Margaret Abe-Koga, Chair
City of Mountain View

Liz Gibbons, Vice Chair
City of Campbell

Jon Robert Willey
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Zach Hilton
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Tina Walia
City of Saratoga

Gustav Larsson
City of Sunnyvale

Susan Ellenberg
County of Santa Clara

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, September 8, 2021
7:00 pm

Teleconference Meeting
Webinar:
https://us06web.zoom.us/j/83604827753

Telephone (Audio Only):
US: +1 669 219 2599
Webinar ID: 836 0482 7753

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 Dorothy Roberts at Dorothy.Roberts@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 Secretary Melody Vega at Melody.Vega@svcleanenergy.org prior to the meeting for assistance.

AGENDA

Call to Order

Roll Call

Report from Closed Session

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Clerk for the Authority at (408) 549-2685 x1031. 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).

SILICON VALLEY CLEAN ENERGY

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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 August 11, 2021, Board of Directors Meeting

1b) Receive July 2021 Treasurer Report

1c) Approve Amendment No. 4 to Employment Agreement for Chief Executive Officer

1d) Authorize CEO to Execute Agreement with Camus Energy for Data Analytics Platform Services

1e) SVCE 2020 Annual Power Source Disclosure Report Attestation

1f) Authorize the Chief Executive Officer to Execute an Agreement for FY21-22 with Richards, Watson & Gershon for Legal Services

1g) Authorize the Chief Executive Officer to Execute Agreement with Maher Accountancy for Accountant Services

1h) Authorize CEO to Execute Agreements with Ad-Vantage Marketing for Mailing Services and Pacific Printing for Printing Services

1i) Authorize the Chief Executive Officer to Execute Agreement with Keyes and Fox, LLP for Legal Services around Power Transactions

1j) Executive Committee Report

1k) Finance and Administration Committee Report

1l) Audit Committee Report

1m) California Community Power Report

Regular Calendar

2) CEO Report (Discussion)

3) Adopt the FY 2021-22 Recommended Operating Budget, Resolution Authorizing the Chief Executive Officer to Act as Chief Personnel Officer, and Updated Budget and Reserves Policies

svcleanenergy.org

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County of Santa Clara

4) Adoption of FY22 Strategic Focus Areas and Update on FY22 Strategic Work Plan (Presentation)

Board Member Announcements and Direction on Future Agenda Items

Adjourn

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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 (Statue 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.

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, August 11, 2021
7:00 pm

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 Abe-Koga called the meeting to order at 7:00 p.m.

Roll Call

Present:
Chair Margaret Abe-Koga, City of Mountain View
Vice Chair Liz Gibbons, City of Campbell
Director Jon Robert Willey, City of Cupertino
Alternate Director Rebeca Armendariz, City of Gilroy
Director Neysa Fligor, City of Los Altos
Director George Tyson, Town of Los Altos Hills
Director Rob Rennie, Town of Los Gatos
Director Evelyn Chua, City of Milpitas
Director Javed Ellahie, City of Monte Sereno
Alternate Director Tony Eulo, City of Morgan Hill
Director Tina Walia, City of Saratoga
Director Gustav Larsson, City of Sunnyvale
Director Susan Ellenberg, County of Santa Clara

Absent:

Board Clerk Pizano announced Gilroy Alternate Director Armendariz was not present but was expected to attend the meeting. (**Note:** Alternate Director Armendariz arrived at 7:50 p.m.)

All present Board members participated via teleconference.

Public Comment on Matters Not Listed on the Agenda

Bruce Karney commented on the recent findings from the International Panel on Climate Change (IPCC) and urged staff to increase the level of urgency in developing new clean energy supplies and sustainable programs.

No further public comments. Public comment was closed by Chair Abe-Koga. She responded briefly to Mr. Karney's comments.

Consent Calendar

Chair Abe-Koga opened public comment.

Peter Myers spoke with regard to ZEV 2030, Item 1l on the Consent Calendar. He thanked staff for bringing the item to the Board and Chair Abe-Koga for bringing the issue to her legislative body and closed his comments by urging the other members to contact him at peter@nextgeneration.org if they also wished to bring the item to their cities/towns.

No further public comments.

MOTION: Alternate Director Eulo moved and Vice Chair Gibbons seconded the motion to approve the Consent Calendar, Items 1a through 1r.

The motion was carried by verbal roll call vote with Director Armendariz absent.

1a) Approve Minutes of the June 9, 2021, Board of Directors Meeting
1b) Receive May 2021 Treasurer Report
1c) Adopt Resolution Amending SVCE Conflict of Interest Code to Amend Multiple Titles and Add Multiple Positions
1d) Appoint SVCE Interim Executive Assistant Melody Vega to Serve as Interim SVCE Board Secretary
1e) Adopt Resolution Updating SVCE's Annual NEM Cash-Out Terms
1f) Adopt Resolution to Authorize the Chief Executive Officer to Execute an Amended Legal Services Agreement with Chapman & Cutler for Preparation of a Preliminary Offering Statement for the Proposed Prepay Transaction
1g) Approve and Authorize 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 $540,000 for a Three-Year Term
1h) Approve Amendment to SVCE Handbook Recognizing Juneteenth as an SVCE Observed Holiday
1i) Authorize the Chief Executive Officer to Execute Amendment to Agreement for FY20-21 with Richards, Watson & Gershon for Legal Services
1j) Receive Quarterly Decarbonization and Grid Innovation Programs Update for Q2 2021
1k) Adopt Resolution Moving Reinstatement of SVCE's Delinquent Payment Policy to November 2021
1l) Adopt Resolution Endorsing the ZEV2030 Initiative
1m) Approve Finance and Administration Committee Membership of Five Members
1n) Executive Committee Report
1o) Finance and Administration Committee Report
1p) Audit Committee Report
1q) Legislative and Regulatory Responses to Industry Transition for 2021 Ad Hoc Committee Report
1r) California Community Power Report

Regular Calendar

2) CEO Report (Discussion)

CEO Balachandran introduced three new team members; Justin Zagunis, newly promoted to Manager of Decarbonization and Grid Innovation; Melody Vega, Interim Board Secretary; and Dorothy Roberts, Interim SVCE Board Clerk. He announced that Board Clerk Andrea Pizano would be taking time away for the birth of her baby and wished her well, adding she would be back by the end of the year or early next year.

CEO Balachandran asked to postpone getting the detailed write-up of the Strategic Plan updated due to the current staffing shortage. He stated the Executive Committee and the Board have already discussed

and provided direction for the Plan focus areas, and an update would be coming to the Board in October. He then responded to Bruce Karney's earlier comments regarding the IPCC Report. He stated staff is fully aware of the urgency of the issues and is committed to bringing the issue back to the board in the next couple of months to establish a plan that provides the most impact. He added that with a positive budget forecast, SVCE will be able to back up its mission by deploying sufficient staff resources to address critical and immediate issues. In the December/January timeframe, the Board will hear staff recommendations as to how to deploy resources to get on a faster track.

Melicia Charles, Director of Regulatory and Legislative Policy, briefed the board on the recent Emergency Proclamation requiring energy agencies to ensure energy supply meets demand in extreme events; new procurement mandates; and new reliability rules.

Chair Abe-Koga asked for public comment; there being none, she closed public comment. Chair Abe-Koga then echoed congratulations and best wishes to employees introduced earlier.

3) Adopt Resolution Authorizing the Chief Executive Officer to Execute the Power Supply Contract with the California Community Choice Financing Authority and Related Supporting Agreements (Action)

Amrit Singh, CFO and Director of Administrative Services, introduced Mike Berwanger of PFM Financial Advisors, serving as Financial Advisor on the transaction, and Doug Bird, with Chapman and Cutler, who would be serving as Prepay and Disclosure Counsel.

Administrative Services Director Singh summarized the transaction and previous committee reviews, the benefits and risks of Prepay, and the transaction size and discount. He explained the main agreements of the transaction were the Power Supply Contract, a Letter of Agreement regarding PPA Assignments, the Form of Limited Assignment Agreement, the Project Administration Agreement, and the Energy Supply/PPA Custodial Agreement.

Administrative Director Singh then provided a summary of the Transaction Documents that would be executed by CCCFA, and finally the Preliminary Offering Statement, used to market the bonds, which he stated provided the best transaction and key terms, including background information on SVCE. He concluded by providing information on the next steps, the Board approval, seeking CCCFA approval at its August 26 meeting, and targeting bond issuance for September.

Note: Alternate Director Armendariz arrived at 7:50 p.m.

Chair Abe-Koga called on Board members with questions. Detailed questions and responses ensued.

Chair Abe-Koga called for public comment; there being none, she brought the issue back to the Board for discussion and action.

Director Rennie, Chair of the Finance Committee, said the Finance Committee discussed the item extensively and recommended approval.

MOTION: Director Rennie MOVED, and Director Ellahie SECONDED the adoption of **Resolution 2021-20** authorizing the execution and delivery of a Power Supply Contract and certain other documents including the Letter of Agreement, the Form of Limited Assignment, the Project Administration Agreement, and the Energy Supply PPA Custodial Agreement, in connection with the issuance of the California Community Choice Financing Authority Clean Energy Project Revenue Bonds, Series 2021B, and certain other actions in connection therewith.

Under discussion, Director Wiley asked if it would be advantageous to have periodic check-ins to assure that the Board was satisfied with results. CEO Balachandran stated he would take that as an action item to the Finance Committee and bring it back to the Board for discussion.

The motion was carried unanimously by a Roll Call vote with all members present.

4) Provide Feedback on the FY 2021-22 Proposed Operating Budget, Resolution Authorizing the Chief Executive Officer to Act as Chief Personnel Officer, and Updated Budget and Reserves Policies (Discussion)

CFO and Director of Administrative Services Amrit Singh introduced the Budget Preview for the next fiscal year. He reviewed the timeline, the proposed budget with a positive revenue outlook, the drivers of the higher power supply cost and operating expenses, new proposed staff positions, the designation of the CEO as Chief Personnel Officer, the outlook for healthy Financial Reserves, and the needed and proposed revisions to Reserve and Budget Policies. He then summarized proposed changes and stated any changes by Directors would be incorporated in the proposed budget, which would be brought back to the Board on September 8 for adoption.

Questions from Directors ensued with regard to the use of ten percent of the budgeted cost of power purchases, Director Fligor asked if the 10 percent were exceeded, would staff come back to the board if the reserves would drop below required minimum reserve amount. Mr. Singh stated it was in the policy as he remembered; he would double check. Further questions ensued with regard to the CEO Chief Personnel Officer and salary ranges, the Federal Infrastructure Bill, the current vacancies and proposed staffing, the anticipated increased revenue, and capping the utilization of reserves by ten percent of power supply cost to $30 million.

Chair Abe-Koga called for public comment.

Bruce Karney urged the Board to focus on developing and deploying programs rapidly and to avoid the urge to be financially conservative, and to develop programs to incentivize residents to utilize smart energy resources.

There was no further public comment; the Public Comment period was closed.

Director comments ensued including the support of the Reserve Policy, the need to move forward with making policies in local jurisdictions and the need to be focused, innovative and flexible.

Chair Abe-Koga thanked members for their comments. She stated with growth there is a need to quickly respond to the changes and adjustments to move forward in a financially strong manner. She added she preferred to maintain a constant discount rate and target and direct funds to programs that provide the highest returns.

CEO Balachandran thanked the Board and summarized takeaways: to seek approval if the reserves drop below required minimum reserve amount, clarify the reserve levels and not utilize it if it gets us below already approved minimum reserve level and put a cap on that authority. He stated he understood the Board wanted to be bold and work from a position of strength and to be prepared to act. He stated staff would reach out to Mr. Karney and other community advocates, and it was understood that Board members wished to accelerate the carbon reduction.

Board Member Announcements and Direction on Future Agenda Items

Vice Chair Campbell announced Don Bray would be giving a presentation to the Business Journal Panel; she also announced there would be a CPUC meeting August 26th on utility discounts and affordability. She provided the information to Board Clerk Pizano to forward to the Board.

Closed Session

Chair Abe-Koga stated the Closed Session would be for Public Employee Performance Evaluation and noted that Alternate Board member Tony Eulo would not be participating in the Closed Session. Title: Chief Executive Officer. She stated she did not anticipate any reportable action.

Public Comment on Closed Session
There were no public comments regarding the Closed Session item.

Convene to Closed Session

The Board convened to Closed Session at 9:10 p.m. in order to discuss the following:

Public Employee Performance Evaluation
Title: Chief Executive Officer

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

Report from Closed Session

The board returned from closed session with no reportable action.

Adjourn

Chair Abe-Koga adjourned the meeting at 10:31 p.m.

ATTEST:

_____
Dorothy Roberts, Interim Board Clerk

TREASURER REPORT

Fiscal Year to Date
As of July 31, 2021

(Preliminary & Unaudited)

Issue Date: September 8, 2021

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

Financial Highlights for the month of July 2021:

> SVCE operations resulted in a change in net position for the month of $1.4 million and year-to-date change in net position of negative $16.2 million.

