CP 21D
San Diego, CA 92123-1593
Attn: Transaction Scheduling Manager
Day Ahead: (858) 650-6168
Real Time: (858) 650-6160
Facsimile: (858) 650-6191

Payments:
San Diego Gas & Electric Company
8315 Century Park Court
San Diego CA 92123-1593
Attn: Energy Accounting Manager
Telephone: (858) 650-6177
Facsimile: (858) 650-6190

Credit and Collections:
San Diego Gas & Electric Company
555 West Fifth Street, ML 18A3
Los Angeles, CA 90013-1011
Attn: Major Markets – Credit and Collections Manager
Telephone: (213) 244-4343
Facsimile: (213) 244-8316

With additional Notices of an Event of Default or Potential Event of Default to:
San Diego Gas & Electric Company
8330 Century Park Ct.
San Diego, California 92123
Attn: General Counsel
Telephone: (858) 650-6141
Facsimile: (858) 650-6106

Scheduling:
Attn: Z-Global
Email: eric@zglobal.biz
Day Ahead: (916) 221-4327
Real Time: (916) 221-4327

Payments:
SILICON VALLEY CLEAN ENERGY AUTHORITY
333 West El Camino Real, Suite 290
Sunnyvale, CA 94087
Attn: SVCE Power Settlements
Telephone: 408-721-5301
Facsimile: 408-721-5301

Credit and Collections:
SILICON VALLEY CLEAN ENERGY AUTHORITY
333 West El Camino Real, Suite 290
Sunnyvale, CA 94087
Attn: SVCE Power Settlements
Telephone: 408-721-5301
Facsimile: 408-721-5301

With additional Notices of an Event of Default or Potential Event of Default to:
SILICON VALLEY CLEAN ENERGY AUTHORITY
333 West El Camino Real, Suite 290
Sunnyvale, CA 94087
Attn: Girish Balachandran, CEO
Telephone: 408-721-5301
Facsimile: 408-721-5301
The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

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### Article Two
**Transaction Terms and Conditions**
- Optional provision in Section 2.4.
  - If not checked, inapplicable.

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### Article Four
**Remedies for Failure to Deliver or Receive**
- Accelerated Payment of Damages.
  - If not checked, inapplicable.

---

### Article Five
**Events of Default; Remedies**
- Cross Default for Party A:
  - Party A: N/A  Cross Default Amount: N/A
  - Other Entity: N/A  Cross Default Amount: N/A
- Cross Default for Party B:
  - Party B: N/A  Cross Default Amount: N/A
  - Other Entity: N/A  Cross Default Amount: N/A

#### 5.6 Closeout Setoff
- Option A (Applicable if no other selection is made.)
- Option B – Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows:
- Option C (No Setoff)

---

### Article Eight
**Credit and Collateral Requirements**
- **8.1 Party A Credit Protection:**
  - Financial Information:
    - Option A
      - Option B  Specify: __________________
      - Option C  Specify: __________________
  - Credit Assurances:
    - Not Applicable
    - Applicable
  - Collateral Threshold:
    - Not Applicable
    - Applicable
  - Downgrade Event:
    - Not Applicable
    - Applicable
  - Guarantor for Party B: N/A  Guarantee Amount: N/A

- **8.2 Party B Credit Protection**
(a) Financial Information:
   □ Option A
   □ Option B Specify: _________________________
   □ Option C Specify: _________________________

(b) Credit Assurances:
   □ Not Applicable
   □ Applicable

(c) Collateral Threshold:
   □ Not Applicable
   □ Applicable
     If applicable, complete the following:
     Party A Collateral Threshold: $______________;
     provided, however, that Party A’s Collateral
     Threshold shall be zero if an Event of Default or
     Potential Event of Default with respect to Party A
     has occurred and is continuing.
     Party A Independent Amount: $______________
     Party A Rounding Amount: $______________

(d) Downgrade Event:
   □ Not Applicable
   □ Applicable
     If applicable, complete the following:
     □ It shall be a Downgrade Event for Party A if
       Party A’s Credit Rating falls below ______ from S&P or ______ from Moody’s or if Party A
       is not rated by either S&P or Moody’s
     □ Other:
       Specify: ________________________________

(e) Guarantor for Party A: N/A
   Guarantee Amount: N/A

---

**Article 10**
Confidentiality
   □ Confidentiality Applicable If not checked, inapplicable.

**Schedule M**
   □ Party A is a Governmental Entity or Public Power System
   □ Party B is a Governmental Entity or Public Power System
   □ Add Section 3.6. If not checked, inapplicable
   □ Add Section 8.4. If not checked, inapplicable

  Note to Buyers: If Buyer is a form of governmental entity, then
  Schedule M shall apply and further modifications to this Confirm
  will be needed.

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Other Changes

1. The modifications to Section 1.12, 1.50 and 5.2 of the Master Agreement specified in that certain Errata published by the Edison Electric Institute (version 1.1, July 18, 2007) are hereby incorporated herein as if set forth in full.

2. Section 1.23 is amended by inserting the following before the period at the end of the second sentence: “, or (v) Buyer’s inability to use the Product purchased hereunder due to decertification of its CPUC implementation plan, or by cessation or termination of Buyer’s Joint Powers Agreement by any or all of its members”.

3. Section 1.60 is amended by inserting the words "in writing" immediately following the words “agreed to”.

4. In Section 2.1, delete the first sentence in its entirety and replace with the following:

“A Transaction, or an amendment, modification or supplement thereto, shall be entered into only upon a writing signed by both Parties evidencing the commercial terms of such Transaction (a “Confirmation”).”

5. Section 2.3 is deleted in its entirety and replaced with the following:

“2.3 No Oral Agreements or Modifications. Notwithstanding anything to the contrary in this Master Agreement, the Master Agreement and any and all Transactions may not be orally amended, supplemented or modified and any such amendment, supplement or modification shall only be effective pursuant to a writing signed by both Parties.”

6. Section 2.4 is hereby amended by deleting the words “either orally or” in the sixth line.

7. Section 10.2(ii) of the Master Agreement shall be modified by inserting “Except for the approval by the CPUC as stated in Section 2.2 of this Confirmation,” at the beginning of the first sentence in such section.

8. Section 10.6 of the Master Agreement shall be deleted in its entirety and replaced with the following:

“10.6 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 PERMISSIBLE UNDER APPLICABLE LAW, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.”

9. Schedule M is amended, with respect to Party B, as follows:

   (a) Paragraph A is amended by deleting the term “Act” and replacing it with the following:

   “Act” means the Joint Exercise of Powers Act of California (Government Code Section 6500 et seq.).”

   (b) Section 3.4 of Paragraph D is deleted in its entirety and replaced with the following:

   “Party B’s Deliveries. Upon request, Party B shall provide to Party A copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Party B of this Master Agreement and any Confirmations executed in connection therewith.”

   (c) Paragraph G is deleted in its entirety and replaced with the following:


10. Schedule P: Products and Related Definitions shall be deleted in its entirety.

1. Definitions

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

1.2 “Availability Incentive Payments” has the meaning set forth in the Tariff.

1.3 “Availability Standards” has the meaning set forth in the Tariff.
1.4 “Buyer” has the meaning specified in the introductory paragraph.

1.5 “CAISO” means the California Independent System Operator Corporation, or any successor entity performing the same functions.

1.6 “Capacity Attributes” means (a) the Local RA Attributes, (b) the RA Attributes, (c) the Flexible RA Attributes, and (d) any other current or future defined characteristics (including the ability to generate at a given capacity level, provide ancillary services, ramp up or down at a given rate, and flexibility or dispatch-ability attributes), certificates, tags, credits, howsoever entitled, including any account construct applied to any Compliance Obligations, based on the applicable Unit’s electric generation capacity.

1.7 “Capacity Price” means the price specified in the Capacity Price Table in Section 4.1.

1.8 “Capacity Replacement Price” means (a) the actual rate per kW-day paid for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) including any penalties, fines, transaction costs and expenses reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of Replacement Capacity, any penalties, fines, transaction costs and expenses plus the per kW-day market price for the Product not delivered by Seller under this Confirmation. 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 the “Replacement Price” for this Transaction.

1.9 “Compliance Obligations” means the RAR, Local RAR, Flexible RAR, and other resource adequacy requirements associated with a generating unit’s Capacity Attributes established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.10 “Compliance Showing” means one or more of the following: (a) Local RAR Showing, (b) RAR Showing, (c) Flexible RAR Showing, or (d) other Capacity Attributes compliance or advisory filing (or similar or successor showing or filing), in each case, that 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 any Governmental Body having jurisdiction.

1.11 “Confirmation” has the meaning specified in the introductory paragraph.

1.12 [Reserved]

1.13 “Confirmation Execution Date” has the meaning specified in the introductory paragraph.

1.14 “Contract Price” means, for any day in any Monthly Delivery Period, the Capacity Price for such period.

1.15 “Contract Quantity” means the quantity of Product (in MW) as set forth in Section 3.4.

1.16 “Contract Term” has the meaning set forth in Section 2.1.
1.17 “CPUC” means the California Public Utilities Commission.

1.18 “CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-25, and any other existing or subsequent decisions, resolutions or rulings related to resource adequacy, as may be amended from time to time by the CPUC.

1.19 “CPUC Filing Guide” is the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSEs to demonstrate compliance with the CPUC’s resource adequacy program as provided in the CPUC Decisions.

1.20 “Credit Rating” means, with respect to any entity, the rating assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Master Agreement, or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Master Agreement.

1.21 “Delivery Period” has the meaning specified in Section 3.3.

1.22 “Emission Reduction Credits” or “ERC(s)” means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

1.23 “Environmental Costs” means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product’s compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

1.24 “Flexible RA Attributes” means, with respect to a Unit, any and all flexible resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and Local RA Attributes.

1.25 “Flexible RAR” means the flexible capacity requirements, including, without limitation, maximum continuous ramping, load following, and regulation, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Flexible RAR may also be known as ramping, maximum ramping, maximum continuous ramping, maximum continuous ramping capacity, maximum
continuous ramping ramp rate, load following, load following capacity, load following ramp rate, regulation, regulation capacity, regulation ramp rate.

1.26 “Flexible RAR Showing” means the Flexible RAR compliance or advisory filing (or similar or successor showing or filing) 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 any Governmental Body having jurisdiction.

1.27 “GADS” means the Generating Availability Data System, or its successor.

1.28 “Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

1.29 “Local Capacity Area” has the meaning set forth in the Tariff.

1.30 “Local RA Attributes” means, with respect to a Unit, any and all resource adequacy attributes or other locational attributes for the Unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward a Local RAR, but exclusive of any RA Attributes and Flexible RA Attributes.

1.31 “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 having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

1.32 “Local RAR Showing” means the Local RAR compliance or advisory filing (or similar or successor showing or filing) 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 any Governmental Body having jurisdiction.

1.33 “LSE” means load-serving entity.

1.34 “Marketable Emission Trading Credits” means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

1.35 “Master Agreement” has the meaning specified in the introductory paragraph.

1.36 “Monthly Delivery Period” means each calendar month during the Delivery Period and shall correspond to each Showing Month.
1.37 “Monthly Payment” has the meaning specified in Section 4.1.

1.38 “Moody’s” means Moody’s Investors Services, Inc. or its successor.

1.39 “NERC” means the North American Electric Reliability Corporation, or its successor.

1.40 “NERC/GADS Protocols” means the GADS protocols established by NERC, as may be updated from time to time.

1.41 “Net Qualifying Capacity” has the meaning set forth in the Tariff.

1.42 “Non-Availability Charges” has the meaning set forth in the Tariff.

1.43 “Outage” means any 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.

1.44 “Planned Outage” shall have the meaning in CPUC Decisions, and includes a planned, scheduled, or any other Outage approved by the CAISO for the routine repair or maintenance of the Unit, or for the purposes of new construction work, and does not include any Outage designated as either forced or unplanned as defined by the CAISO or NERC/GADS Protocols.

1.45 “Product” has the meaning specified in Section 3.1.

1.46 “Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix A, of the Unit NQC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

1.47 “Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix A, of the Unit EFC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

1.48 “RA Attributes” means, with respect to a Unit, any and all resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward RAR, exclusive of any Local RA Attributes and Flexible RA Attributes.

1.49 “RA Substitute Capacity” means capacity that the CAISO permits under the CAISO Tariff to be substituted for a Resource Adequacy Resource that is on Outage.

1.50 “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.51 “RAR Showing” means the RAR compliance or advisory filing (or similar or successor showing or filing) 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 any Governmental Body having jurisdiction.
1.52 “Replacement Capacity” means capacity which has equivalent Capacity Attributes as the portion of the Product not provided by the Units committed to Buyer as of the Confirmation Execution Date.

1.53 “Replacement Unit” means a generating unit providing Replacement Capacity.

1.54 “Resource Category” shall be as described in the CPUC Filing Guide.

1.55 “RMR Contract” has the meaning set forth in the Tariff.

1.56 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc. or its successor).

1.57 “Scheduling Coordinator” or “SC” has the meaning set forth in the Tariff.

1.58 “Seller” has the meaning specified in the introductory paragraph.

1.59 “Showing Month” shall be the calendar month that is the subject of the Compliance Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Execution Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.60 “Substitution Rules” has the meaning set forth in Section 3.8(b).

1.61 “Supply Plan” has the meaning set forth in the Tariff.

1.62 “Tariff” means the tariff and protocol provisions, including any applicable CAISO-published “Operating Procedures” and “Business Practice Manuals,” as amended or supplemented from time to time, of the CAISO.

1.63 “Transaction” has the meaning specified in the introductory paragraph.

1.64 “Unit” or “Units” shall mean the generation assets described in Appendix A (including any Replacement Units), from which Product is provided by Seller to Buyer.

1.65 “Unit Contract Quantity” means the amount of Product (in MW) to be delivered by Seller to Buyer by each individual Unit, as specified in Appendix A as of the Confirmation Execution Date.

1.66 “Unit Delivered Quantity” means the amount of applicable Product (in MW) actually “delivered” by Seller to Buyer by each individual Unit. As used herein, “delivered” shall mean shown in the Supply Plan and, for purposes of Section 4.1, shall include any RA Substitute Capacity under Section 3.9, and in all cases, shall not include (i) any portion of Contract Capacity for which Buyer is required under the Compliance Obligations or the Tariff to procure Replacement Capacity, and (ii) any portion of Contract Capacity for which Seller is required hereunder, but fails, to provide Replacement Capacity to Buyer.

1.67 “Unit EFC” means the effective flexible capacity or capacity that is qualified to provide Flexible RA Attributes established by the CAISO for the applicable Unit.
1.68 “Unit NQC” means the Net Qualifying Capacity established by the CAISO for the applicable Unit.

2. Term

2.1 Contract Term

The “Contract Term” shall mean the period of time commencing upon the Confirmation Execution Date and continuing until the later of (a) the expiration of the Delivery Period or (b) the date the Parties’ obligations under this Agreement have been fulfilled.

3. Transaction

3.1 Product

(a) Seller shall sell and Buyer shall receive and purchase, the Capacity Attributes (including all Local RA Attributes but excluding Flexible RA Attributes (if any) and Flexible RA Attributes) of the Units identified in Appendix A (collectively, the “Product”) and Seller shall deliver the Product as described in Section 3.2 below. Product does not include any right to dispatch or receive the energy or ancillary services from the Unit. Seller retains the right to sell any Product from a Unit in excess of its Unit Contract Quantity.

(b) The Parties agree that (i) the Contract Price for the Product shall not change if the CAISO, CPUC or other Governmental Body (A) defines new or re-defines existing Local Capacity Areas which decreases or increases the amount of Local RA Attributes provided hereunder, or (B) defines new or re-defines existing Local Capacity Areas whereby the Units qualify for a Local Capacity Area and (ii) if the event in Section 3.1(b)(i)(B) occurs then the Product shall include such Local RA Attributes.

3.2 Contingent Firm Quantity

During the Delivery Period, Seller shall provide Buyer with the Product from the Unit(s) in the amount of the Contract Quantity. Seller shall be excused from delivery of Product to the extent such portion of the Contract Quantity is not available due to a Planned Outage if Seller provides written notification to Buyer of such Planned Outage and Seller’s intent not to provide Replacement Capacity no later than twelve (12) days before the relevant deadline for the applicable Compliance Showing. Except for reasons of Planned Outage that meet the notice requirements of the preceding sentence or Force Majeure or any adjustment of the Capacity Attributes of any Unit(s), if the Unit(s) are not available to provide any portion of the Product, Seller shall provide Buyer with Replacement Capacity from one or more Replacement Units pursuant to Section 5.1. If Seller fails to provide Buyer with Replacement Capacity pursuant to Section 5.1, then Seller shall be liable for damages and/or to indemnify Buyer for penalties, fines or costs pursuant to the terms of Section 5 and Section 11. Seller is obligated to meet the Tariff obligations with respect to Planned Outage approvals.

3.3 Delivery Period

The “Delivery Period” shall be [insert delivery period] unless terminated earlier in accordance with the terms of this Agreement.
3.4 **Contract Quantity:**

During each month of the Delivery Period, Seller shall provide the Product from each Unit in the total amount for such month as follows:

**CONTRACT QUANTITY TABLE**

<table>
<thead>
<tr>
<th>Unit Name</th>
<th>CAISO Resource ID*</th>
<th>Month(s)</th>
<th>Unit Contract Quantity (MW)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Capacity Attributes (excluding Flexible RA Attributes)</td>
</tr>
<tr>
<td>CAISO</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* CAISO Resource ID should match a Unit described in Appendix A

3.5 **Delivery of Product**

Seller shall provide Buyer with the Contract Quantity for each day in each Monthly Delivery Period consistent with the following:

(a) Seller shall, on a timely basis, submit, or cause each Unit’s SC to submit, Supply Plans to identify and confirm the Unit Delivered Quantity for each Unit provided to Buyer so that the total amount of Unit Delivered Quantity identified and confirmed equals the Unit Contract Quantity for each Unit, unless specifically notified or requested not to do so by the Buyer pursuant to Section 3.8; and

(b) Seller shall submit, or cause each Unit’s SC to submit, written notification to Buyer, no later than fifteen (15) Business Days before the relevant deadline for any applicable Compliance Showing, that Buyer will be credited with Unit Delivered Quantity for the applicable portion of the Delivery Period in the Unit’s SC Supply Plan so that the total amount of Unit Delivered Quantity for each Unit credited equals the Unit Contract Quantity.

3.6 **CAISO/CPUC Offer Requirements**

Subject to Buyer’s request under Section 3.8(a), Seller shall, or cause the Unit’s SC to, bid and/or schedule with, or make available to, the CAISO the Unit Contract Quantity for each Unit in compliance with the Tariff and the CPUC Filing Guide, including any must offer obligation under the Tariff or the CPUC Filing Guide, and shall, or cause the Unit’s SC, owner, or operator, as applicable, to perform all obligations under the Tariff and the CPUC Filing Guide that are associated with the sale and delivery of Product hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit’s SC, owner, or operator to comply with such Tariff and CPUC Filing Guide provisions, including any penalties, charges or fines imposed on Seller or the Unit’s SC, owner, or operator for such noncompliance.