> Retail GWh sales for the month landed 4% below budget.

> YTD operating margin of negative $0.2 million or negative .1% is below budget expectations of a 9% operating margin for the fiscal year to date.

> Power Supply costs are 5% above budget for the fiscal year year to date.

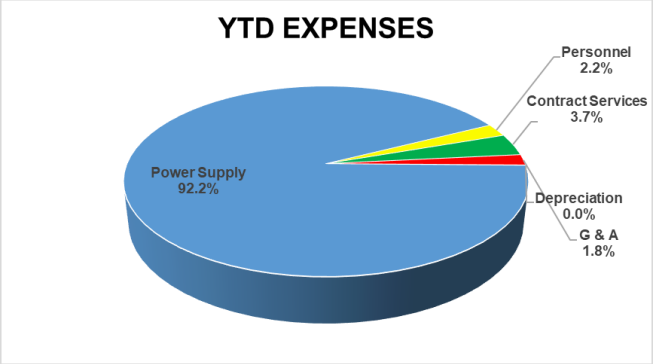
> SVCE is investing ~94.3% of available funds generating year-to-date investment income of $0.24 million

Change in Net Position	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Actual	9,773	2,637	2,405	(3,100)	(2,913)	(8,974)	(2,195)	(10,179)	(5,068)	1,368	-	-	(16,245)	(6,025)

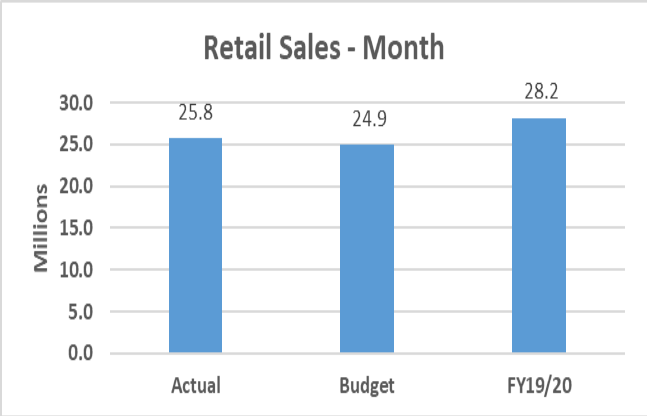
Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Energy & REC's	12,559	13,126	15,668	14,654	12,198	18,816	11,866	17,536	21,448	15,867			153,738	
Wholesale Sales	(116)	(33)	(19)	(49)	(46)	(53)	-	(142)	(211)	-			(668)	
Capacity	2,271	1,853	1,934	2,274	2,245	2,206	2,259	2,994	3,669	4,704			26,408	
CAISO Charges	548	704	357	823	(30)	(303)	497	2	727	955			4,281	
NEM Expense	(60)	(103)	(178)	(133)	(65)	35	(9)	262	(58)	404			94	
Charge/Credit (IST/Net Rev)	1,932	(471)	(287)	936	1,237	1,568	934	1,095	1,072	1,088			9,104	
Net Power Costs	17,134	15,075	17,475	18,505	15,539	22,269	15,547	21,747	26,647	23,018			192,957	235,237

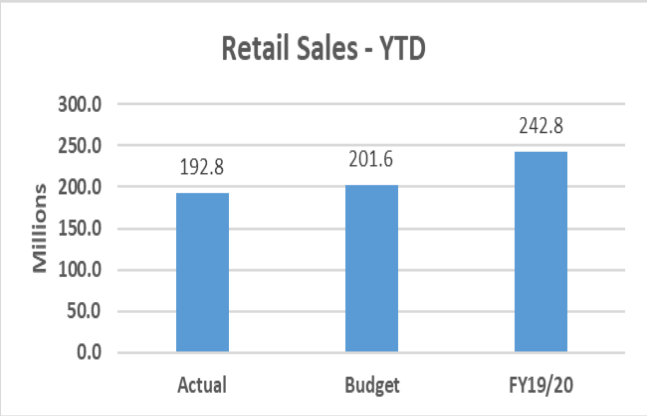
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Capital Expenditures	182	-	-	49	0	50	-	-	-	-			280	400
Energy Programs	110	69	149	301	92	132	114	2,400	72	152			3,591	5,270

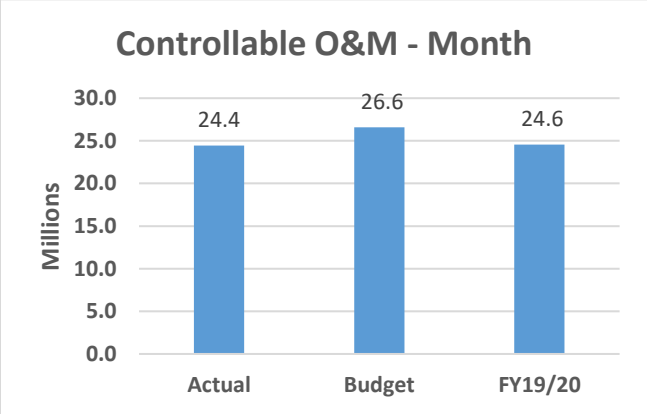
Load Statistics - GWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Retail Sales Actual	325	305	331	325	289	310	288	296	311	331			3,110	
Retail Sales Budget	325	305	331	320	286	302	279	291	314	345	355	330	3,781	3,781

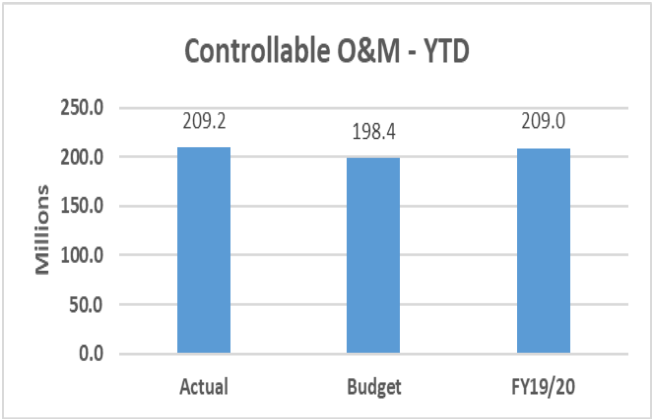


Other Statistics and Ratios	
Working Capital	$167,563,107
Current Ratio	6.3
Operating Margin	-0.1%
Expense Coverage Days	219
Expense Coverage Days w/ LOC	269
Long-Term Debt	$0
Total Accounts	273,901
Opt-Out Accounts (Month)	59
Opt-Out Accounts (FYTD)	572
Opt-Up Accounts (Month)	3
Opt-Up Accounts (FYTD)	(335)









SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION
As of July 31, 2021

ASSETS		
Current Assets		
Cash & Cash Equivalents	$	151,030,319
Accounts Receivable, net of allowance		26,819,153
Accrued Revenue		15,693,002
Other Receivables		193,825
Prepaid Expenses		4,588,469
Deposits		684,422
Restricted cash		4,000,000
Total Current Assets		**203,009,190**
Noncurrent assets		
Capital assets, net of depreciation		321,623
Deposits		45,330
Total Noncurrent Assets		**366,953**
Total Assets		**203,376,143**
LIABILITIES		
Current Liabilities		
Accounts Payable		968,905
Accrued Cost of Electricity		29,162,994
Accrued Payroll & Benefits		568,462
Other accrued liabilities		20,000
User Taxes and Energy Surcharges due to other gov'ts		725,722
Total Current Liabilities		**31,446,083**
Noncurrent Liabilities		
Supplier security deposits		7,031,250
Total noncurrent liabilities		7,031,250
Total Liabilities		38,477,333
NET POSITION		
Net investment in capital assets		321,623
Restricted for security collateral		4,000,000
Unrestricted (deficit)		160,577,187
Total Net Position	**$**	**164,898,810**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2020 through July 31, 2021

OPERATING REVENUES	
Electricity Sales, Net	$191,888,279
GreenPrime electricity premium	841,840
Other income	71,563
TOTAL OPERATING REVENUES	**192,801,682**
OPERATING EXPENSES	
Cost of Electricity	192,956,791
Contract services	7,758,781
Staff compensation and benefits	4,600,401
General & Administrative	3,838,606
Depreciation	77,765
TOTAL OPERATING EXPENSES	**209,232,344**
OPERATING INCOME(LOSS)	**(16,430,662)**
NONOPERATING REVENUES (EXPENSES)	
Interest Income	239,093
Financing costs	(53,009)
TOTAL NONOPERATING REVENUES (EXPENSES)	**186,084**
CHANGE IN NET POSITION	(16,244,578)
Net Position at beginning of period	181,143,388
Net Position at end of period	**$164,898,810**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2020 through July 31, 2021

CASH FLOWS FROM OPERATING ACTIVITIES	
Receipts from customers	$202,917,113
Other operating receipts	13,170,739
Payments to suppliers for electricity	(204,645,812)
Payments for other goods and services	(12,131,022)
Payments for staff compensation and benefits	(4,447,671)
Tax and surcharge payments to other governments	(4,153,669)
Net cash provided (used) by operating activities	**(9,290,322)**
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES	
Finance costs paid	(53,009)
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES	
Acquisition of capital assets	(290,178)
CASH FLOWS FROM INVESTING ACTIVITIES	
Interest income received	239,093
Net change in cash and cash equivalents	(9,394,416)
Cash and cash equivalents at beginning of year	164,424,735
Cash and cash equivalents at end of period	**$155,030,319**
Reconciliation to the Statement of Net Position	
Cash and cash equivalents (unrestricted)	$151,030,319
Restricted cash	4,000,000
Cash and cash equivalents	**$155,030,319**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)
October 1, 2020 through July 31, 2021

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

Operating Income (loss)	$ (16,430,662)
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	77,765
(Increase) decrease in net accounts receivable	4,639,160
(Increase) decrease in energy settlements receivable	107,318
(Increase) decrease in other receivables	14,175
(Increase) decrease in accrued revenue	1,824,222
(Increase) decrease in prepaid expenses	(1,997,923)
(Increase) decrease in current deposits	3,647,796
Increase (decrease) in accounts payable	(354,251)
Increase (decrease) in accrued payroll & benefits	152,730
Increase (decrease) in accrued cost of electricity	(7,915,210)
Increase (decrease) in accrued liabilities	10,000
Increase (decrease) in Energy settlements payable	333,367
Increase (decrease) in taxes and surcharges due to other governments	(430,059)
Increase (decrease) in supplier security deposits	7,031,250
Net cash provided (used) by operating activities	**$ (9,290,322)**

SILICON VALLEY CLEAN ENERGY AUTHORITY
BUDGETARY COMPARISON SCHEDULE
October 1, 2020 through July 31, 2021

	FYTD	FYTD	Variance		FY 2020-21	FY 2020-21
OPERATING REVENUES	**Actual**	**Amended Budget**	**$**	**%**	**Amended Budget**	**Remaining Budge**
Energy Sales	$191,888,279	$200,748,727	-$8,860,448	-4%	$250,747,000	$58,858,721
Green Prime Premium	841,840	816,360	25,480	3%	981,000	139,160
TOTAL OPERATING REVENUES	**192,730,119**	**201,565,087**	**(8,834,968)**	**-4%**	**251,728,000**	**58,997,881**
ENERGY EXPENSES						
Power Supply	192,956,791	184,098,280	8,858,511	4.8%	235,237,000	42,280,209
Operating Margin	**(226,672)**	**17,466,807**	**(17,693,479)**	**-101%**	**16,491,000**	
OPERATING EXPENSES						
Data Management	2,645,366	2,715,218	(69,852)	-3%	3,258,000	612,634
PG&E Fees	975,474	1,121,753	(146,279)	-13%	1,350,000	374,526
Salaries & Benefits	4,600,401	5,206,898	(606,497)	-12%	6,248,000	1,647,599
Professional Services	1,912,651	3,215,667	(1,303,016)	-41%	3,800,000	1,887,349
Marketing & Promotions	483,817	684,356	(200,539)	-29%	820,000	336,183
Notifications	112,706	56,500	56,206	99%	100,000	(12,706)
Lease	373,893	416,667	(42,774)	-10%	500,000	126,107
General & Administrative	1,100,176	857,500	242,676	28%	1,070,000	(30,176)
TOTAL OPERATING EXPENSES	**12,204,484**	**14,274,559**	**(2,070,075)**	**-15%**	**17,146,000**	**4,941,516**
OPERATING INCOME/(LOSS)	**(12,431,156)**	**3,192,248**	**(15,623,404)**	**-489%**	**(655,000)**	**11,776,156**
NON-OPERATING REVENUES						
Other Income	25750	41,667	(15,917)	-38%	50,000	24,250
Investment Income	239,093	267,681	(28,588)	-11%	321,000	81,907
Grant Income	45,813	57,266	(11,453)	-20%	68,000	22,187
TOTAL NON-OPERATING REVENUES	**310,656**	**366,614**	**(55,958)**	**-15%**	**439,000**	**128,344**
NON-OPERATING EXPENSES						
Financing	53,009	130,167	(77,158)	-59%	139,000	85,991
CAPITAL EXPENDITURES, TRANSFERS, & OTHER						
Capital Outlay	280,213	366,667	(86,454)	-24%	400,000	119,787
Transfer to Programs Fund	5,270,000	5,270,000	-	0%	5,270,000	-
TOTAL OTHER USES	**5,550,213**	**5,636,667**	**(86,454)**	**-2%**	**5,670,000**	**119,787**
NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE	**-$17,723,722**	**-$2,207,972**	**-$15,515,750**	**703%**	**-$6,025,000**	