3.7 **Reserved**
3.8 Unit Substitution; RA Replacement Capacity

(a) RA Replacement Capacity: No later than five (5) Business Days before the relevant deadline for each applicable Compliance Showing, Buyer may (i) request, subject to Seller’s reasonable approval, that Seller not, or cause each Unit’s SC not to, list a portion or all of a Unit’s applicable Unit Contract Quantity on the Supply Plan or (ii) notify Seller that a portion or all of the Unit Contract Quantity of a Unit will be included in an applicable Compliance Showing as RA Substitute Capacity. The amount of Unit Contract Quantity that is the subject of such a request or notice shall be known as “RA Substitute Capacity” and, for purposes of calculating a Monthly Payment pursuant to Section 4.1, to the extent provided, such RA Substitute Capacity shall be deemed Unit Delivered Quantity provided consistent with Section 3.6.

(b) Seller’s Obligations With Respect to RA Substitute Capacity: If Buyer requests RA Substitute Capacity, Seller shall (i) make such RA Substitute Capacity available to Buyer during the applicable Showing Month to allow Buyer to utilize, as applicable, the substitution rules in Sections 9.3.1.3.1, 9.3.1.3.2 and 40.9.4.2.1 of the Tariff (“Substitution Rules”) and (ii) take, or cause each Unit’s SC to take, all action to allow Buyer to utilize, as applicable, the Substitution Rules, including, but not limited to, ensuring that the RA Substitute Capacity will qualify, as applicable, for substitution under the Substitution Rules, and providing Buyer with all information needed to utilize the Substitution Rules.

(c) Seller agrees that all RA Substitute Capacity utilized by Buyer under the Substitution Rules, as applicable, is subject to the requirements identified in Section 3.8.

(d) Failure to Provide RA Substitute Capacity: If Seller fails to provide RA Substitute Capacity or Buyer is unable to utilize the RA Substitute Capacity under the Substitution Rules due to Seller’s failure to fulfill its obligations under Section 3.8(b)(ii), then Seller shall reimburse Buyer for any and all Non-Availability Charges incurred by Buyer and shall pay Buyer the CPM revenue the CASIO would have paid the Buyer but for Seller failure, due to such failure or inability to utilize the Substitution Rules; provided, that if Buyer is unable to utilize the Substitution Rules because the RA Substitute Capacity does not qualify for substitution under Section 9.3.1.3.1, 9.3.1.3.2, 40.9.4.2.1(i) or (ii) of the Tariff, then Seller shall not be responsible for any such Non-Availability Charges described in this Section 3.8(d) associated with such inability.

3.9 Buyer’s Re-Sale of Product

Buyer may re-sell all or a portion of the Product; provided, however, that any such resale does not increase Seller’s obligations or liabilities under this Confirmation. Seller will, or will cause the Unit’s SC, to follow Buyer’s reasonable instructions with respect to providing such resold Product to a subsequent buyer (“Subsequent Buyer”) provided that such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to: (a) execute such other documents that are necessary and reasonable to allow such Subsequent Buyer to use such resold Product as otherwise permitted by Buyer under this Confirmation, and (b) take such commercially reasonable actions that are no more onerous than the actions
otherwise required of Seller and the Unit’s SC hereunder to permit such Subsequent Buyer to use such resold Product as otherwise permitted by Buyer under this Confirmation.

4. **Payment**

4.1 **Monthly Payment**

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a “Monthly Payment” to Seller for each Unit after the applicable Monthly Delivery Period, as follows:

\[
Monthly\ Payment = \sum_{n=1}^{d} (A_n \ast B_n \ast 1000)
\]

**where:**

\(A\) = applicable Contract Price (in $/kW-day) for that calendar day

\(B\) = Unit Delivered Quantity (in MW) for Capacity Attributes provided by Seller for such Unit in that calendar day; provided, however, in no event shall this quantity “\(B\)” exceed the Contract Quantity for such Unit (in MW) for Capacity Attributes nor shall this quantity “\(B\)” be less than zero.

\(d\) = Total number of calendar days in the respective Monthly Delivery Period

The Monthly Payment calculation shall be rounded to two decimal places. In no case shall a Unit’s Monthly Payment (or any day in any Monthly Payment) be less than zero.

**CAPACITY PRICE TABLE**

<table>
<thead>
<tr>
<th>Contract Month</th>
<th>Capacity Price ($/kW-day) 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.2 **Reserved.**

4.3 **Allocation of Other Payments and Costs**

(a) Seller shall retain any revenues it may receive from and pay all costs charged by, the CAISO or any other third party with respect to any Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, and (iv) any revenues for black start or reactive power services. Seller shall be responsible for the Environmental Costs associated with the Product and shall indemnify, defend and hold Buyer harmless from and against all third-party claims brought against Buyer for Environmental Costs.

(b) Buyer shall be entitled to receive and retain all revenues associated with the Contract Quantity during the Delivery Period including any capacity or
availability revenues from RMR Contracts for any Unit, Capacity Procurement Mechanism (CPM) or its successor, and Residual Unit Commitment (RUC) Availability Payments, or its successor but excluding payments described in Section 4.3(a)(i)-(iv).

(c) In accordance with Section 4.1 of this Confirmation and Article Six of the Master Agreement, all such Buyer revenues described in Section 4.3(b), but received by Seller, or a Unit’s SC, owner, or operator shall be remitted to Buyer, and Seller shall pay such revenues to Buyer if the Unit’s SC, owner, or operator fails to remit those revenues to Buyer. In order to verify the accuracy of such revenues, Buyer shall have the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity.

(d) If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit the Contract Quantity for re-sale in such market, and retain and receive any and all related revenues.

(e) Subject to the Unit being made available to the CAISO in accordance with Article 3 of this Confirmation, Seller agrees that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments under the Tariff. Furthermore, the Parties agree that any Availability Incentive Payments are for the benefit of Seller and for Seller’s account and that any Non-Availability Charges are the responsibility of Seller and for Seller’s account.

4.4 Offset Rights

Either Party may offset any amounts owing to it for revenues, penalties, fines, costs, reimbursement or other payments pursuant to Article Six of the Master Agreement against any future amounts it may owe to the other Party under this Confirmation.

5. Seller’s Failure to Deliver Contract Quantity

5.1 Seller’s Duty to Provide Replacement Capacity

Seller will be under no obligation to provide Replacement Capacity in the event of Force Majeure or Planned Outages that are timely noticed to Buyer in accordance with Section 3.2. If Seller is unable to provide the Contract Quantity from any Unit(s) for any day in any Monthly Delivery Period and Replacement Capacity is required under Section 3.2, then:

(a) Seller shall notify Buyer of the non-availability of any portion of the Contract Quantity from any Unit(s) and identify Replacement Unit(s); and

(b) Seller shall, at no additional cost to Buyer, provide Buyer with Replacement Capacity from one or more Replacement Units, such that the total amount of Product provided to Buyer from all Units and Replacement Units equals Contract Quantity.
provided that the designation of any Replacement Unit by Seller shall be subject to Buyer’s prior written approval, which shall not be unreasonably withheld or delayed. Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 5.1, and Buyer has approved the designation of the Replacement Unit, then any such Replacement Unit shall be deemed a Unit for purposes of this Confirmation for that day in such Monthly Delivery Period. Notwithstanding anything to the contrary in this Confirmation, Seller’s failure to properly provide Replacement Capacity, including Seller’s obligation to identify Replacement Units within the notice deadlines specified in this Section 5.1, may result in the calculation of damages payable to Buyer and/or the indemnification of Buyer against any penalties, fines or costs under Section 5 and Section 11.

5.2 Damages for Failure to Provide Replacement Capacity

If Seller fails to provide Buyer any portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by Section 5.1, then the following shall apply:

(a) Buyer may, but shall not be obligated to, obtain Replacement Capacity. Buyer may enter into purchase transactions with one or more parties to replace the portion of Contract Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver the capacity to another party, and such arrangements shall be considered the procurement of Replacement Capacity. Buyer shall act in a commercially reasonable manner in purchasing any Replacement Capacity; and

(b) Seller shall pay to Buyer damages, in accordance with the terms of Section 4.1 of the Master Agreement relating to “Accelerated Payment of Damages,” if applicable, an amount equal to the positive difference, if any, between (i) the sum of (A) the Capacity Replacement Price paid by Buyer for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) for such day, plus (B) the Capacity Replacement Price times the portion of Contract Capacity not provided by Seller nor purchased by Buyer pursuant to Section 5.2(a) for such day times 1,000 kW/MW, and (ii) the portion of Contract Capacity not provided for the applicable day in the applicable Monthly Delivery Period times the Contract Price for that day times 1,000 kW/MW.

5.3 Indemnities for Failure to Deliver Contract Capacity

If Buyer is unable to purchase Replacement Capacity after Seller fails to provide Buyer a portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by Section 5.1, then in addition to the damages pursuant to Section 5.2(b)(i)(B) with respect to the portion of Contract Capacity that Buyer has not replaced, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC, CAISO, or any Governmental Body having jurisdiction, resulting from any of the following:

(a) Seller’s failure to provide any portion of the Contract Capacity or any portion of the Replacement Capacity;
(b) Seller’s failure to provide timely notice of the non-availability of any portion of the Contract Capacity;

(c) A Unit’s SC’s failure to timely submit Supply Plans that identify Buyer’s right to the Unit Contract Quantity purchased hereunder; or

(d) any other failure by Seller to perform its material obligations under this Confirmation.

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

6. Other Buyer and Seller Covenants

6.1 Seller’s and Buyer’s Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take 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 Compliance Obligations. The Parties further agree to negotiate in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions or decisions rendered by the CPUC, FERC, or other Governmental Body having jurisdiction to administer Compliance Obligations, to maintain the benefits of the bargain struck by the Parties on the Confirmation Execution Date. The Parties acknowledge that the benefit of the bargain as stated in this Agreement attempts to reflect anticipated changes to the CASIO and CPUC Resource Adequacy rules as such rules have been proposed as of the Confirmation Execution Date.

As used in this Section 6.1, “commercially reasonable actions” or “good faith” 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.