SILICON VALLEY CLEAN ENERGY AUTHORITY
PROGRAM FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2020 through July 31, 2021

	AMENDED BUDGET	ACTUAL	AMENDED BUDGET REMAINING	ACTUAL/ AMENDED BUDGET
REVENUE & OTHER SOURCES:				
Transfer from Operating Fund	$ 5,270,000	$ 5,270,000	$ -	100%
EXPENDITURES & OTHER USES:				
Program expenditures	6,475,000	3,591,121	2,883,879	55.5%
Net increase (decrease) in fund balance	**$ (1,205,000)**	**$1,678,879**		
Fund balance at beginning of period		4,437,570		
Fund balance at end of period		$6,116,449		

CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2020 through July 31, 2021

	AMENDED BUDGET	ACTUAL	AMENDED BUDGET REMAINING	ACTUAL/ AMENDED BUDGET
REVENUE & OTHER SOURCES:				
Transfer from Operating Fund *	$ -	$ -	$ -	
EXPENDITURES & OTHER USES:				
Program expenditures *	2,170,000	402,183	1,767,817	18.5%
Net increase (decrease) in fund balance	**$ (2,170,000)**	**(402,183)**		
Fund balance at beginning of period		8,422,537		
Fund balance at end of period		$8,020,354		

SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING FUND
BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2020 through July 31, 2021

Net Increase (decrease) in available fund balance per budgetary comparison schedule	$ (17,723,722)
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position	
Subtract depreciation expense	(77,765)
Subract program expense not in operating budget	(3,591,121)
Subract CRCR expense not in operating budget	(402,183)
Add back transfer to Program fund	5,270,000
Add back capital asset acquisition	280,213
Change in Net Position	**(16,244,578)**

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2020 through July 31, 2021

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	$ 28,096,823	$ 18,883,887	$ 21,158,486	$ 16,807,750	$ 13,786,525	$ 14,983,153	$ 14,553,343	$ 15,160,605	$ 22,772,904	$ 25,684,803			$ 191,888,279
Green electricity premium	115,513	88,930	99,269	103,321	66,706	85,001	63,080	36,482	79,934	103,604			841,840
Other Income			12,500			45,813	10,000	1,000	1,250	1,000			71,563
Total operating revenues	28,212,336	18,972,817	21,270,255	16,911,071	13,853,231	15,113,967	14,626,423	15,198,087	22,854,088	25,789,407			192,801,682
OPERATING EXPENSES													
Cost of electricity	17,134,450	15,075,488	17,475,125	18,505,400	15,538,726	22,269,507	15,546,879	21,747,146	26,646,508	23,017,562			192,956,791
Staff compensation and benefits	515,431	500,561	443,961	469,232	433,328	466,011	424,125	456,160	447,442	444,150			4,600,401
Data manager	263,699	263,235	263,906	263,445	263,518	265,009	265,848	265,258	265,804	265,644			2,645,366
Service fees - PG&E	96,883	101,260	97,487	96,880	96,839	96,973	96,890	97,280	100,000	94,982			975,474
Consultants and other professional fees	316,457	286,315	435,745	549,859	345,961	444,200	353,423	523,510	333,287	549,184			4,137,941
General and administration	142,834	131,876	170,271	146,750	100,557	557,971	144,701	2,247,025	138,061	58,560			3,838,606
Depreciation	6,737	6,891	6,557	7,065	7,065	8,843	8,795	8,681	8,626	8,505			77,765
Total operating expenses	18,476,491	16,365,626	18,893,052	20,038,631	16,785,994	24,108,514	16,840,661	25,345,060	27,939,728	24,438,587			209,232,344
Operating income (loss)	9,735,845	2,607,191	2,377,203	(3,127,560)	(2,932,763)	(8,994,547)	(2,214,238)	(10,146,973)	(5,085,640)	1,350,820			(16,430,662)
NONOPERATING REVENUES (EXPENSES)													
Interest income	36,768	30,271	29,178	27,507	19,293	20,999	19,641	20,211	18,115	17,110			239,093
Financing costs	-	-	(985)	(185)	-	-	-	(51,839)	-	-			(53,009)
Total nonoperating revenues (expenses)	36,768	30,271	28,193	27,322	19,293	20,999	19,641	(31,628)	18,115	17,110			186,084
CHANGE IN NET POSITION	**$ 9,772,613**	**$ 2,637,462**	**$ 2,405,396**	**$ (3,100,238)**	**$ (2,913,470)**	**$ (8,973,548)**	**$ (2,194,597)**	**$ (10,178,601)**	**$ (5,067,525)**	**$ 1,367,930**			**$ (16,244,578)**

SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2020 through July 31, 2021

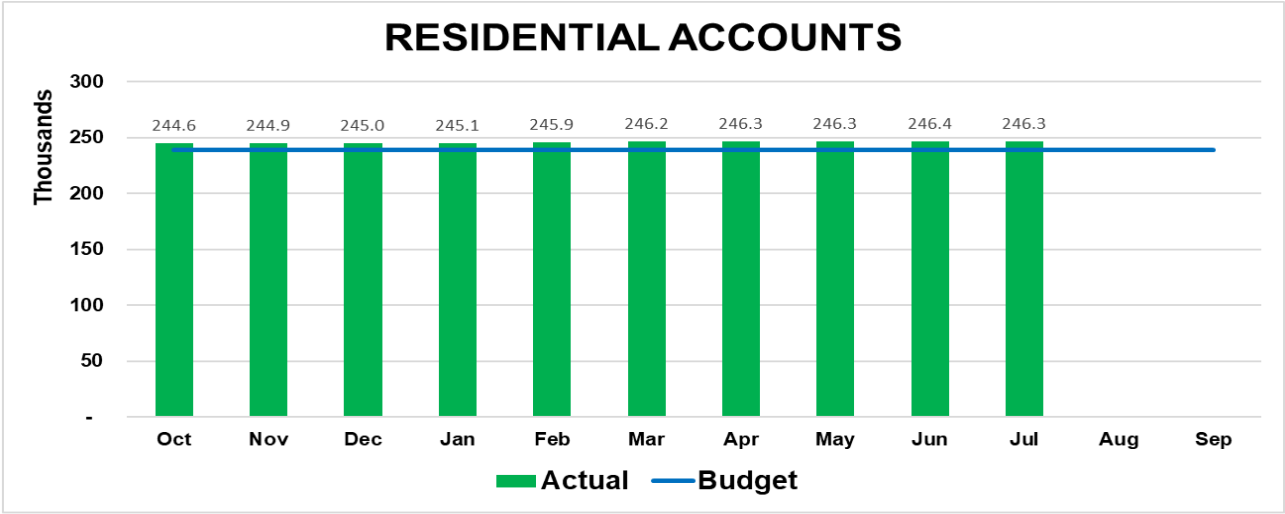
Return on Investments	**Oct**	**Nov**	**Dec**	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**YTD Total**
Money Market	$36,768	$30,271	$29,178	$27,507	$19,293	$20,999	$19,641	$20,211	$18,115	$17,110	$0	$0	**$239,093**
Portfolio Invested													
*Average daily portfolio available to invest**	153,022,170	156,551,866	169,439,956	174,590,999	175,717,184	174,082,517	170,111,239	166,125,235	152,006,424	142,343,598			
Average daily portfolio invested	144,362,137	144,437,356	160,267,489	161,586,880	165,502,382	164,820,497	159,130,720	158,535,283	144,153,810	134,262,364			
% of average daily portfolio invested	94.3%	92.3%	94.6%	92.6%	94.2%	94.7%	93.5%	95.4%	94.8%	94.3%			

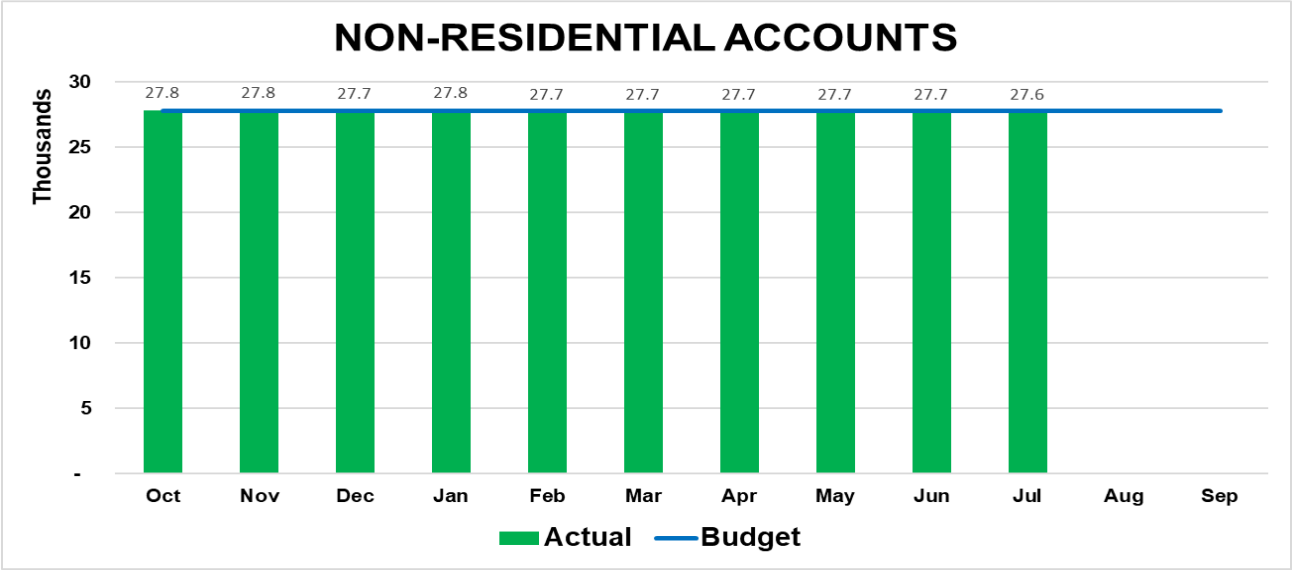
Detail of Portfolio

	Opening Rate	**July Rate**	**Carrying Value**	**Interest Earned**
Money Market - River City Bank	1.26%	0.15%	$133,169,336	$17,105

* Note: Balance available to invest does not include lockbox or debt service reserve funds.