6.2 Seller’s Represents, Warrants and Covenants

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

(a) Seller owns or has the exclusive right to the Product sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC 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 Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets, other than pursuant to an RMR Contract between the CAISO and either Seller or the Unit’s owner or operator;

(c) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;
(d) Seller shall, and each Unit’s SC, owner and operator is obligated to, comply with Applicable Laws, including the Tariff, relating to the Product;

(e) If Seller is the owner of any Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for any Unit does not exceed the Unit NQC or Unit EFC, as applicable, for that Unit;

(f) Seller has notified the SC of each Unit that Seller has transferred the Unit Contract Quantity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff fully reflecting such transfer;

(g) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit’s SC to provide to Buyer, at least fifteen (15) Business Days before the relevant deadline for each Compliance Showing, the Unit Contract Quantity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period;

(h) Seller has notified each Unit’s SC that Buyer is entitled to the revenues set forth in Section 4.3, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues;

(i) In the event Seller has rights to the energy output of any Unit, and Seller or the Unit’s SC schedules energy from the Unit for export from the CAISO Control Area, or commits energy to another entity in a manner that could result in scheduling energy from the Unit for export from the CAISO Control Area, it shall do so only as allowed by, and in accordance with, Applicable Laws and such exports may, if allowed by the Tariff, be curtailed by the CAISO; and

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

7. Confidentiality

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer and Seller may disclose this Agreement to the CPUC, CAISO and any Governmental Body, as required by Applicable Law, and Seller may disclose the transfer of the Contract Quantity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans; provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such disclosing Governmental Body, CAISO, or SC to further disclose such information. In addition, in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction. Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).
8. **Entire Agreement; No Oral Agreements or Modifications**

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a written agreement signed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a written document signed by both Parties.

9. **Counterparts**

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by fax will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by facsimile will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

10. **Collateral Requirements**

Notwithstanding anything herein or in the Master Agreement to the contrary, Performance Assurance shall not be required from either Party in connection with this Transaction.

11. **Declaration of an Early Termination Date and Calculation of Settlement Amounts**

Notwithstanding anything to the contrary, the Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation as applicable. Furthermore, with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the EEI Agreement:

“If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur penalties, fines or costs from the CPUC, the CAISO, or any other Governmental Body having jurisdiction, because Buyer is not able to include the Contract Quantity in any applicable Compliance Showing due to the termination of the Transaction under the Master Agreement caused by Seller’s Event of Default and Buyer has not purchased Replacement Capacity for the applicable portion of the Contract Quantity, then Buyer may, in good faith, estimate as its Losses in respect of the Transaction the present value of the amount of those penalties, fines and costs on a $/kW-day basis subtracting the Contract Price (in $/kW-day) and include this estimate in its determination of the Settlement Amount, subject to accounting to Seller when those penalties, fines and costs are finally ascertained. The rights and obligations with respect to determining and paying any Settlement Amount or Termination Payment, and any dispute resolution provisions with respect thereto, shall survive the termination of this Transaction and shall continue until after those penalties or fines are finally ascertained.”

[Signature page follows]
IN WITNESS WHEREOF, the Parties have caused this Confirmation to be duly executed as of the Confirmation Execution Date.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: 

Girish Balachandran 
Name: 
Title: CEO

SAN DIEGO GAS & ELECTRIC COMPANY a California corporation

By: 

Joe Pasquito 
Name: 
Title: Market Analysis Manager

APPROVED as to legal form
# APPENDIX A

## Unit Information

<table>
<thead>
<tr>
<th>Month</th>
<th>Jan</th>
</tr>
</thead>
<tbody>
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<td>Run Hour Restrictions</td>
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WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation under the WSPP Agreement confirms the transaction between Central Coast Community Energy, a California joint powers authority (“Purchaser”) and Silicon Valley Clean Energy, a California joint powers authority (“Seller”), and each individually a “Party” and together the “Parties”, dated as of November 13, 2020 (the “Effective Date”), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the “Transaction”). This Transaction is governed by the WSPP Agreement dated July 28, 2020 (the “WSPP Agreement”). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the “Agreement” and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B, and C are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction 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 pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller's obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity, including a request for Hold-Back Capacity pursuant to Article Five of this Confirmation.

(d) Seller may sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel or be a nuclear generating facility.1 A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser’s instructions, including Purchaser’s instructions to withhold all or part of the Expected Contract Quantity from Seller’s

1 Note to draft: Seller to revise as appropriate.
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Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.2

2.2 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

2.3 Seller’s Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for each Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more replacement units of the same Resource Category and, if applicable, the Flexible Capacity Category (each such unit, a “Replacement Unit”) in an amount such that the total amount

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2 For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046
of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the Replacement Units from which such Alternate Capacity shall be provided before the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month; and

(b) The designation of any Replacement Unit(s) by Seller shall be subject to Purchaser’s prior written approval, which shall not be unreasonably withheld.

Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3 and Purchaser has approved such Replacement Units as consistent with this Confirmation, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month. Purchaser’s approval of a Replacement Unit as to a given Showing Month shall not be construed as approval of such Replacement Unit for any subsequent Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D (“Planned Outage Schedule”) for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser’s receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser’s requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser’s Remedies for Seller’s Failure to Deliver Expected Contract Quantity

(a) If Seller fails to deliver any part of the Expected Contract Quantity as required herein for any Showing Month, Seller shall be liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word “hourly” therein.

(b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, including Environmental Costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to
reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser’s Re-Sale of Product

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to direct the Seller or the Unit’s SC to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, Seller and the Unit’s SC shall comply with Purchaser’s direction and Purchaser shall retain and receive all revenues from such re-sale.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall pay for the Product as provided in Article 9 of the WSPP Agreement and this Confirmation; except that under Section 9.4 of the WSPP Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute. Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month)
and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements
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Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, 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 Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and
(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

4.4 Market Based Rate Authority

Upon Purchaser’s written request, Seller shall, in accordance with FERC Order No. 697, submit a letter of concurrence in support of any affirmative statement by Purchaser that this contractual arrangement does not transfer “ownership or control of generation capacity” from Seller to Purchaser 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 Purchaser.

ARTICLE 5
HOLDBACK AND SUBSTITUTE CAPACITY

No later than three (3) Business Days before the relevant deadlines for the Compliance Showings applicable to that Showing Month, Purchaser may request in writing that Seller not list, or cause the Unit’s Scheduling Coordinator not to list, in the Unit’s Supply Plan a portion or all of the Contract Quantity for any portion of such Showing Month included in the Delivery Period (“Hold-Back Capacity”). Along with such request, Purchaser shall also provide updated Unit information reflecting the requested change. The updated Unit information shall be in the form of the Supply Plan. Following Purchaser’s request for Hold-Back Capacity, Purchaser may request, in writing, that Seller make the previously requested Hold-Back Capacity available for Purchaser’s use as Substitute Capacity within the respective Showing Month. Such request shall be received by Seller no later than eight (8) Business Days prior to the first day for which Purchaser seeks to use such Substitute Capacity as required by the CAISO. The portion of the Contract Quantity that is the subject of Purchaser’s request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.1 for purposes of calculating a Monthly RA Capacity Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Sections 2.2. Seller shall, or shall cause the Unit’s Scheduling Coordinator to, comply with Purchaser’s request under this Article Five.

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

“If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because
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Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”

6.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement:

(a) (i) Purchaser may disclose information as necessary in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose as necessary to a Shown Unit’s SC or as necessary for Supply Plans; (iii) each Party may disclose information as necessary to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information as necessary to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser.

(b) Seller acknowledges that Purchaser is a public agency subject to the requirements of the California Public Records Act (Cal. Gov. Code section 6250 et seq.) and that Purchaser may be required to make public this Confirmation (which may be partially redacted by Purchaser) in connection with the process of seeking approval from its board of directors for the execution of this Confirmation. Seller may submit information to Purchaser that Seller considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Seller acknowledges that Purchaser may submit to Seller information that Purchaser considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Confirmation (“Requestor”) pursuant to the California Public Records Act for production, inspection and/or copying of this Confirmation or any information designated by a disclosing Party as confidential, the receiving Party as soon as practical shall notify the disclosing Party that such request has been made, by telephone call, letter sent via electronic mail, and/or by overnight carrier to the address, or email address listed at the end of this Confirmation. The disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be confidential information and to prevent
release of information to the Requestor by the receiving Party. If the disclosing Party takes no such action within ten (10) days, after receiving the foregoing notice from the receiving Party, the receiving Party shall be permitted to comply with the Requestor’s demand and is not required to defend against it. Notwithstanding the foregoing, Purchaser may release confidential information without notice to or over the objection of Seller if Purchaser’s legal counsel advises Purchaser that Purchaser is required by law to release such confidential information.

6.3 Dodd-Frank Act


6.4 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser’s or Seller’s obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser’s Resource Adequacy Requirements (a “Change in Law”), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.5 Governing Law

Notwithstanding Section 24 of the WSPP Agreement, this Transaction 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.

6.6 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.1 No Recourse to Members of Seller or Purchaser

Parties are 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 are public entities separate from its constituent members. Parties will solely be responsible for all debts, obligations
and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Seller constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Sellers’s constituent members, in connection with this Confirmation.

6.2 Other WSPP Agreement Changes

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 22.1 is modified by inserting the following new text at the end thereof:

“(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party’s admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets.”

(b) Section 22.2(b) is amended by inserting “and is continuing” after “Event of Default occurs” in the first line thereof and deleting the second sentence therein.

(c) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following: “If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary.”

(d) In Section 22.3(e), delete the entire provision (including subsections) and replace it with the following: “[Intentionally omitted]”

(e) In Section 22.3(f), delete the entire provision and replace it with the following:

“If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”

(f) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of
Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(g) Section 30.1 is amended by inserting “or requested” after the word “required” in Section 30.1(4) and by adding the following at the end of the first sentence: “; or (8) to the Party’s and such Party’s affiliates’ lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential”.

(h) Subsections 34.1 and 34.2 are deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION.”

“34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”

(i) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(j) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR
BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(k) Section 37 is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.

(l) Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:

“The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” 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)( the “Mobile-Sierra” doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm’n, 558 U.S. 165 (2010).

(ii) The Parties, for themselves and their successors and assigns, (i) agree that this “public interest” standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the “just and reasonable” standard.”

6.3 Counterparts
CCA WSPP Standard RA Confirmation
30 September 2020

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, 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.

6.4  Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this 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.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

Central Coast Community Energy, a California joint powers authority

By: [Signature]
Name: Tom Habashi
Title: CEO

Silicon Valley Clean Energy, a California joint powers authority

By: [Signature]
Name: Girish Balachandran
Title: CEO

Approved as to form:

By: [Signature]
Print: Robert M Shaw
Title: COO and General Counsel
APPENDIX A
DEFINED TERMS

“Alternate Capacity” means replacement Product which Seller has elected to provide to Purchaser in accordance with the terms of Section 2.3.

“CAISO” means the California ISO or the successor organization to the functions thereof.

“Capacity Attributes” means attributes of the Shown Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Shown Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Shown Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Contingent Firm RA Product” has the meaning set forth in Article 1 herein.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“CPUC Filing Guide” is the document issued annually by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the CPUC’s resource adequacy program.

“Effective Flexible Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Environmental Costs” means (i) costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, (ii) the Product’s compliance with all applicable environmental laws, rules, and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, (iii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iv) costs of permit maintenance fees and emission fees as applicable, (v) the costs of all emission reductions that have been authorized by a local air pollution control district or emissions trading credits or units pursuant to the California Health & Safety Code, market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, authorizations to emit sulfur dioxide and oxides of nitrogen by the Environmental Protection Agency, and any costs related to greenhouse gas emissions required by any applicable
environmental laws, rules, regulations, or permits to operate, and (vi) costs associated with the disposal, clean-up, decontamination or remediation, on or off site, of hazardous substances.

“Expected Contract Quantity” means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Flexible Capacity Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.
“Notification Deadline” is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“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” means RAR Attributes, Local RAR Attributes and FCR Attributes, each for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric power industry during the relevant time period in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the electric power industry in the Western United States.

“RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s RAR.

“Replacement Unit” means has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.
“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Substitute Capacity” has the meaning set forth in the Tariff for “RA Substitute Capacity”.

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B. A Unit or Shown Unit may not be a nuclear or coal-fired generating facility.³

“Unit EFC” means the lesser of the Unit’s Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means the lesser of the Unit’s Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

³ Note to draft: Parties to revise as appropriate.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☑️ RAR    ☐ Local RAR    ☑️ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: South
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable):
Flexible Capacity Category (if applicable):

Delivery period:

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

<table>
<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Flexible Capacity, if applicable

<table>
<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
</tr>
</thead>
<tbody>
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<td></td>
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<tr>
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<td></td>
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</tbody>
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### Unit 1

<table>
<thead>
<tr>
<th>Unit Specific Information</th>
<th>Panoche Energy Center (Aggregated)</th>
</tr>
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<tbody>
<tr>
<td>Physical Location</td>
<td>Firebaugh, CA</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>PNCHEG_2.PL1X4</td>
</tr>
<tr>
<td>SCID of Resource</td>
<td>PCG5</td>
</tr>
<tr>
<td>Resource Type (e.g., gas, hydro, solar, etc.)</td>
<td>Natural Gas</td>
</tr>
<tr>
<td>TAC Area (e.g., PG&amp;E, SCE)</td>
<td>PGE</td>
</tr>
<tr>
<td>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCB, San Diego-IV or Humboldt)</td>
<td>CAISO SYSTEM</td>
</tr>
<tr>
<td>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)</td>
<td>4</td>
</tr>
</tbody>
</table>

(Repeat for additional Units)

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]
### APPENDIX C

**PLANNED OUTAGE SCHEDULE**

<table>
<thead>
<tr>
<th>Unit Name</th>
<th>CAISO Resource ID *</th>
<th>Outage (MW)</th>
<th>SLIC Outage Start Date</th>
<th>SLIC Outage End Date</th>
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<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation under the WSPP Agreement confirms the transaction between Central Coast Community Energy, a California joint powers authority (“Seller”) and Silicon Valley Clean Energy, a California joint powers authority (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of November 13, 2020 (the “Effective Date”), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the “Transaction”). This Transaction is governed by the WSPP Agreement dated July 28, 2020 (the “WSPP Agreement”). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the “Agreement” and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B, and C are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction 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 pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity, including a request for Hold-Back Capacity pursuant to Article Five of this Confirmation.

(d) Seller may sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel or be a nuclear generating facility.¹ A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser’s instructions, including Purchaser’s instructions to withhold all or part of the Expected Contract Quantity from Seller’s

¹ Note to draft: Seller to revise as appropriate.
Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.2

2.2 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

2.3 Seller’s Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for each Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more replacement units of the same Resource Category and, if applicable, the Flexible Capacity Category (each such unit, a “Replacement Unit”) in an amount such that the total amount

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2 For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046
CCA WSPP Standard RA Confirmation
30 September 2020

of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the Replacement Units from which such Alternate Capacity shall be provided before the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month; and

(b) The designation of any Replacement Unit(s) by Seller shall be subject to Purchaser’s prior written approval, which shall not be unreasonably withheld.

Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3 and Purchaser has approved such Replacement Units as consistent with this Confirmation, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month. Purchaser’s approval of a Replacement Unit as to a given Showing Month shall not be construed as approval of such Replacement Unit for any subsequent Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D (“Planned Outage Schedule”) for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser’s receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser’s requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser’s Remedies for Seller’s Failure to Deliver Expected Contract Quantity

(a) If Seller fails to deliver any part of the Expected Contract Quantity as required herein for any Showing Month, Seller shall be liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word “hourly” therein.

(b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, including Environmental Costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to
reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 **Purchaser’s Re-Sale of Product**

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to direct the Seller or the Unit’s SC to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, Seller and the Unit’s SC shall comply with Purchaser’s direction and Purchaser shall retain and receive all revenues from such re-sale.

**ARTICLE 3**

**PAYMENTS**

3.1 **Payment**

Purchaser shall pay for the Product as provided in Article 9 of the WSPP Agreement and this Confirmation; except that under Section 9.4 of the WSPP Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute. Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month)
and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 **Allocation of Other Payments and Costs**

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

**ARTICLE 4**

**OTHER PURCHASER AND SELLER COVENANTS**

4.1 **CAISO Requirements**
Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, 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 Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and
(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

4.4 Market Based Rate Authority

Upon Purchaser’s written request, Seller shall, in accordance with FERC Order No. 697, submit a letter of concurrence in support of any affirmative statement by Purchaser that this contractual arrangement does not transfer “ownership or control of generation capacity” from Seller to Purchaser 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 Purchaser.

ARTICLE 5
HOLDBACK AND SUBSTITUTE CAPACITY

No later than three (3) Business Days before the relevant deadlines for the Compliance Showings applicable to that Showing Month, Purchaser may request in writing that Seller not list, or cause the Unit’s Scheduling Coordinator not to list, in the Unit’s Supply Plan a portion or all of the Contract Quantity for any portion of such Showing Month included in the Delivery Period (“Hold-Back Capacity”). Along with such request, Purchaser shall also provide updated Unit information reflecting the requested change. The updated Unit information shall be in the form of the Supply Plan. Following Purchaser’s request for Hold-Back Capacity, Purchaser may request, in writing, that Seller make the previously requested Hold-Back Capacity available for Purchaser’s use as Substitute Capacity within the respective Showing Month. Such request shall be received by Seller no later than eight (8) Business Days prior to the first day for which Purchaser seeks to use such Substitute Capacity as required by the CAISO. The portion of the Contract Quantity that is the subject of Purchaser’s request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.1 for purposes of calculating a Monthly RA Capacity Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Sections 2.2. Seller shall, or shall cause the Unit’s Scheduling Coordinator to, comply with Purchaser’s request under this Article Five.

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

“If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because
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Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

6.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement:

(a) (i) Purchaser may disclose information as necessary in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose as necessary to a Shown Unit’s SC or as necessary for Supply Plans; (iii) each Party may disclose information as necessary to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information as necessary to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser.

(b) Seller acknowledges that Purchaser is a public agency subject to the requirements of the California Public Records Act (Cal. Gov. Code section 6250 et seq.) and that Purchaser may be required to make public this Confirmation (which may be partially redacted by Purchaser) in connection with the process of seeking approval from its board of directors for the execution of this Confirmation. Seller may submit information to Purchaser that Seller considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Seller acknowledges that Purchaser may submit to Seller information that Purchaser considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Confirmation ("Requestor") pursuant to the California Public Records Act for production, inspection and/or copying of this Confirmation or any information designated by a disclosing Party as confidential, the receiving Party as soon as practical shall notify the disclosing Party that such request has been made, by telephone call, letter sent via electronic mail, and/or by overnight carrier to the address, or email address listed at the end of this Confirmation. The disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be confidential information and to prevent
release of information to the Requestor by the receiving Party. If the disclosing Party takes no such action within ten (10) days, after receiving the foregoing notice from the receiving Party, the receiving Party shall be permitted to comply with the Requestor’s demand and is not required to defend against it. Notwithstanding the foregoing, Purchaser may release confidential information without notice to or over the objection of Seller if Purchaser’s legal counsel advises Purchaser that Purchaser is required by law to release such confidential information.

6.3 **Dodd-Frank Act**


6.4 **Change in Law**

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser’s or Seller’s obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser’s Resource Adequacy Requirements (a “Change in Law”), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.5 **Governing Law**

Notwithstanding Section 24 of the WSPP Agreement, this Transaction 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.

6.6 **Collateral**

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.1 **No Recourse to Members of Seller or Purchaser**

Parties are 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 are public entities separate from its constituent members. Parties will solely be responsible for all debts, obligations
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and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Seller constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Sellers’ constituent members, in connection with this Confirmation.