CUSTOMER ACCOUNTS

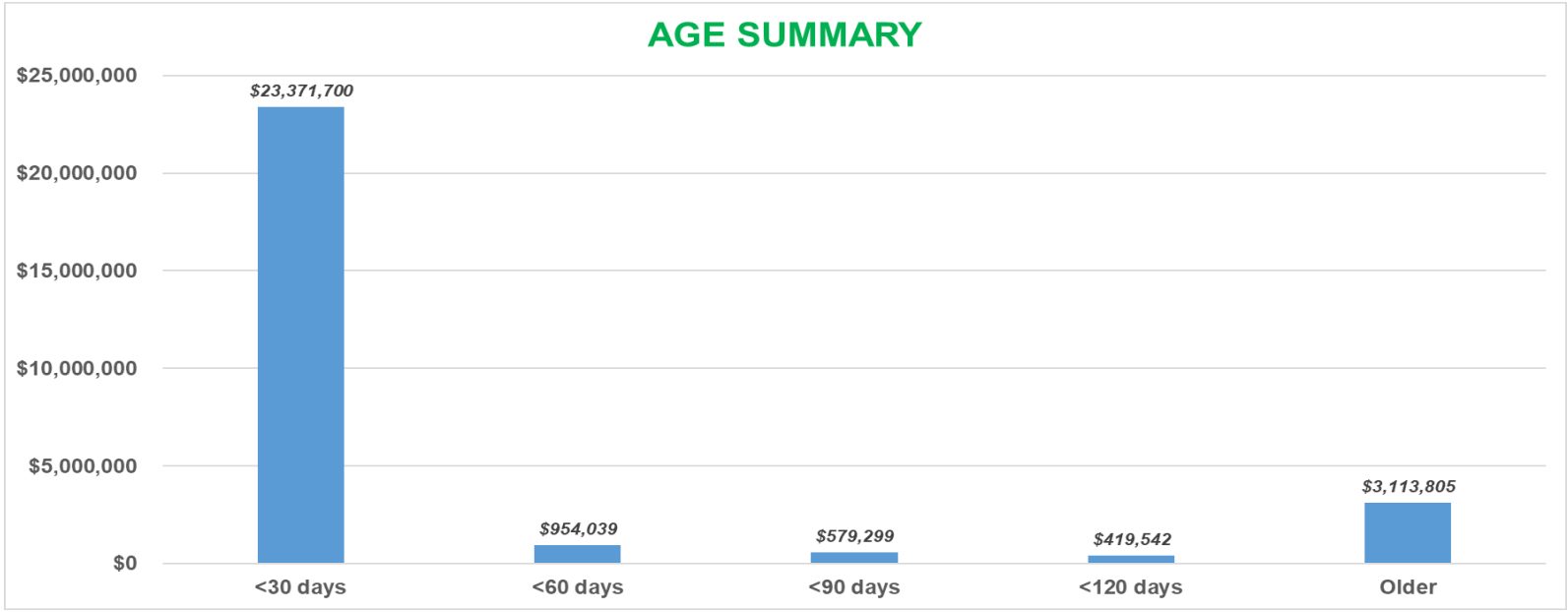




SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT

	October	November	December	January	February	March	April	May	June	July	August	September
0 to 30 days	81.5%	79.8%	75.4%	75.9%	74.2%	69.7%	70.8%	70.2%	74.5%	82.2%		
31 to 60 days	7.2%	6.7%	10.0%	7.1%	6.6%	7.7%	5.8%	6.1%	5.8%	3.4%		
61 to 90 days	3.3%	3.6%	3.8%	4.0%	3.9%	5.3%	4.9%	3.6%	2.8%	2.0%		
91 to 120 days	2.0%	2.1%	2.7%	2.8%	3.2%	3.0%	3.3%	3.1%	2.3%	1.5%		
Over 120 days	6.0%	7.7%	8.1%	10.2%	12.2%	14.4%	15.2%	16.9%	14.6%	10.9%		

Accounts Receivable Days
41 Days
$28,438,385
TOTAL DUE
Bad Debt % (*Budget*)
1%



SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1c

Item 1c:	**Approve Amendment No. 4 to Employment Agreement for Chief Executive Officer**
To:	Silicon Valley Clean Energy Board of Directors
From:	Greg Stepanicich, General Counsel
Date:	9/8/2021

RECOMMENDATION

The CEO Employment Agreement Ad Hoc Committee recommends approving Amendment No. 4 to the Employment Agreement for Chief Executive Officer ("Agreement").

BACKGROUND

Girish Balachandran was hired as the Chief Executive Officer ("CEO") on February 19, 2018 pursuant to the Agreement. In 2018, 2019 and 2020, the Board approved Amendment Nos. 1, 2 and 3 to the Agreement providing for salary increases, changing the term of the Agreement and amending other provisions relating to the CEO evaluation process and certain Benefits. The 2021 performance evaluation of the CEO has been completed and a salary increase is being proposed along with an extension of the term of the Agreement for two years.

ANALYSIS & DISCUSSION

Amendment No. 4 to the Agreement makes the following changes:

- Extends the term by two years from October 1, 2021 to September 30, 2023.
- Increases the annual salary from $351,000 to $384,000.
- Provides that travel, food and lodging will not be reimbursed to the CEO between his primary residence in Oceanside and the SVCE office.
- Provides for a reopener on salary/benefits and travel reimbursement in the second year of the extended term of the Agreement. Based on a satisfactory performance evaluation in 2022, the Board may consider salary/benefit increases and the reimbursement of some or all travel expenses between Oceanside and SVCE's office for the period from October 1, 2022 to September 30, 2023. Any increase in total compensation for such period of time will be set between the median and highest amount shown on a salary survey to be conducted of comparable agencies. For the purposes of this study, comparable agencies are 3CE, EBCE, MCE and PCE.

ATTACHMENT

1. Amendment No. 4 to Employment Agreement for Chief Executive Officer

AMENDMENT NO. 4 TO EMPLOYMENT AGREEMENT FOR CHIEF EXECUTIVE OFFICER

The Employment Agreement, dated December 13, 2017, between the Silicon Valley Clean Energy Authority (SVCEA or Employer) and Girish Balachandran, an individual, (Employee) as amended by Amendment Nos. 1, 2 and 3 is further amended by this Amendment No. 4, effective October 4, 2021.

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

B. In 2018, 2019 and 2020, the Board of Directors approved Amendment Nos. 1, 2 and 3 to the Agreement providing for salary increases, changing the term of the Agreement and amending other provisions relating to the CEO evaluation process and certain benefits.

C. The parties desire to further amend the Agreement with this Amendment No. 4 to provide for a two-year term, a salary increase, and a reopener for the second year of the Agreement.

D. In entering into this Amendment No. 4, SVCEA acknowledges that Employee has moved his primary residence to Oceanside California.

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

1. Section 4, titled "Term" is amended as follows:

   Term. Unless earlier terminated as provided in this Agreement, the term of this Agreement shall commence on October 1, 2021 and end on September 30, 2023. If notice of non-renewal is not given by either PARTY three months prior to the termination date, this Agreement shall renew for successive one-year terms, from October 1 to September 30 of succeeding years.

2. Section 5, titled "Salary" is amended to read in full as follows:

   Salary. Effective October 4, 2021, SVCEA shall pay Employee a base salary of $384,000 per year, prorated and paid on SVCEA's normal paydays, subject to legally permissible or required deductions. Employee's salary is compensation for all hours worked and for all services under this Agreement. Employee shall be exempt from overtime pay provisions of California law (if any) and federal law. Employee's salary may be adjusted periodically to reflect cost of living increases and merit increases.

3. Section 8, titled "Expenses" is amended to add the following sentence to the end of the section as follows:

Travel, food and lodging expenses will not be reimbursed to Employee between his primary residence in Oceanside California and SVCEA's office.

4. Section 12, titled "Miscellaneous Provisions" is renumbered as Section 13 and the new Section 12, titled Reopener" shall read as follows:

Reopener. At the time of the annual review of Employee's performance by SVCEA's Board of Directors in 2022, the Board may consider for the period from October 1, 2022 to September 30, 2023 salary and benefit increases and the reimbursement of some or all travel expenses from or to Oceanside to or from SVCEA's office based on a satisfactory performance review. Any increase in total compensation for such period of time will be set between the median and highest amount shown on a salary survey to be conducted of comparable agencies. For the purposes of this study, comparable agencies are 3CE, EBCEA, MCE and PCEA.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 4.

Silicon Valley Clean Energy Authority

_____

Chair, Board of Directors

DATE: _____

ATTEST:

_____
Secretary/Clerk

Employee

_____

Girish Balachandran

DATE: _____

APPROVED AS TO FORM:

_____
Gregory W. Stepanicich
General Counsel

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1d

Item 1d:	**Authorize CEO to Execute Agreement with Camus Energy for Data Analytics Platform Services**
From:	Girish Balachandran, CEO
Prepared by:	Rebecca Fang, Data Analyst
Date:	9/8/2021

RECOMMENDATION

Staff recommends that the Board authorize the CEO to execute the attached agreement with non-substantive changes approved by the CEO and subject to final review and approval by the General Counsel with a cost not to exceed amount of $488,000 with Camus Energy, to develop and maintain a data analytics platform (DAISY 2.0).

BACKGROUND

In September 2019, Camus Energy was selected through an informal bid process to carry out a current state assessment of distributed energy resource (DER) and electrification penetration in SVCE territory. The agreement was executed in November 2019 for a not-to-exceed (NTE) amount of $50,000. As part of this work, Camus worked with staff to develop DAISY 1.0, SVCE's cloud-based data warehouse hosted on the Google Cloud Platform (GCP). Staff utilized DAISY 1.0 to clean, store, integrate, export, analyze, and visualize SVCE's demand-side data.

The agreement with Camus was amended in December 2020 to extend the agreement through September 2021 and increase the NTE to $99,799, for the continued maintenance and enhancement of DAISY 1.0.

In December 2020, staff issued an RFI seeking information on data analytics platform services to expand DAISY 1.0 into a more robust platform to support SVCE's data warehousing, data analytics, and reporting needs (DAISY 2.0). Staff leveraged the RFI responses to inform the scope of an RFP to seek data analytics platform services to build and maintain DAISY 2.0.

Staff issued the RFP on March 9, 2021, which closed on April 9, 2021. The RFP scope was structured into 3 tasks: 1) cloud data platform deployment, 2) tools deployment, and 3) ongoing services. The RFP garnered a strong response, with 21 proposals submitted. Staff carried out a rigorous evaluation process over multiple months, which included two rounds of interviews between May 3 and May 13, 2021. The primary evaluation criteria were relevant experience, proposed approach, cost for value, contract exceptions, and cybersecurity. The proposal submitted by Camus Energy was selected as the top finalist. SVCE negotiated an agreement with Camus Energy to build and maintain DAISY 2.0 over a period of 3 years.

Camus Energy is a local organization, founded in 2019 and based in San Francisco, CA. Camus Energy is building an open-source software platform to provide grid operators and load serving entities with advanced situational awareness, insight, and control. Leveraging pioneering work at Google, SpaceX, NREL, and Uber, Camus Energy brings expertise in distributed software systems, cloud computing, real-time analytics, solar power systems, and high-reliability computing. Camus Energy's current customers include several distribution utilities, as well as SVCE.

ANALYSIS & DISCUSSION

DAISY 1.0 (Current State)

DAISY 1.0 has ingested and integrated key datasets such as historical energy consumption, distributed energy resource adoption, and other demand-side data. In addition, systems have been developed to facilitate daily data transfers from SVCE's meter data manager, Calpine. Staff has leveraged DAISY 1.0 for various ad hoc and strategic analyses, including: equity analyses, revenue modeling, and targeted marketing.

A number of essential data workflows are carried out outside of DAISY 1.0. Prior to ingestion into DAISY 1.0, dataset cleaning is carried out using Python, and geocoding and spatial analyses are carried out using ArcGIS Pro. In addition, data exported from DAISY 1.0 are analyzed and visualized using Python, R, and Excel.

DAISY 2.0 (Future State)

In early 2021, Staff began to scope DAISY 2.0, a more robust version of DAISY 1.0 that will support SVCE's data warehousing, data analytics, and reporting needs, including the data workflows outlined above. DAISY 2.0 will serve as a central, secure repository of data with proper ETL (Extract, Transform, Load) systems in place, and will better enable efficient, high-impact analyses and reporting via integrated applications and tools. Broadly speaking, Staff will leverage DAISY 2.0 to derive four levels of insight and value from its data.

- Descriptive – What is the current state?
- Diagnostic – How did we achieve the current state?
- Predictive – What will happen?
- Prescriptive – What should be done?

To achieve this, DAISY 2.0 is envisioned as a platform that will retain existing DAISY 1.0 functionalities and incorporate additional functionality, as well as applications and tools to address specific use cases. DAISY 2.0 will be able to accommodate user types that span a range of experience and functions, allowing for more streamlined data access among across SVCE departments.

Examples of use cases that will be addressed in DAISY 2.0 include: weather normalization, address standardization, geocoding, and public-facing dashboards. DAISY 2.0 will also include the integration of additional datasets such as weather data, program data, and Power Resources data, which will unlock additional strategic analyses. In addition, future applications can be integrated into DAISY 2.0 that address use cases such as load forecasting, precision program design and targeting, load shape analysis and disaggregation, and customer segmentation.

Staff Proposal

Staff issued an RFI, followed by an RFP, for data analytics platform services to develop DAISY 2.0. Based on responses to the RFI and RFP, staff recommends contracting with Camus Energy for data analytics platform services via the attached draft contract agreement (Attachment 1). This will enable staff to access centralized, secure, and reliable data while enabling data-driven decision-making across the organization.

STRATEGIC PLAN

The proposal supports SVCE's updated 2020-2021 Strategic Plan Goal 19, which is to "enable data-driven decision-making across the organization", by building and maintaining a centralized, secure data repository that allows Staff to efficiently extract insights from large and disparate datasets.

ALTERNATIVE

An alternative option would be to take up the development and maintenance of DAISY 2.0 in-house, including the development of tools and applications. This would require significant staff time and require expertise not currently on the team and would likely lead to delays in the DAISY 2.0 development timeline.

FISCAL IMPACT

The proposed agreement has a not-to-exceed amount of $488,000 for a 3-year contract term. The cost for year 1 of the agreement is included in the FY22 budget request. Appropriations of funds for subsequent years of the agreement will be requested in upcoming budgets.