6.2 **Other WSPP Agreement Changes**

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 22.1 is modified by inserting the following new text at the end thereof:

“(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party’s admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets.”

(b) Section 22.2(b) is amended by inserting “and is continuing” after “Event of Default occurs” in the first line thereof and deleting the second sentence therein.

(c) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following: “If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary.”

(d) In Section 22.3(e), delete the entire provision (including subsections) and replace it with the following: “[Intentionally omitted]”

(e) In Section 22.3(f), delete the entire provision and replace it with the following:

“If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”

(f) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of
Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(g) Section 30.1 is amended by inserting “or requested” after the word “required” in Section 30.1(4) and by adding the following at the end of the first sentence: “; or (8) to the Party’s and such Party’s affiliates’ lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential”.

(h) Subsections 34.1 and 34.2 are deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION.”

“34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”

(i) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(j) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR
BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY. THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(k) Section 37 is amended by inserting the following in the beginning of the section:
“On the date of entering into this Confirmation,”.

(l) Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:

“The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” 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) (the “Mobile-Sierra” doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm’n, 558 U.S. 165 (2010).

(ii) The Parties, for themselves and their successors and assigns, (i) agree that this “public interest” standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the “just and reasonable” standard.”

6.3 Counterparts
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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, 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.

6.4 **Entire Agreement; No Oral Agreements or Modifications**

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this 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.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

Central Coast Community Energy, a California joint powers authority

By: Tom Habashi
Name: Tom Habashi
Title: CEO

Silicon Valley Clean Energy, a California joint powers authority

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO

Approved as to form:

By: Robert M Shaw
Print: Robert M Shaw
Title: COO and General Counsel
APPENDIX A
DEFINED TERMS

“Alternate Capacity” means replacement Product which Seller has elected to provide to Purchaser in accordance with the terms of Section 2.3.

“CAISO” means the California ISO or the successor organization to the functions thereof.

“Capacity Attributes” means attributes of the Shown Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Shown Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Shown Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Contingent Firm RA Product” has the meaning set forth in Article 1 herein.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“CPUC Filing Guide” is the document issued annually by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the CPUC’s resource adequacy program.

“Effective Flexible Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Environmental Costs” means (i) costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, (ii) the Product’s compliance with all applicable environmental laws, rules, and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, (iii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iv) costs of permit maintenance fees and emission fees as applicable, (v) the costs of all emission reductions that have been authorized by a local air pollution control district or emissions trading credits or units pursuant to the California Health & Safety Code, market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, authorizations to emit sulfur dioxide and oxides of nitrogen by the Environmental Protection Agency, and any costs related to greenhouse gas emissions required by any applicable
environmental laws, rules, regulations, or permits to operate, and (vi) costs associated with the disposal, clean-up, decontamination or remediation, on or off site, of hazardous substances.

“Expected Contract Quantity” means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Flexible Capacity Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

Appendix A - 2
“Notification Deadline” is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“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” means RAR Attributes, Local RAR Attributes and FCR Attributes, each for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric power industry during the relevant time period in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the electric power industry in the Western United States.

“RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s RAR.

“Replacement Unit” means has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.
“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Substitute Capacity” has the meaning set forth in the Tariff for “RA Substitute Capacity”.

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B. A Unit or Shown Unit may not be a nuclear or coal-fired generating facility.\(^3\)

“Unit EFC” means the lesser of the Unit’s Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means the lesser of the Unit’s Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

\(^3\) Note to draft: Parties to revise as appropriate.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☑ RAR ☐ Local RAR ☑ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: South
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable):
Flexible Capacity Category (if applicable):

Delivery period:

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

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<th>Contract Price ($/kW-mo)</th>
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# Unit 1

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<tr>
<td><strong>CAISO Resource ID</strong></td>
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<td><strong>SCID of Resource</strong></td>
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<td><strong>Resource Type (e.g., gas, hydro, solar, etc.)</strong></td>
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<tr>
<td><strong>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</strong></td>
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<tr>
<td><strong>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)</strong></td>
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(Repeat for additional Units)

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]
## APPENDIX C
### PLANNED OUTAGE SCHEDULE

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<tr>
<th>Unit Name</th>
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</tr>
</tbody>
</table>
RESOURCE ADEQUACY CONFIRMATION LETTER

This confirmation letter ("Confirmation") confirms the Transaction agreed to on November 13, 2020 (the "Confirmation Date"), between NRG Power Marketing LLC ("NRG") and Silicon Valley Clean Energy Authority, a California joint powers authority ("SVCEA") by which Seller agrees to sell and deliver, and Buyer agrees to purchase and receive, the Product, and is governed by the EEI Master Power Purchase and Sale Agreement between the Parties, effective as of August 15, 2019 together with the Cover Sheet to the EEI Agreement, and any other annexes thereto (collectively, as amended, restated, supplemented, or otherwise modified from time to time, the "Master Agreement"). Capitalized terms not otherwise defined in this Confirmation or the Master Agreement are defined in the Tariff. References to Sections are references to Sections of this Confirmation unless stated to be references to Sections of the Master Agreement or a statute.

ARTICLE 1
TRANSACTION TERMS

1.1 Parties

Buyer: SVCEA

Seller: NRG

1.2 Quantity, Contract Price, etc.

Product, Delivery Period, Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B and C are incorporated into this Confirmation.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller will sell and deliver to Buyer, and Buyer will purchase and receive from Seller, the Quantity of the Product from the Shown Unit(s).

(b) Seller will deliver the Quantity by submitting to CAISO in its Supply Plan the Shown Unit and the characteristics of the Shown Unit and Product for Buyer, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller will cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller will submit, or cause the Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Buyer for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for each day of such Showing Month will equal the Quantity, including a request for Hold-Back Capacity pursuant to Article Five of this Confirmation, less any excused deductions to the Quantity.
(d) Seller may sell and deliver from a Shown Unit that meets requirements set forth in Appendix B. Seller will identify the Shown Unit(s) and Quantity by providing Buyer with the specific Unit information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Quantity for the Shown Unit in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Shown Unit by CAISO or Seller complies with Buyer’s instruction to withhold all or part of the Quantity from Seller’s Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Seller has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Quantity for any Showing Month in such amount as instructed by Buyer for the applicable Showing Month. Buyer will have received the Quantity if (i) Seller’s Supply Plan is accepted by the CAISO for the applicable Showing Month or (ii) Seller complies with Buyer’s instruction to withhold all or part of the Quantity from Seller’s Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Quantity if Buyer fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit must not have characteristics that would trigger the need for Buyer or Seller to file an advice letter or other request for authorization with the CPUC or for Buyer to make a compliance filing pursuant to California Public Utilities Code Section 380.

(h) Reductions in Unit NQC: Seller’s obligation to deliver the applicable Quantity for any Showing Month may be reduced if the Unit experiences a reduction in Unit NQC after the Confirmation Date as determined by the CAISO. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to provide the applicable Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product, and/or (ii) alternate capacity from a Shown Unit. If the Seller forgoes the option in the preceding sentence, then in such an event, the Quantity for such Unit may be reduced in a pro rata amount with all other Product sales calculated with reference to the difference in Unit NQC and the then current Unit NQC. Seller shall provide notice to Buyer within three (3) business days of becoming aware that Unit NQC has been reduced.

(i) Excused Reductions in Unit EFC: If the Product includes FCR Attributes, then Seller’s failure to deliver any of the Quantity of FCR Attributes during the Delivery Period will be excused if the Unit experiences a reduction in Unit EFC after the Confirmation Date as determined by CAISO and Seller has provided notice of such reduction to Buyer by the Notification Deadline for the applicable Showing Month. In the event of such excused reductions in Unit EFC, Seller shall convey to Buyer a revised amount of qualifying EFC.
of such Unit, to be determined by Seller, of (i) no less than the amount obtained by
calculating the Buyer’s share of such qualifying capacity on a pro rata basis but (ii) no
more than the Contract Quantity. The extent to which Seller’s failure is excused will equal
(i) the Quantity of FCR Attributes for such month multiplied by (ii) the total amount (in
MW) by which the Unit EFC was reduced since the Confirmation Date, divided by (iii) the
Unit EFC as of the Confirmation Date. If the Unit experiences such a reduction in Unit
EFC, then Seller may, but is not obligated to, provide the applicable part of the Quantity
of FCR Attributes for such day from the Shown Unit.

2.2 Buyer’s Remedies for Seller’s Failure to Deliver Quantity

(a) If Seller fails to deliver any part of the Quantity as required herein for any Showing Month, Seller is liable for damages pursuant to Section 4.1 of the Master Agreement.

(b) Seller agrees to indemnify Buyer from any penalties, fines or costs, including Environmental Costs, assessed against Buyer by the CPUC, CAISO or other Governmental Body resulting directly from Seller’s failure to deliver the Product, provided that indemnification under this Confirmation shall not exceed payments to Seller under this Confirmation for the applicable Showing Month to which any such penalties apply. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Buyer may setoff and recoup those penalties, fines or costs up to the indemnification cap against any future amounts it may owe to Seller under this Confirmation or the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit’s SC to offer, bid, or otherwise submit the Quantity of Product for each day during the Delivery Period provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive all revenues from such re-sale.

2.3 Buyer’s Re-Sale of Product

(a) Buyer may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.3(a), and provided further that Buyer shall remain liable for payment under this Confirmation, notwithstanding such resale. For any such a resale, Resource Adequacy Plan of Buyer as used herein will refer to the Resource Adequacy Plan of Subsequent Buyer. Seller will, or will cause the Unit’s SC, to follow Buyer’s instructions with respect to providing such resold Product to Subsequent Buyers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Buyers to use such resold Product in a manner consistent with Buyer’s rights under this Confirmation. Notwithstanding the foregoing, any rights granted under this paragraph do not apply to the CAISO’s Competitive Solicitation Processes framework in Section 43A.4 of the Tariff; in the event either Party intends to participate in the CAISO’s Competitive Solicitation Processes, then the Parties shall coordinate compliance with the CAISO’s requirements for such
participation. If Buyer incurs any liability to a Subsequent Buyer due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Buyer for the same amounts Seller would have owed Buyer under this Confirmation if Buyer had not resold the Product.

(b) Buyer will notify Seller in writing of any resale of Product and the Subsequent Buyer no later than two Business Days before the Notification Deadline for the Showing Month. Buyer will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

ARTICLE 3
PAYMENTS

3.1 Payment

After Seller has delivered the Quantity in accordance with Section 2.1 and issued its invoice consistent with the provisions of this Section 3.1, Buyer must pay for the Product as provided in Article Six of the Master Agreement. Seller shall issue a monthly invoice for the Product, in arrears, which shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Quantity for the Showing Month, less any portion of the Quantity that was not delivered in accordance with Section 2.1, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places) (the “Monthly RA Capacity Payment”). Buyer shall make the Monthly RA Capacity Payment by the later of (i) ten (10) days after Buyer’s receipt of Seller’s invoice and (ii) the twentieth (20th) day of the Showing Month, and if such day is not a Business Day, the next following Business Day.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Buyer must promptly report receipt of any such revenues to Seller. Buyer must pay to Seller any such amounts described in this Section 3.2(a) received by Buyer or a Subsequent Buyer. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it against any amounts owed to Buyer under the Master Agreement.

(b) Buyer is to receive and retain all revenues associated with the Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller must promptly report receipt of any such revenues to Buyer. Seller must pay to Buyer any such amounts received by Seller, or a Unit’s SC, owner, or operator. Without prejudice to its other rights, Buyer may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the Master Agreement.

(c) If CAISO designates any part of the Quantity as Capacity Procurement Mechanism Capacity, then Seller will, or will cause the Unit’s SC to, within one Business Day of the time Seller receives notification from CAISO, notify Buyer and not accept any such designation by CAISO unless and until Buyer has agreed to accept such designation.
(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER BUYER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller must schedule or cause the Unit’s SC to schedule or make available to CAISO the Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Buyer is not liable for, and Seller will indemnify and hold Buyer harmless from, the failure of Seller or the Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Buyer’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Buyer and Seller will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Buyer’s rights to the Quantity for the sole benefit of Buyer or any Subsequent Buyer. If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

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

(a) no part of the Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) the Unit qualifies under the Tariff for the Product, and the Unit and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Unit during the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;

(d) if applicable, Seller has notified either the Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Quantity of Product for the Delivery Period to Buyer; and

(e) Seller has notified or will notify the Unit’s SC that Buyer is entitled to the revenues set forth in Section 3.2(b), and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.
ARTICLE 5
HOLDBACK AND SUBSTITUTE CAPACITY

No later than three (3) Business Days before the before the relevant deadlines for the Compliance Showings applicable to that Showing Month, Buyer may request in writing that Seller not list, or cause the Unit’s Scheduling Coordinator not to list, in the Unit’s Supply Plan a portion or all of the Quantity for any portion of such Showing Month included in the Delivery Period (“Hold-Back Capacity”). Along with such request, Buyer shall also provide updated Unit information reflecting the requested change. The updated Unit information shall be in the form of the Supply Plan. Following Buyer’s request for Hold-Back Capacity, Buyer may request, in writing, that Seller make the previously requested Hold-Back Capacity available for Buyer’s use as Substitute Capacity within the respective Showing Month. Such request shall be received by Seller no later than eight (8) Business Days prior to the first day for which Buyer seeks to use such Substitute Capacity as required by the CAISO. The portion of the Quantity that is the subject of Buyer’s request for Hold-Back Capacity shall be deemed Quantity delivered consistent with Section 2.1 for purposes of calculating a Monthly RA Capacity Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Sections 2.2. Seller shall, or shall cause the Unit’s Scheduling Coordinator to, comply with Buyer’s request under this Article Five.

ARTICLE 6
ADDITIONAL MASTER AGREEMENT AMENDMENTS: GENERAL PROVISIONS

6.1 Termination Payment

For this Transaction, the following is added to the end of Section 5.3 of the Master Agreement:

“If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Buyer or a Subsequent Buyer is not able to include the applicable Quantity in a Compliance Showing due to Seller’s Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer’s estimate exceeds the actual amount of penalties, fines or costs, Buyer must promptly remit to Seller the excess amount with interest in accordance with Section 6.2 of the Master Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”

6.2 Confidentiality

Notwithstanding Section 10.11 of the Master Agreement, (i) Buyer may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit’s SC or as necessary for Supply Plans; (iii) each Party may disclose information to the independent evaluator or other administrator of any competitive solicitation process of Buyer, which in turn may disclose such information to CAISO or any Governmental Body; and (iv) Buyer may disclose information to any Subsequent Buyer.

6.3 Dodd-Frank Act

Each Party represents and warrants to the other that it is an “eligible contract participant” within the meaning of United States Commodity Exchange Act §1a(18). Without limiting Section 10.10 of the Master
Agreement, the Parties intend this Transaction to be a “customary commercial arrangement” as described in Section II.A.1 of Commodity Futures Trading Commission, Proposed Guidance, Certain Natural Gas and Electric Power Contracts, 81 Fed. Reg. 20583 at 20586 (Apr. 8, 2016) and a “Forward Capacity Transaction” within the meaning of Commodity Futures Trading Commission, Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations To Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission, 78 Fed. Reg. 19,880 (Apr. 2, 2013).

6.4 Governing Law

This Confirmation, including the provisions and requirements of the Tariff and the definition of the Product and its components, and any portion of the Master Agreement applicable to this Transaction 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.

6.5 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 page.

6.6 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement to the contrary, this Transaction may be confirmed only through a written document executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a written document executed by both Parties.

6.7 No Recourse to Members of Purchaser

Purchaser 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. Purchaser will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Seller will have no rights and shall not make any claims, take any actions or assert any remedies against any of Purchaser's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Purchaser or Purchaser's constituent members, in connection with this Confirmation.

AGREED AS OF THE CONFIRMATION DATE:

NRG Power Marketing LLC

By: ____________________________
Name: Andrew Sharer
Title: Portfolio Director - West

SiliconValley Clean Energy Authority, a California Joint Powers Authority

By: ____________________________
Name: Giff Batachandran
Title: CEO
APPENDIX A
Defined Terms

“CAISO” means the California ISO.

“Capacity Attributes” means attributes of the Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Contract Price” means the price specified in Appendix B for the Product during each month of the Delivery Period expressed in dollars per kilowatt-month ($/kW-month).

“CPUC” means the California Public Utilities Commission.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“CPUC Filing Guide” is the document issued annually by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the CPUC’s resource adequacy program.

“Delivery Period” means the period specified in Appendix B during which Seller shall deliver the Product to Buyer.

“Environmental Costs” means (i) costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, (ii) the Product’s compliance with all applicable environmental laws, rules, and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, (iii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iv) costs of permit maintenance fees and emission fees as applicable, (v) the costs of all emission reductions that have been authorized by a local air pollution control district or emissions trading credits or units pursuant to the California Health & Safety Code, market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, authorizations to emit sulfur dioxide and oxides of nitrogen by the Environmental Protection Agency, and any costs related to greenhouse gas emissions required by any applicable environmental laws, rules, regulations, or permits to operate, and (vi) costs associated with the disposal, clean-up, decontamination or remediation, on or off site, of hazardous substances.

“FCR” means the Flexible Capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.
“FCR Attributes” means, with respect to a Unit, any and all resource adequacy attributes of the Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Flexible Capacity Category” shall be as described in the annual CPUC Filing Guide as such may be modified, amended, supplemented or updated from time to time.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Notification Deadline” is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“Product” means RAR, Local RAR and FCR, for the Delivery Period, Unit, Quantity, Contract Price and other specifications contained in Appendix B.

“Quantity” means the amount of Product, expressed in megawatts, to be delivered each month during the Delivery Period as specified in Appendix B.

“RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

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

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Date.

“Subsequent Buyer” means the buyer of Product from Buyer in a re-sale of Product by Buyer.

“Substitute Capacity” has the meaning set forth in the Tariff for “RA Substitute Capacity”.

“Supply Plan” means the supply plan, or similar or successor filing, that a Scheduling Coordinator submits to the CAISO, CPUC, or other applicable governmental body in order for the Capacity Attributes to count toward Compliance Obligations.
“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B or any Shown Unit.

“Unit EFC” means Unit Effective Capacity and is the lesser of that of the Unit as set by CAISO as of the Confirmation Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means Unit Net Qualifying Capacity and is the lesser of that of the Unit as set by CAISO as of the Confirmation Date and that of the Unit on a subsequent date of determination.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product: North-System Resource Adequacy

☑️ RAR ☐ Local RAR ☑ Flexible Capacity

and all Capacity Attributes related to such Product.