ATTACHMENTS

1. Draft agreement with Camus Energy for Data Analytics Platform Services

MASTER AGREEMENT

SOFTWARE AS A SERVICE

This agreement ("Agreement") is entered into and is effective as of September 9, 2021 ("Effective Date"), by and between Silicon Valley Clean Energy, an independent public agency located at _____, California 9____ ("SVCE") and Camus Energy, Inc.**,** a Delaware corporation located at 1333 Minna Street, San Francisco, CA 94103 ("Service Provider").

RECITALS

WHEREAS, SVCE requires third-party hosted "software as a service" services, as further described herein, with respect to certain of its information technology needs;

WHEREAS, SVCE requested a proposal from Service Provider for such Services;

WHEREAS, Service Provider has experience and expertise in the business of providing the Services;

WHEREAS, Service Provider submitted a proposal to SVCE to perform such Services on behalf of SVCE;

WHEREAS, based on Service Provider's superior knowledge and experience relating to such Services, SVCE has selected Service Provider to provide and manage the Services;

WHEREAS, Service Provider wishes to perform the Services and acknowledges that the successful performance of the Services and the security and availability of SVCE's data are critical to the operation of SVCE's business; and,

WHEREAS, Service Provider has agreed to provide the Services to SVCE, all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and representations set forth in this Agreement, the parties hereby agree as follows:

1. Term. This Agreement is legally binding as of the Effective Date and shall continue until terminated as provided for herein. Unless this Agreement is terminated earlier in accordance with the terms set forth herein, the term (the "Initial Term") shall commence on the Effective Date and continue for three (3) years. Following the Initial Term and unless otherwise terminated as provided for in this Agreement, this Agreement may be renewed for up to three (3), successive one (1) year terms (each, a "Renewal Term") upon mutual written agreement of the parties.

2. Not to Exceed Amount. SVCE shall be responsible for and shall pay to Service Provider the fees as further described in Exhibit A, subject to the terms and conditions contained in this Agreement, including, but not limited to, Section 10 Fees; Billing, below. The total amount payable to Service Provider under this Agreement shall not exceed four hundred eighty-eight thousand ($488,000).

3. The Services. This Agreement sets forth the terms and conditions under which Service Provider agrees to license to SVCE certain hosted software and provide all other services necessary for productive use of such software including customization / integration, user identification and password change management, data import / export, monitoring, technical support, maintenance, training, backup and recovery, and change management (collectively, the "Services") as further set forth in Exhibit "A" attached hereto.

3.1 Authorized Users. Unless otherwise limited herein, Service Provider grants SVCE a renewable, irrevocable except as explicitly set forth in this Agreement, nonexclusive, royalty-free, and worldwide right and license for any SVCE employee, contractor, or agent, or any other individual or entity authorized by SVCE, (each, an "Authorized User") to access and use the Services for the purposes set out in this Agreement. Other than any limitations otherwise described herein, Authorized Users will have no other limitations on their access to or use of the Services.

3.2 Acknowledgement of License Grant. For the purposes of 11 U.S.C. § 365(n), the parties acknowledge and agree that this Agreement constitutes a grant of license to use intellectual property in software form, to SVCE by Service Provider.

3.3 Changes in Number of Authorized Users. SVCE is entitled to increase or decrease the initial number of Authorized Users ("Minimum Commitment"), on an as-requested basis; provided, however, that SVCE shall maintain the Minimum Commitment unless the parties otherwise agree to adjust the Minimum Commitment. Should SVCE elect to change the number of Authorized Users, Service Provider shall reduce or increase Authorized Users specified in Exhibit A and adjust the prospective Services Fees accordingly no later than five (5) business days from SVCE's written request.

3.4 Control and Location of Services. The method and means of providing the Services shall be under the exclusive control, management, and supervision of Service Provider, giving due consideration to the requests of SVCE. Cloud based storage shall not be utilized without the SVCE's prior, written consent. Any and all permitted cloud storage shall be in compliance with ISO/IEC 27001 - 27017, as applicable, or successor standards thereto. Except as otherwise expressly set forth in Exhibit A, the Services (including all data storage), shall be provided solely from within the continental United States and on computing and data storage devices residing therein, and all such locations shall be disclosed to SVCE annually and within thirty (30) days of the effective date of this Agreement.

3.4.1 Subcontractors. Service Provider shall not enter into any subcontracts for the performance of the Services, or assign or transfer any of its rights or obligations under this Agreement, without SVCE's prior written consent and any attempt to do so shall be void and without further effect and shall be a material breach of this Agreement. Service Provider's use of subcontractors shall not relieve Service Provider of any of its duties or obligations under this Agreement.

3.5 Storage. The Services shall include the applicable allocation of base data storage as described in Exhibit A, if any. Service Provider shall immediately notify SVCE when SVCE has reached eighty percent (80%) of SVCE's then-current data storage maximum. Within five (5) calendar days of SVCE's request, Service Provider shall make additional data storage available to SVCE at the rates described in Exhibit A.

3.6 Development and Test Environments. In addition to production use of the Services, SVCE is entitled to one development and one test environment for use by Authorized Users at no additional charge. Such non-production environments shall have the same data storage and processing capacities as the production environment. Service Provider shall cooperate with SVCE's requests in managing the non-production environments such as refreshing SVCE Data upon request.

3.7 Documentation. The documentation for the Services ("Documentation") will accurately and completely describe the functions and features of the Services, including all subsequent revisions thereto. The Documentation shall be understandable by a typical end user and shall provide Authorized Users with sufficient instruction such that an Authorized User can become self-reliant with respect to access and use of the Services. SVCE shall have the right to make any number of additional copies of the Documentation at no additional charge.

3.8 Changes in Functionality. During the term of this Agreement, Service Provider shall not reduce or eliminate functionality in the Services. Where Service Provider has reduced or eliminated functionality in the Services, SVCE, at SVCE's sole election and in SVCE's sole determination,

shall: (a) have, in addition to any other rights and remedies under this Agreement or at law, the right to immediately terminate this Agreement and be entitled to a return of any prepaid fees; or, (b) determine the value of the reduced or eliminated functionality and Service Provider will immediately adjust the Services Fees accordingly on a prospective basis. Where Service Provider has introduced like functionality in other services, SVCE shall have an additional license and subscription right to use and access the new services, at no additional charge, with the same rights, obligations, and limitations as for the Services. Where Service Provider increases functionality in the Services, such functionality shall be provided to SVCE without any increase in the Services Fees.

3.9 No Effect of Click-Through Terms and Conditions. Where an Authorized User is required to "click through" or otherwise accept or made subject to any online terms and conditions in accessing or using the Services, such terms and conditions are not binding and shall have no force or effect as to the Services or this Agreement.

3.10 Modification of the Services. SVCE's Director of Information Technology shall be authorized to waive, in writing, any of the Service Provider's obligations with respect to the Services, where deemed to be in SVCE's best interests, provided that no such modification shall result in any increase in the amount of the Services Fees.

3.11 Compliance with All Laws. Service Provider 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. Service Provider shall, at all times, observe and comply with all such laws and regulations, including, but not limited to the Americans with Disabilities Act. SVCE, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the Service Provider to comply with this paragraph.

4. Service Levels.

4.1 Service Levels; Time is of the Essence. For the term of this Agreement, Service Provider shall provide the Services, force majeure events excepted, during the applicable Service Periods and in accordance with the applicable Service Level Standards, each as described in Exhibit A hereto. Time is of the essence in the performance of the Services.

4.2 Service Level Reporting. On a monthly basis, in arrears and no later than the fifteenth (15th) calendar day of the subsequent month following the reporting month, Service Provider shall make available reports to SVCE describing the performance of the Services and of Service Provider as compared to the Service Level Standards; provided, however, that a SVCE Satisfaction Service Level Survey shall be conducted by Service Provider each year on the anniversary of the Effective Date and the results shall be reported to SVCE by Service Provider no later than the fifteenth (15th) calendar day of the subsequent month following such anniversary date. The reports shall be in a form agreed-to by SVCE, and, in no case, shall contain less than the following information: (a) actual performance compared to the Service Level Standard; (b) the cause or basis for not meeting the Service Level Standard; (c) the specific remedial actions Service Provider has undertaken or will undertake to ensure that the Service Level Standard will be subsequently achieved; and, (d) any Performance Credit due to SVCE. Service Provider and SVCE will meet as often as shall be reasonably requested by SVCE, but no less than monthly, to review the performance of Service Provider as it relates to the Service Levels. Where Service Provider fails to make available a report for a Service Level in the applicable timeframe, the Service Level shall be deemed to be completely failed for the purposes of calculating a Performance Credit. Service Provider shall, without charge, make SVCE's historical Service Level reports available to SVCE upon request.

4.3 Failure to Meet Service Level Standards. In the event Service Provider does not meet a Service Level Standard, Service Provider shall: (a) owe to SVCE any applicable Performance Credit, as liquidated damages and not as a penalty; and, (b) use its best efforts to ensure that any unmet Service

Level Standard is subsequently met. Notwithstanding the foregoing, Service Provider will use its best efforts to minimize the impact or duration of any outage, interruption, or degradation of Service. In no case shall SVCE be required to notify Service Provider that a Performance Credit is due as a condition of payment of the same.

4.3.1 Termination for Material and Repeated Failures. SVCE shall have, in addition to any other rights and remedies under this Agreement or at law, the right to immediately terminate this Agreement, and be entitled to a return of any prepaid fees where Service Provider fails to meet any Service Level Standard: (a) to such an extent that the SVCE's ability, as solely determined by SVCE, to use the Services is materially disrupted, force majeure events excepted; or, (b) for four (4) months out of any twelve (12) month period.

4.4 Audit of Service Levels. No more than quarterly, SVCE or SVCE's agent shall have the right to audit Service Provider's books, records, and measurement and auditing tools to verify Service Level Standard achievement and to determine correct payment of any Performance Credit. Where it is determined that any Performance Credit was due to SVCE but not paid, Service Provider shall immediately owe to SVCE the applicable Performance Credit.

5. Support; Maintenance; Additional Services.

5.1 Technical Support. Service Provider shall provide the Technical Support as described in Exhibit A. The Services Fees shall be inclusive of the fees for the Technical Support.

5.2 Maintenance. Service Provider shall provide bug fixes, corrections, modifications, enhancements, upgrades, and new releases to the Services to ensure: (a) the functionality of the Services, as described in the Documentation, is available to Authorized Users; (b) the functionality of the Services in accordance with the representations and warranties set forth herein, including but not limited to, the Services conforming in all material respects to the specifications, functions, descriptions, standards, and criteria set forth in Exhibit A and the Documentation; (c) the Service Level Standards can be achieved; and, (d) the Services work with the then-current version and the three prior versions of Internet Explorer, Mozilla Firefox, and Google Chrome Internet browsers. The Services Fees shall be inclusive of the fees for maintenance.

5.2.1 Required Notice of Maintenance. Unless as otherwise agreed to by SVCE on a case-by-case basis, Service Provider shall provide no less than thirty (30) calendar day's prior written notice to SVCE of all non-emergency maintenance to be performed on the Services, such written notice including a detailed description of all maintenance to be performed. For emergency maintenance, Service Provider shall provide as much prior notice as commercially practicable to SVCE and shall provide a detailed description of all maintenance performed no greater than one (1) calendar day following the implementation of the emergency maintenance.

5.2.2 Acceptance of Non-Emergency Maintenance. Unless as otherwise agreed to by SVCE on a case-by-case basis, for non-emergency maintenance, SVCE shall have a ten (10) business day period to test any maintenance changes prior to Service Provider introducing such maintenance changes into production (the "Maintenance Acceptance Period"). In the event that SVCE rejects, for good cause, any maintenance changes during the Maintenance Acceptance Period, Service Provider shall not introduce such rejected maintenance changes into production. At the end of the Maintenance Acceptance Period, if SVCE has not rejected the maintenance changes, the maintenance changes shall be deemed to be accepted by SVCE and Service Provider shall be entitled to introduce the maintenance changes into production.

5.3 Customization / Integration Services. Service Provider shall provide the Customization / Integration Services, if any, described in Exhibit A. The Services Fees shall be inclusive of the fees for the Customization / Integration Services.

5.4 Training Services. Service Provider shall provide the Training Services, if any, described in Exhibit A. The Services Fees shall be inclusive of the fees for the Training Services.

6. Audit Rights of Service Provider. Service Provider shall have no right to conduct an on-premises audit of SVCE's compliance with the use of the Services. No more than once annually, Service Provider shall have the right to request from SVCE its certification of compliance with the permitted number of Authorized Users. Where the actual number of users exceeds the permitted number of Authorized Users, SVCE, at SVCE's sole election shall, within thirty (30) business days: (a) reduce the actual number of users so as to be in compliance with the permitted number of Authorized Users in which case no additional Services Fees shall be due to Service Provider; or, (b) acquire the appropriate number of Authorized Users' licenses at the rate specified in Exhibit A so as to be in compliance with the permitted number of Authorized Users.