Delivery Period:

Quantity and Contract Price:

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Portion of Quantity with FCR Attributes:

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Unit Specific Information

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### APPENDIX C
### NOTICE INFORMATION

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<th>Seller: NRG Power Marketing LLC</th>
<th>Buyer: Silicon Valley Clean Energy Authority</th>
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<tr>
<td><strong>All notice information for Seller will be as set forth on the Cover Sheet to the Master Agreement unless otherwise set forth below.</strong></td>
<td><strong>All notice information for Buyer will be as set forth on the Cover Sheet to the Master Agreement unless otherwise set forth below.</strong></td>
</tr>
<tr>
<td><strong>All Notices:</strong></td>
<td><strong>All Notices:</strong></td>
</tr>
<tr>
<td>Attn: Contract Administration</td>
<td>Attn: Girish Belachandran</td>
</tr>
<tr>
<td>Phone: (609) 524-4543</td>
<td>Phone: 408-721-5301</td>
</tr>
<tr>
<td>Facsimile: (609) 524-4540</td>
<td>Email: <a href="mailto:girish@svcleanenergy.org">girish@svcleanenergy.org</a></td>
</tr>
<tr>
<td><strong>Invoices:</strong></td>
<td><strong>Invoices:</strong></td>
</tr>
<tr>
<td>Attn: Accounting – Physical Power</td>
<td>Attn: Director of Finance</td>
</tr>
<tr>
<td>Phone: (609) 524-4980</td>
<td>Phone: 408-721-5301</td>
</tr>
<tr>
<td>Email: <a href="mailto:PhysicalSettlements@nrg.com">PhysicalSettlements@nrg.com</a></td>
<td><strong>Scheduling:</strong></td>
</tr>
<tr>
<td><strong>Scheduling:</strong></td>
<td>Phone: 916-221-4327</td>
</tr>
<tr>
<td>Attn: Scheduling</td>
<td>Street: 604 Sutter Street, Suite 250</td>
</tr>
<tr>
<td>Phone: (609) 524-4890</td>
<td>City: Folsom, CA Zip: 85630</td>
</tr>
<tr>
<td>Facsimile: (609) 524-4540</td>
<td>Email: <a href="mailto:eric@zglobal.biz">eric@zglobal.biz</a></td>
</tr>
<tr>
<td>E-Mail: <a href="mailto:Taylor.roye@nrg.com">Taylor.roye@nrg.com</a></td>
<td><strong>Wire Transfer:</strong></td>
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<td><strong>Wire Transfer:</strong></td>
<td><strong>Wire Transfer:</strong></td>
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<td><strong>Credit and Collections:</strong></td>
<td><strong>Credit and Collections:</strong></td>
</tr>
<tr>
<td>Attn: Risk Manager, Wholesale Credit</td>
<td>Attn: Director of Finance</td>
</tr>
<tr>
<td>Phone: (609) 524-4573</td>
<td>Email:</td>
</tr>
<tr>
<td>Facsimile: (609) 524-4779</td>
<td>Phone: 408-721-5301</td>
</tr>
<tr>
<td>E-Mail: <a href="mailto:NRGCollateral@nrg.com">NRGCollateral@nrg.com</a></td>
<td><strong>Defaults:</strong></td>
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<td><strong>Defaults:</strong></td>
<td>Additional notices of an Event of Default to:</td>
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<tr>
<td>Attn: Contract Administration</td>
<td>General Counsel</td>
</tr>
<tr>
<td><a href="mailto:ContractAdmin@nrg.com">ContractAdmin@nrg.com</a></td>
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## Confirmation of Transactions

**Purchaser:** SILICON VALLEY CLEAN ENERGY AUTHORITY  
**Seller:** MSCGI  
**Term:** [redacted]  
**Delivery Hours:** Weekdays: Monday through Friday, exclude NERC holidays, HE 0100 through 2400 (24 Hours)

---

**Date:** November 2, 2020  
**To:** SILICON VALLEY CLEAN ENERGY AUTHORITY  
333 W El Camino Real #330  
SUNNYVALE CA 94086  
**Attention:** Affirmation Team  
**Phone No.:** Please Provide  
**Fax No.:**  

**Contact:** Commodity Confirms  
**Phone:** 443-627-5650  
**Fax:** 914-750-0445  
**Email:** CommodConfNY@morganstanley.com  

**Reference No.:** E7924366 v. 1  
**Trade Date:** November 2, 2020

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This electronic communication and any attachments hereto, are intended only for use by the addresses(s) named herein and may contain legally privileged and/or confidential information, which is exempt from disclosure under applicable law. If you are not the intended recipient of this electronic communication, you are hereby notified that any examination, dissemination, disclosure, distribution, or copying of, or reliance on or use of this electronic communication, and any attachments hereto, is strictly prohibited. If you have received this electronic communication in error, please notify me immediately on the above telephone number and permanently destroy all copies of this electronic communication.

This confirmation confirms the terms of Morgan Stanley Capital Group Inc. ("MSCGI") agreement regarding the sale of firm energy (the "Transaction") to SILICON VALLEY CLEAN ENERGY AUTHORITY. The terms are as follows:

**Purchaser:** SILICON VALLEY CLEAN ENERGY AUTHORITY  
**Seller:** MSCGI  
**Term:** [redacted]  
**Delivery Hours:** Weekdays: Monday through Friday, exclude NERC holidays, HE 0100 through 2400 (24 Hours)
Weekends: Saturday through Sunday, HE 0100 through 2400 (24 Hours), including NERC holidays
Pacific Prevailing Time (PPT)

Contract Quantity: As per Appendix I

Delivery Point: NP15 EZ GEN HUB

Energy Price: [redacted]

Special Conditions: This purchase and sale of energy is Firm (LD). The parties agree to notify each other as soon as possible of any interruption or curtailment affecting this transaction.

Scheduling: All scheduling will be complete by the Business Day prior to the day of delivery. Scheduling to be completed by 12:00 p.m. Pacific Prevailing Time (PPT)

"CAISO Energy" means with respect to a Transaction, a Product under which the Seller shall sell and the Buyer shall purchase a quantity of energy equal to the hourly quantity without Ancillary Services (as defined in the Tariff) that is or will be scheduled as a Scheduling Coordinator ("SC") to SC transaction pursuant to the applicable tariff and protocol provisions of the California Independent System Operator ("CAISO") (as amended from time to time, the "Tariff") for which the only excuse for failure to deliver or receive is an "Uncontrollable Force" (as defined in the Tariff).

A CAISO "Schedule Adjustment" (defined as a schedule change implemented by the CAISO that is neither caused by or within the control of either Party) shall not constitute an Uncontrollable Force; rather if there is a CAISO Schedule Adjustment, the Party negatively impacted shall notify the other Party and the Parties shall be obligated to exercise their reasonable efforts to reach an equitable resolution that reflects as nearly as practicable, the intention of the Transaction as originally negotiated. All terms used within the definition of CAISO Energy but not defined in the Agreement shall have the meaning ascribed to them in the Tariff.

Morgan Stanley Real-Time Communications and Scheduling

Option Exercise Line: 914-225-1501
Prescheduling: 914-225-1501
Real Time (24 hour): 914-225-1500

The parties agree that this transaction is a Forward Contract within the meaning of the U.S. Commodity Exchange Act, and in reliance upon such agreement, each party represents to the other that, as of the date the transaction is entered into:

(a) It is a commercial market participant with respect to the specified commodity and is entering into the transaction in connection with its business; and

(b) It intends to make or take physical delivery of the specified commodity.
This letter is being provided pursuant to and in accordance with the EEI Master Agreement for purchase and sale of Physically settled Electricity in the US and Canada dated November 23, 2016, the ("Agreement") between SILICON VALLEY CLEAN ENERGY AUTHORITY and MSCGI, and constitutes part of and is subject to all the terms and provisions of such agreement. Terms used but not defined herein shall have the meaning ascribed to them in the Agreement.

If the recipient of the confirmation disagrees with any of the terms summarized herein, it shall promptly notify MSCGI by telephone and facsimile transmission. Please confirm that terms stated herein accurately reflect the agreement reached between SILICON VALLEY CLEAN ENERGY AUTHORITY and MSCGI by returning an executed copy of this Confirmation Letter. (Fax: 914-750-0445)

Yours Sincerely,

Parker Corbin
Authorised Signatory
Morgan Stanley Capital Group Inc.

Confirmed as of the date first written above:

SILICON VALLEY CLEAN ENERGY AUTHORITY

By: [Signature]
Name: Girish Balachandran
Title: CEO

Appendix I

<table>
<thead>
<tr>
<th>Hour</th>
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</table>
CONFIRMATION

This confirmation agreement (“Confirmation”) confirms the Transaction between TransAlta Energy Marketing (U.S.) Inc. (“Seller”) and Silicon Valley Clean Energy Authority (“Purchaser”), each individually a “Party” and together the “Parties,” dated as of November 16, 2020 (“Effective Date”) regarding the sale and purchase of electric capacity and/or electric energy under the terms and conditions set forth below.

<table>
<thead>
<tr>
<th>Transaction Number:</th>
<th>764997/765000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchaser:</td>
<td>Silicon Valley Clean Energy Authority</td>
</tr>
<tr>
<td>Seller:</td>
<td>TransAlta Energy Marketing (U.S.) Inc.</td>
</tr>
<tr>
<td>Trade Date:</td>
<td>November 16, 2020</td>
</tr>
<tr>
<td>Type of Transaction:</td>
<td>Inter-SC Trade</td>
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<tr>
<td>Term and Delivery Period:</td>
<td></td>
</tr>
<tr>
<td>Contract Quantity:</td>
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<td>Contract Volume:</td>
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<tr>
<td>Contract Price:</td>
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<tr>
<td>Delivery Point:</td>
<td></td>
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</table>

Governing Terms: This Transaction is governed by the terms and conditions of the EEI Master Agreement dated July 24, 2017, along with any schedules and amendments thereto (collectively, the “Master Agreement”), and is subject to all the terms and provisions of such agreement. The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement”. If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement.

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

Entire Agreement; No Oral Agreements Or Modifications: This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire Agreement between the
Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a written agreement executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a written agreement executed by both Parties.

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

<table>
<thead>
<tr>
<th>TRANSALTA ENERGY MARKETING (U.S.) Inc.</th>
<th>SILICON VALLEY CLEAN ENERGY AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>By: Shauna Britton</td>
<td>By: Girish Balachandran</td>
</tr>
<tr>
<td>Name: Shauna Britton</td>
<td>Name: Girish Balachandran</td>
</tr>
<tr>
<td>Title: Confirmation Coordinator</td>
<td>Title: CEO</td>
</tr>
<tr>
<td>Date: 11/17/2020</td>
<td>Date: 11/17/2020</td>
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