7. Change Control Procedure. SVCE may, upon written notice, request changes to the scope of the Services under Exhibit A. If SVCE requests an increase in the scope, SVCE shall notify Service Provider, and, not more than five (5) business days (or other mutually agreed upon period) after receiving the request, Service Provider shall notify SVCE whether or not the change has an associated cost impact. If SVCE approves, SVCE shall issue a change order, which will be executed by the Service Provider. SVCE shall have the right to decrease the scope, and the associated fees will be reduced accordingly.

8. Termination; Renewals.

8.1 Termination for Convenience. Without limiting the right of a party to terminate this Agreement as provided for in this Agreement, SVCE may terminate this Agreement for convenience upon not less than thirty (30) days prior written notice to the Service Provider.

8.2 Termination for Cause. Without limiting the right of a party to immediately terminate this Agreement for cause as provided for in this Agreement, if either party materially breaches any of its duties or obligations hereunder and such breach is not cured, or the breaching party is not diligently pursuing a cure to the non-breaching party's sole satisfaction, within thirty (30) calendar days after written notice of the breach, the non-breaching party may terminate this Agreement for cause as of a date specified in such notice.

8.3 Payments upon Termination. Upon the termination of this Agreement, SVCE shall pay to Service Provider all undisputed amounts due and payable hereunder, if any, and Service Provider shall pay to SVCE all amounts due and payable hereunder, such as Performance Credits and prepaid fees, if any.

8.4 Return of SVCE Data. Upon the termination of this Agreement, Service Provider shall, within one (1) business day following the termination of this Agreement, provide SVCE, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Service Provider), with a final extract of the SVCE Data in the format specified by SVCE, and make such extract available to SVCE for electronic retrieval for a period of thirty (30 days). Further, Service Provider shall certify to SVCE the destruction of any SVCE Data within the possession or control of Service Provider, in accordance with Section 13.5, but such destruction shall occur only after the SVCE Data has been returned to SVCE. This Section shall survive the termination of this Agreement.

8.5 Renewals. Should the Services continue beyond the Initial Term, the Services Fees for the Renewal Term may be increased no more than three percent (3%) on an annualized per-user basis.

9. Transition Services. For a period of up to three (3) months (the "Transition Services Period"), Service Provider will provide to SVCE and/or to the service provider selected by SVCE ("Successor Service Provider") assistance reasonably requested by SVCE to effect the orderly transition of the Services, in whole or in part, to SVCE or to Successor Service Provider ("Transition Services") prior to or following the termination of this Agreement, in whole or in part. The Transition Services may include: (a) developing a plan for the orderly transition of the terminated Services from Service Provider to SVCE or Successor Service Provider; (b) if required, transferring the SVCE Data to Successor Service Provider; (c) using commercially reasonable efforts to assist SVCE in acquiring any necessary rights to legally and physically access and use any third-party technologies and documentation then being used by Service Provider in connection with the Services; (d) using commercially reasonable efforts to make available to SVCE, pursuant to mutually agreeable terms and conditions, any third-party services then being used by Service Provider in connection with the Services; and, (e) such other activities upon which the parties may agree. All applicable terms and conditions of this Agreement shall apply to the Transition Services. This Section shall survive the termination of this Agreement. For the avoidance of doubt, Service Provider shall be compensated for such Transition Services for the duration of the Transition Services Period on a time and materials basis, as further described in Exhibit A, unless an alternative fee is mutually agreed upon by the Parties, or such Transition Services are provided without charge as set forth in this Agreement.

10. Fees; Billing. Any sum due Service Provider for the Services for which payment is not otherwise specified shall be due and payable thirty (30) business days after receipt by SVCE of an invoice from Service Provider.

10.1 Billing Procedures. Service Provider shall bill to SVCE the sums due pursuant to Exhibit A by Service Provider's invoice, which shall contain: (a) SVCE's purchase order number, if any, and Service Provider's invoice number; (b) description of Services for which an amount is due; (c) the fees or portion thereof that are due; (d); taxes, if any; (e); any Performance Credits or other credits; and, (f) total amount due. Service Provider shall forward invoices in electronic format to the email address of the designated SVCE program manager and invoices@svcleanenergy.org.

10.2 Taxes. Service Provider represents and warrants that it is an independent contractor for purposes of federal, state, and local taxes. Service Provider agrees that SVCE is not responsible to collect or withhold any such taxes, including income tax withholding and social security contributions, for Service Provider. Any and all taxes, interest, or penalties, including any federal, state, or local withholding or employment taxes, imposed, assessed, or levied as a result of this Agreement shall be paid or withheld by Service Provider.

10.3 Credits. Any amounts due to SVCE, such as a Performance Credit, from Service Provider may be applied by SVCE, at the sole election of SVCE, against any current or future fees due to Service Provider. Any such amounts that are not so applied by SVCE shall be paid to SVCE by Service Provider within thirty (30) calendar days following SVCE's request. This Section shall survive the termination of this Agreement.

10.4 Non-binding Terms. Any terms and conditions included in a Service Provider invoice shall be deemed to be solely for the convenience of the Service Provider, and no such term or condition shall be binding upon the SVCE.

10.5 Auditable Records. Service Provider shall maintain accurate records of all fees billable to, and payments made by, SVCE in a format that will permit audit by SVCE for a period of no less than three (3) years from when a fee was incurred or a payment was made. The foregoing obligation of Service Provider shall survive the termination of this Agreement. For the term of this Agreement, upon SVCE's written request, Service Provider shall provide SVCE with a copy of its annual American Institute of Certified Public Accountants Service Organization Control (SOC) 1 type 2 report and SOC 2 type 2 report (for all Trust Services Principles) once such certification(s) has/have been obtained.

10.6 Billing Reviews by Third-Parties. For purposes of determining the competitiveness and appropriateness of fees charged to SVCE by Service Provider, SVCE is entitled to disclose to a

third-party this Agreement, and any other data pertaining to fees paid or payable by SVCE to Service Provider.

10.7 No Suspension of Services. Service Provider shall not suspend any part of the Services where: (a) SVCE is reasonably disputing any amount due to Service Provider; or, (b) any unpaid but undisputed amount due to Service Provider is less than ninety (90) business days in arrears.

11. Representations and Warranties.

11.1 Mutual. SVCE and Service Provider represent and warrant that:

11.1.1 it is a public entity or business duly incorporated, validly existing, and in good standing under the laws of its state of incorporation;

11.1.2 it has all requisite corporate power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement;

11.1.3 the execution, delivery, and performance of this Agreement has been duly authorized by it and this Agreement constitutes the legal, valid, and binding agreement of it and is enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganizations, moratoriums, and similar laws affecting creditors' rights generally and by general equitable principles;

11.1.4 it shall comply with all applicable federal, state, local, or other laws and regulations applicable to the performance by it of its obligations under this Agreement and shall obtain all applicable permits and licenses required of it in connection with its obligations under this Agreement; and,

11.1.5 there is no outstanding litigation, arbitrated matter or other dispute to which it is a party which, if decided unfavorably to it, would reasonably be expected to have a potential or actual material adverse effect on its ability to fulfill its obligations under this Agreement.

11.2 By Service Provider. Service Provider represents and warrants that:

11.2.1 it is in the business of providing the Services;

11.2.2 the Services are fit for the ordinary purposes for which they will be used;

11.2.3 it is possessed of superior knowledge with respect to the Services;

11.2.4 it acknowledges that SVCE is relying on its representation of its experience and expert knowledge, and that any substantial misrepresentation may result in damage to SVCE;

11.2.5 it knows the particular purpose for which the Services are required by SVCE;

11.2.6 it is the lawful licensee or owner of the Services (excluding any SVCE Data therein) and has all the necessary rights in the Services to grant the use of the Services to SVCE;

11.2.7 the Services and any other work performed by Service Provider hereunder shall not infringe upon any United States or foreign copyright, patent, trade secret, or other proprietary right, or misappropriate any trade secret, of any third-party, and that it has neither assigned nor otherwise entered into an agreement by which it purports to assign

or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Agreement;

11.2.8 it shall disclose any third-party (which shall, for purposes of this Agreement, be deemed a subcontractor) whose intellectual property is incorporated into the Services or who is necessary for the performance of the Services and it shall maintain in-force written agreements with such third-party, if any, for the term of this Agreement;

11.2.9 it has the expertise to perform the Services in a competent, workmanlike, and professional manner and in accordance with the highest professional standards;

11.2.10 it will use its best efforts to ensure that no computer viruses, worms, malware, or similar items (collectively, a "Virus") are introduced into SVCE's computing and network environment by the Services, and that, where it transfers a Virus to SVCE through the Services, it shall reimburse SVCE the actual cost incurred by SVCE to remove or recover from the Virus, including the costs of persons employed by SVCE to perform such services;

11.2.11 the Services are free of any mechanism which may disable the Services and Service Provider warrants that no loss of SVCE Data will result from such items if present in the Services;

11.2.12 in the case of SVCE's reasonable dispute of any Service Provider invoice, it shall not withhold the performance of Services, including, without limitation, access and use of the Services, Technical Support, Maintenance, and extract of SVCE Data; and,

11.2.13 the Services will conform in all material respects to the specifications, functions, descriptions, standards, and criteria set forth in Exhibit A and the Documentation.

12. SVCE Data.

12.1 Ownership. SVCE's data ("SVCE Data," which shall also be known and treated by Service Provider as Confidential Information) shall include: (a) SVCE's data collected, accessed, used, processed, stored, or generated as the result of the SVCE's use of the Services; and, (b) personally identifiable information ("PII") collected, used, processed, stored, or generated as the result of the use of the Services, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements listed herein. Except where subject to a third party's intellectual property rights, all SVCE Data is and shall remain the sole and exclusive property of SVCE and all right, title, and interest in the same belongs to SVCE. This Section shall survive the termination of this Agreement.

12.2 Service Provider Use of SVCE Data. Service Provider is provided a limited license to access SVCE Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display SVCE Data only to the extent necessary in the providing of the Services. Service Provider shall: (a) keep and maintain SVCE Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose SVCE Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Agreement, and applicable law; (c) allow access to SVCE Data only to those employees of Service Provider who are directly involved with and responsible for providing the Services; and, (d) not use, sell, rent, transfer, distribute, or otherwise disclose or make available SVCE Data for Service Provider's own purposes or for the benefit of anyone other

than SVCE without SVCE's prior written consent. This Section shall survive the termination of this Agreement.

12.3 Access to, and Extraction of SVCE Data. SVCE shall have full and complete access to, and ability to download, its SVCE Data 24 hours per day, 7 days per week, except during authorized periods of maintenance by Service Provider. Further, Service Provider shall, within one (1) business day of SVCE's request, provide SVCE, without charge and without any conditions or contingencies whatsoever (including, but not limited to, the payment of any fees due to Service Provider), an extract of the SVCE Data in the format specified by SVCE. In the event SVCE gives Service Provider written notice of a "litigation hold", then as to all data identified in such notice, Service Provider shall, at no additional cost to SVCE, isolate and preserve all such data pending receipt of further direction from the SVCE.

12.4 Backup and Recovery of SVCE Data. As a part of the Services, Service Provider is responsible for maintaining a backup of SVCE Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted. Unless otherwise described in Exhibit A, Service Provider shall maintain a contemporaneous backup of SVCE Data that can be recovered within two (2) hours at any point in time. Additionally, Service Provider shall store a backup of SVCE Data in an off-site (but within the continental United States) "hardened" facility no less than daily, maintaining the security of SVCE Data, the security requirements of which are further described herein. Any backups of SVCE Data shall not be considered in calculating storage used by SVCE.

12.5 Loss or Unauthorized Access to Data. In the event of any act, error or omission, negligence, misconduct, or breach that permits any unauthorized access to, or that compromises or is suspected to compromise the security, confidentiality, or integrity of SVCE Data or the physical, technical, administrative, or organizational safeguards put in place by Service Provider that relate to the protection of the security, confidentiality, or integrity of SVCE Data, Service Provider shall, as applicable: (a) notify SVCE as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with SVCE in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by SVCE; (c) in the case of PII, at SVCE's sole election, (i) notify the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or, (ii) reimburse SVCE for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting SVCE's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless SVCE for any and all Claims (as defined herein), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from SVCE in connection with the occurrence; (g) be responsible for recreating lost SVCE Data in the manner and on the schedule set by SVCE without charge to SVCE; and, (h) provide to SVCE a detailed plan within ten (10) calendar days of the occurrence describing the measures Service Provider will undertake to prevent a future occurrence. Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Service Provider's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Service Provider has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Service Provider. This Section shall survive the termination of this Agreement.

13. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section shall survive the termination of this Agreement.

13.1 Meaning of Confidential Information. For the purposes of this Agreement, the term "Confidential Information" shall mean all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. Except for electric and gas usage information provided to Service Provider pursuant to this Agreement, the term "Confidential Information" does not include any information or documentation that was: (a) already in the possession of the receiving party without an obligation of confidentiality; (b) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (c) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (d) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Agreement, in all cases and for all matters, SVCE Data shall be deemed to be Confidential Information.

13.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement, or as required by law. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential.

13.3 Cooperation to Prevent Disclosure of Confidential Information. Each party shall use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party shall advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person. It is understood that SVCE is subject to the California Public Records Act (Gov. Code § 6250 *et seq*.). If a request under the California Public Records Act is made to view Service Provider's Confidential Information, SVCE shall notify Service Provider of the request and the date that such records will be released to the requester unless Service Provider obtains a court order enjoining that disclosure. If Service Provider fails to obtain a court order enjoining that disclosure, SVCE will release the requested information on the date specified.

13.4 Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of SVCE, at the sole election of SVCE, the immediate termination, without liability to SVCE, of this Agreement.

13.5 Surrender of Confidential Information upon Termination. Upon termination of this Agreement or an Exhibit A, in whole or in part, each party shall, within five (5) calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which is in such party's possession, custody, or control; provided, however, that Service Provider shall return SVCE Data to SVCE following the timeframe and procedure described further in this Agreement. Should Service Provider or SVCE determine that the return of any SVCE Data or non-SVCE Data Confidential Information is not feasible, Service Provider shall destroy the data comprising such

Confidential Information in compliance with the most current version of NIST standard SP800-88, or other standard acceptable to the SVCE, and shall certify the same in writing within five (5) calendar days from the date of termination to the other party.

14. Data Privacy and Information Security.

14.1 Undertaking by Service Provider. Without limiting Service Provider's obligation of confidentiality as further described herein, Service Provider shall be responsible for establishing, maintaining, and providing a written description to SVCE of, a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the SVCE Data; (b) protect against any anticipated threats or hazards to the security or integrity of the SVCE Data; (c) protect against unauthorized disclosure, access to, or use of the SVCE Data; (d) ensure the proper disposal of SVCE Data; and, (e) ensure that all employees, agents, and subcontractors of Service Provider, if any, comply with all of the foregoing. In no case shall the safeguards of Service Provider's data privacy and information security program used to protect SVCE Data be less stringent than the safeguards used by Service Provider for its own data.

If the Services include handling credit card information, then the Service Provider shall comply at all times with all applicable Payment Card Industry Data Security Standards (PCI-DSS). Service Provider agrees and warrants that it is responsible for the security of "cardholder data" that Service Provider possesses, stores, processes or transmits on behalf of the SVCE, and for any impact on the security of SVCE's cardholder data environment adversely affected by any failure of Company to maintain compliance with provisions of the PCI-DSS applicable to the Services.

14.2 Audit by Service Provider. At SVCE's request, sole cost to bear, and vendor selection responsibility, Service Provider shall undergo a vendor risk management assessment focusing on IT general controls, data privacy, and information security to support SVCE's responsibility under CPUC decision 12-08-045.

14.3 Right of Audit by SVCE. Without limiting any other audit rights of SVCE, SVCE shall have the right to review Service Provider's data privacy and information security program prior to the commencement of Services and from time to time during the term of this Agreement. During the providing of the Services, on an ongoing basis from time to time and without notice, SVCE, at its own expense, shall be entitled to perform, or to have performed, an on-site audit of Service Provider's data privacy and information security program during Service Provider's normal business hours and with at least five (5) business days prior written notice. In lieu of an on-site audit, upon request by SVCE, Service Provider agrees to complete, within forty-five (45 days) of receipt, an audit questionnaire provided by SVCE regarding Service Provider's data privacy and information security program.

14.4 Audit Findings. Service Provider shall use best efforts to implement any required safeguards as identified by SVCE or by any audit of Service Provider's data privacy and information security program and shall provide written explanation of why any required safeguard cannot be implemented and how that issue will otherwise be addressed.

14.5 Pattern of Violations. It shall be considered a material breach of this Agreement if Service Provider engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Service Provider understands that if SVCE finds that Service Provider is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement SVCE shall promptly cease all disclosures of Confidential Information to Service Provider. Service Provider further understands that if SVCE receives a customer complaint about Service Provider's misuse of data or other violation of the Disclosure Provisions, SVCE shall promptly cease disclosing that customer's information to Service Provider and shall notify the California Public Utilities Commission ("CPUC")of the complaint.

14.6 CPUC Compliance. Service Provider shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.

14.7 Injunction, Specific Performance or Such Other Relief. Service Provider acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to SVCE and/or SVCE Customers, the amount of which may be difficult to assess. Accordingly, Service Provider hereby confirms that the SVCE shall be entitled to apply to a court of competent jurisdiction or the CPUC for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Service Provider or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the SVCE, in law or equity.

14.8 SVCE's Right to Termination for Deficiencies. SVCE reserves the right, at its sole election, to immediately terminate this Agreement without limitation and without liability if SVCE reasonably determines that Service Provider fails or has failed to meet its obligations under this Section; provided that in the event of a dispute between the parties, the parties will first attempt in good faith to resolve such dispute by written notice to the designated points of contact of each party, who will attempt in good faith to resolve such dispute by negotiation and consultation as soon as reasonably practicable following receipt of such written notice.

15. Proprietary Rights.

15.1 Pre-existing Materials. SVCE acknowledges that, in the course of performing the Services, Service Provider may use software and related processes, instructions, methods, and techniques that have been previously developed by Service Provider (collectively, the "Pre-existing Materials," which shall include the Services) and that the same shall remain the sole and exclusive property of Service Provider.

15.2 No License. Except as expressly set forth herein, no license is granted by either party to the other with respect to the Confidential Information or Pre-existing Materials. Nothing in this Agreement shall be construed to grant to either party any ownership or other interest, in the Confidential Information or Pre-existing Materials, except as may be provided under a license specifically applicable to such Confidential Information or Pre-existing Materials.

15.3 The provisions of this Section shall survive the termination of this Agreement.

16. Indemnification; Limitation of Liability; Insurance.

16.1 General Indemnification. Service Provider agrees to indemnify, defend, and hold harmless SVCE and its elected officials, officers, directors, agents, attorneys and employees (each, an "Indemnitee") from and against any and all liabilities, damages, losses, expenses, claims, demands, suits, fines, or judgments (each, a "Claim," and collectively, the "Claims"), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to, or recoverable from any Indemnitee, by reason of any Claim arising out of or relating to any act, error or omission, negligence, or misconduct of Service Provider, its officers, directors, agents, employees, and subcontractors, during the performance of this Agreement, including, without limitation, Claims arising out of or relating to: (a) bodily injury (including death) or damage to tangible personal or real property; (b) any payment required to be paid to subcontractors, if any, of Service Provider; (c) any material misrepresentation or breach of warranty of any representation or warranty set forth in this Agreement; (d) any destruction, or unauthorized access, use, or theft of SVCE Data (collectively, "cyber theft") or, (e) any material breach of any covenant set forth in this Agreement; provided, however, that the foregoing indemnity shall not apply to the extent that the applicable Claim resulted from the sole negligence or willful misconduct of an Indemnitee.

16.2 Proprietary Rights Indemnification. Service Provider agrees to indemnify, defend, and hold harmless Indemnitees from and against any and all Claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to, or recoverable from any Indemnitee, by reason of any Claim arising out of or relating to the Services allegedly or actually infringing or misappropriating any United States or foreign patent, copyright, trade secret, trademark, or other proprietary right. Notwithstanding the foregoing, Service Provider will have no liability or obligation with respect to any Claim to the extent such Claim is caused by (A) compliance with designs, guidelines, plans or specifications provided by SVCE; (B) use of the Services by SVCE not in accordance with this Agreement; (C) modification of the Services by any party other than Service Provider without Service Provider's express consent; (D) SVCE Confidential Information or (E) the combination, operation, or use of the Services with other applications, portions of applications, product(s) or services where the Services would not by itself be infringing. In the event that Service Provider is enjoined from providing the Services and such injunction is not dissolved within thirty (30) calendar days, or in the event that SVCE is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any patent, copyright, trade secret, trademark, or other proprietary right in the access or use of the Services, then Service Provider shall, at its expense: (a) obtain for SVCE the right to continue using such Services; (b) replace or modify such Services so that they do not infringe upon or misappropriate such proprietary right and is free to be used by SVCE; or, (c) in the event that Service Provider is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Service Provider shall reimburse to SVCE any prepaid fees and the full cost associated with any Transition Services.

16.3 Indemnification Procedures. Promptly after receipt by SVCE of a threat, notice, or filing of any Claim against an Indemnitee, SVCE shall give notice thereof to Service Provider, provided that failure to give or delay in giving such notice shall not relieve Service Provider of any liability it may have to the Indemnitee except to the extent that Service Provider demonstrates that the defense of the Claim is prejudiced thereby. Service Provider shall have sole control of the defense and of all negotiations for settlement of a Claim and SVCE shall not independently defend or respond to a Claim; provided, however, that: (a) SVCE may defend or respond to a Claim, at Service Provider's expense, if SVCE's counsel determines, in its sole discretion, that such defense or response is necessary to preclude a default judgment from being entered against an Indemnitee; and, (b) SVCE shall have the right, at its own expense, to monitor Service Provider's defense of a Claim. At Service Provider's request, SVCE shall reasonably cooperate with Service Provider in defending against or settling a Claim; provided, however, that Service Provider shall reimburse SVCE for all reasonable out-of-pocket costs incurred by SVCE (including, without limitation, reasonable attorneys' fees and expenses) in providing such cooperation.

16.4 Third-Party Beneficiaries. Nothing, express or implied, in this Agreement is intended to benefit, or to create or be construed to create any rights of enforcement in any persons or entities who are neither signatories to this Agreement nor Indemnitees.

16.5 Insurance. Unless otherwise approved in writing by SVCE's risk manager, Service Provider shall, at its own expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts as follows, with responsible insurance carriers duly admitted and qualified in California covering the operations of Service Provider, pursuant to this Agreement: commercial general liability ($1,000,000 per occurrence, $2,000,000 aggregate); excess liability ($2,000,000 per occurrence, $2,000,000 aggregate); workers' compensation (statutory limits) and employers' liability ($500,000 per accident); cyber liability ($5,000,000 per occurrence) providing protection against claims and liabilities arising from: (i) errors and omissions in connection with maintaining security of SVCE Data; (ii) data breach including theft, destruction, and/or unauthorized use of SVCE Data; (iii) identity theft; and (iv) violation of privacy rights due to a breach of SVCE Data; and professional liability ($1,000,000 per occurrence, $1,000,000 aggregate). Any of the foregoing policy limits shall be subject to modification by the SVCE's risk manager upon thirty (30) days prior, written notice to Service Provider, and at any time prior to commencement of the Services.

The Indemnitees shall be named as additional insureds in the commercial general, cyber, and excess liability policies which shall contain standard cross liability clauses. Service Provider shall cause the liability it assumed under this Agreement to be specifically insured under the contractual liability section of the liability insurance policies. The liability policies shall be primary without right of contribution from any Indemnitee, and Service Provider waives all rights of subrogation with respect to said policies. Such policies shall require that SVCE be given no less than thirty (30) calendar days prior written notice of any cancellation thereof or material change therein. SVCE shall have the right to request an adjustment of the limits of liability for commercial general, cyber, and excess liability, and/or professional liability insurance as Service Provider's exposure to SVCE increases. Service Provider shall provide SVCE with certificates of insurance and original endorsements, evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide SVCE with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) calendar days prior to the effective date of such renewal or substitution.

16.6 Limitation of Liability. UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, WILL EITHER PARTY BE LIABLE TO THE OTHER FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOST SALES OR BUSINESS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOST CONTENT OR DATA, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF A REPRESENTATIVE OF SUCH PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, OR (B) ANY DIRECT DAMAGES, COSTS, OR LIABILITIES (EXCLUDING SVCE'S PAYMENT OBLIGATIONS) IN EXCESS OF THE AMOUNTS PAID OR PAYABLE BY SVCE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE INCIDENT OR CLAIM. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO: (A) A PARTY'S OBLIGATIONS AS TO INDEMNIFICATION, AS FURTHER DESCRIBED IN THIS AGREEMENT; (B) DAMAGES CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (C) A PARTY'S BREACH OF ITS OBLIGATIONS OF CONFIDENTIALITY, AS FURTHER DESCRIBED IN SECTION 12 OF THIS AGREEMENT. This Section shall survive the termination of this Agreement.

17. General.

17.1 Relationship between SVCE and Service Provider. Service Provider represents and warrants that it is an independent contractor with no authority to contract for SVCE or in any way to bind or to commit SVCE to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of SVCE. Under no circumstances shall Service Provider, or any of its staff, if any, hold itself out as or be considered an agent employee, joint venture, or partner of SVCE. In recognition of Service Provider's status as an independent contractor, SVCE shall carry no Workers' Compensation insurance or any health or accident insurance to cover Service Provider or Service Provider's agents or staff, if any. SVCE shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, nor provide any other contributions or benefits which might be expected in an employer-employee relationship. Neither Service Provider nor its staff, if any, shall be eligible for, participate in, or accrue any direct or indirect benefit under any other compensation, benefit, or pension plan of SVCE.

17.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America. Service Provider hereby consents and submits to the jurisdiction and forum of the state and federal courts in the County of Santa Clara, State of California, in all questions and controversies arising out of this Agreement.

17.3 Attorneys' Fees and Costs. In any arbitration, litigation, or other proceeding, informal or formal, by which one party either seeks to enforce this Agreement or seeks a declaration of any rights or

obligations under this Agreement, the non-prevailing party shall pay the prevailing party's costs and expenses, including but not limited to, reasonable attorneys' fees.

17.4 Compliance with Laws; SVCE Policies and Procedures. Service Provider agrees to comply with all applicable federal, state, and local laws, executive orders and regulations issued, where applicable. Service Provider shall comply with SVCE policies and procedures where the same are posted, conveyed, or otherwise made available to Service Provider.

17.5 Cooperation. Where agreement, approval, acceptance, consent or similar action by either party hereto is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld. Each party will cooperate with the other by, among other things, making available, as reasonably requested by the other, management decisions, information, approvals, and acceptances in order that each party may properly accomplish its obligations and responsibilities hereunder. Service Provider will cooperate with any SVCE supplier performing services, and all parties supplying hardware, software, communication services, and other services and products to SVCE, including, without limitation, the Successor Service Provider. Service Provider agrees to cooperate with such suppliers, and shall not commit or permit any act which may interfere with the performance of services by any such supplier.

17.6 Force Majeure; Excused Performance. Neither party shall be liable for delays or any failure to perform the Services or this Agreement due to causes beyond its reasonable control. Such delays include, but are not limited to, fire, explosion, flood or other natural catastrophe, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed party. Any such excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed party. However, the delayed party shall use its best efforts to minimize the delays caused by any such event beyond its reasonable control. Where Service Provider fails to use its best efforts to minimize such delays, the delays shall be included in the determination of Service Level achievement. The delayed party must notify the other party promptly upon the occurrence of any such event, or performance by the delayed party will not be considered excused pursuant to this Section, and inform the other party of its plans to resume performance. A force majeure event does not excuse Service Provider from providing Services and fulfilling its responsibilities relating to the requirements of backup and recovery of SVCE Data. In no event shall any of the following constitute a force majeure event: (a) failure, inadequate performance, or unavailability of Service Provider's subcontractors, if any; or, (b) configuration changes, other changes, Viruses, or other errors or omissions introduced, or permitted to be introduced, by Service Provider that result in an outage or inability for SVCE to access or use the Services. Within thirty (30) calendar days following the Effective Date and on an annual basis thereafter until the termination of this Agreement, Service Provider shall provide its then-current business continuity plan ("Business Continuity Plan") to SVCE upon SVCE's request. The Business Continuity Plan shall include: (a) Services and SVCE Data backup and recovery procedures, including procedures and resources for disaster recovery; (b) fail-over procedures; and, (c) how Service Provider will interact with its business continuity suppliers, if any. Service Provider shall test its Business Continuity Plan on an annual basis until the termination of this Agreement and shall provide the test results to SVCE upon SVCE's request.

17.7 Advertising and Publicity. Service Provider shall not refer to SVCE directly or indirectly in any advertisement, news release, or publication, or use any SVCE logo, seal or mark, without prior written approval from SVCE.

17.8 No Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect that party's right to enforce such provisions, nor shall the waiver by either party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision.

17.9 Notices. Any notice given pursuant to this Agreement shall be in writing and shall be given by personal service or by United States certified mail, return receipt requested, postage prepaid to the

addresses appearing at the end of this Agreement, or as changed through written notice to the other party. Notice given by personal service shall be deemed effective on the date it is delivered to the addressee, and notice mailed shall be deemed effective on the third day following its placement in the mail addressed to the addressee.

17.10 Assignment of Agreement. This Agreement and the obligations of Service Provider hereunder are personal to Service Provider. Neither Service Provider nor any successor, receiver, or assignee of Service Provider shall directly or indirectly assign this Agreement or the rights or duties created by this Agreement, whether such assignment is effected in connection with a sale of Service Provider's assets or stock or through merger, an insolvency proceeding or otherwise, without the prior written consent of SVCE. In the case of an assignment by Service Provider, Service Provider represents and warrants that it has all requisite rights and power to transfer any agreements or other rights with third-parties whose software is incorporated into the Services or who are necessary for the performance and use of the Services. SVCE, at SVCE's sole election, may assign any and all of its rights and obligations under this Agreement to any company that succeeds to substantially all of SVCE's business.

17.11 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.

17.12 Counterparts; Facsimile/PDF/Electronic Signature. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.

17.13 Entire Agreement. This Agreement and any and all attached exhibits, each of which is incorporated by reference herein, constitute the entire agreement between the parties and supersede any and all previous representations, understandings, or agreements between SVCE and Service Provider as to the subject matter hereof. No representation or promise not expressly set forth herein shall be binding. The provisions of this Agreement shall govern over any inconsistent or conflicting provisions contained in any exhibit hereto. This Agreement may only be amended by an instrument in writing signed by the parties. 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.

17.14 Cumulative Remedies. All rights and remedies of SVCE herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance against Service Provider for the enforcement of this Agreement, and temporary and permanent injunctive relief.

17.15 No Recourse against Constituent Members of Authority. SVCE is organized as a Joint Powers SVCE 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. SVCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Service Provider shall have no rights and shall not make any claims, take any actions or assert any remedies against any of SVCE's constituent members in connection with this Agreement.

17.16 Non-Discrimination. In the performance of this Agreement, Service Provider, and any subcontractor of Service Provider 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, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Service Provider shall have responsibility for compliance with this Section.

17.17 Conflict Of Interest. Service Provider 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. Service Provider and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Service Provider'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, Service Provider may perform similar services for other clients, but Service Provider and its officers, employees, associates and subcontractors shall not, without the SVCE Representative's prior written approval, perform work for another person or entity for whom Service Provider is not currently performing work that would require Service Provider or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Service Provider shall incorporate a clause substantially similar to this Section into any subcontract that Service Provider executes in connection with the performance of this Agreement. Service Provider understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Service Provider to make certain governmental decisions or serve in a staff SVCE, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

17.18 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.

17.19 Final Payment Acceptance Constitutes Release. The acceptance by Service Provider of the final payment made under this Agreement shall operate as and be a release of SVCE from all claims and liabilities for compensation to Service Provider for anything done, furnished or relating to Service Provider's work or services. Acceptance of payment shall be any negotiation of SVCE'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 SVCE shall not constitute, nor be deemed, a release of the responsibility and liability of Service Provider, 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 SVCE for any defect or error in the work prepared by Service Provider, its employees, subcontractors and agents.

17.20 SVCE's Rights to Employ Other Consultants. SVCE reserves the right to employ other consultants in connection with the subject matter of the Services.

17.21 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.

17.22 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.

17.23 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 Service Provider's proposal, the provisions of this Agreement shall control.

17.24 Successors and Assigns. The terms and conditions of this Agreement shall be binding on the successors and assigns of the parties to this Agreement.

Executed on the dates set forth below by the undersigned authorized representative of SVCE and Service Provider to be effective as of the Effective Date.

SILICON VALLEY CLEAN ENERGY (SVCE)
By:
Name:
Title:
Date:

Address for Notice:

[SERVICE PROVIDER NAME] (SERVICE PROVIDER)
By:
Name:
Title:
Date:

Address for Notice:

EXHIBIT A

STATEMENT OF SERVICES, SUPPORT, AND SERVICE LEVEL AGREEMENT

This Exhibit A - Statement of Services and Service Level Agreement shall be incorporated in and governed by the terms of that certain Master Software as a Service Agreement by and between **SILICON VALLEY CLEAN ENERGY** ("SVCE") and **CAMUS ENERGY, INC.** ("Service Provider") dated September 9, 2021, ("Agreement"). In the event of a conflict between the provisions contained in the Agreement and those contained in this Exhibit A, the provisions contained in the Agreement shall prevail.

Services Description. Service Provider shall provide the following Services to SVCE through this Agreement:

1. Cloud Data Platform delivery
2. Enabling Tools development and deployment
3. Ongoing Services

Cloud Data Platform delivery. Service Provider shall provide software development and cloud administration services to deliver the following DAISY 2.0 core functionalities:

- Data storage
- Extract, transform, load (ETL) of SVCE, PG&E, Calpine, and other datasets, including:
    - Weather data (historical, real-time, and forecast), e.g. temperature, insolation, HDD, CDD, upper air data
    - CAISO market data, e.g. historical, real-time, and day-ahead prices, grid emissions
    - Third-party program data
    - Existing forecasting, procurement, scheduling, and settlement data from third-party services
    - Resource and physical asset data, e.g. forecasted generation, actual generation, pricing at local nodes
    - Air quality data
- Data warehousing
- Data visualization, including mapping capability
- Dashboards: create, save, share, update, and versioning
- Reports: create, save, share, update, and versioning
- Customizable user access permissions
- Ability to create custom tables
- Ability to integrate with third-party applications and standard tools such as Excel, Tableau, etc.
- Query library and version control
- Data provenance: ability to track data lineage and data processing steps

Service Provider shall maintain and provide SVCE with access to the DAISY 2.0 cloud data platform hosted on Google Cloud Platform (GCP), including:

- Google Cloud Storage buckets
- BigQuery data warehouse
- ETL pipelines
- Google Data Studio

Service Provider shall maintain and provide SVCE with up-to-date documentation on the tables in the BigQuery data warehouse. The documentation will include sample queries for each table and data provenance descriptions for all ingested data fields in the BigQuery data warehouse.

Service Provider shall configure DAISY 2.0 with the appropriate permissions to support, at minimum, the following SVCE user tiers:

Role	Functions	Minimum Background
Tier 1	• View and explore shared dashboards and reports	• N/A
Tier 2	• Use and extract insights from specific applications (e.g. load forecasting application) • All functions in Tier 1	• Familiarity with platform UI • Familiarity with relevant applications
Tier 3	• Perform ad hoc queries and export data • Create data visualizations • Conduct strategic analyses • All functions in Tiers 1 and 2	• SQL knowledge • Familiarity with platform UI • Familiarity with relevant applications
Tier 4	• Oversee data cleaning and ingestion • Create custom tables • Create, manage, and share dashboards and reports • All functions in Tiers 1, 2, and 3	• SQL knowledge • Familiarity with platform UI • Familiarity with all applications • Familiarity with all data sources • GIS experience

DAISY 2.0 should have customizable user access permissions to enable the creation of the above user roles, as well as other user roles that may be established in the future. The estimated number of tier 4 users is up to five. Each lower tier is expected to have a higher number of users, where tier 1 users could potentially be SVCE customers or member agencies. For the avoidance of doubt, a tier 1 user who is not an SVCE employee, contractor, or agent is not considered an Authorized User for the purposes of this Agreement.

All data models and translation layers developed as part of this Agreement shall be shared under an open-source license such as Apache 2.0., to be prioritized in the appropriate milestone.

All data models, translation layers, dashboards, tools, and applications developed as a part of this Agreement shall be shared with SVCE in a code repository under a commercially reasonable license such as Apache 2.0 license.

Enabling Tools development and deployment. Service Provider shall work with SVCE to deploy the following enabling tools:

Enabling Tool	Description
Geocoding	Convert an address into latitude/longitude coordinates for the centroid of the parcel.
Spatial analysis	Enable spatial joins between features to link latitude/longitude coordinates to assessor's parcel number (APN), census tract, etc.
Address standardization	Standardize addresses across datasets to improve address matching.
Weather normalization	Leverage weather data, historical energy consumption data and/or other key data sets to measure the impact of weather on electricity and natural gas consumption. Produce weather-normalized electricity and gas consumption profiles on a customer-level and in aggregate.

If the enabling tool is an existing, state-of-the-art tool (either their own or from a third party), then Service Provider will take the following steps to integrate the tool into DAISY 2.0:

1. Initialize tool
    a. Perform the initial configuration, including connection with DAISY 2.0, and provide trainings for the tool
    b. Provide documentation for SVCE's use case for the tool
2. Set up user account capabilities as specified in the user tiers table above
    a. Set up account access for tier 4 users
    b. Provide user management documentation for tier 4 users so they can create other users at any point

If the enabling tool will be built or significantly customized as part of this Agreement, then Service Provider will take the following steps to integrate the tool into DAISY 2.0:

1. Work with SVCE to define the tool requirements
2. Provide the project timeline with intermediate deliverables and weekly progress reviews
3. Develop tool
4. Work with SVCE for alpha and beta testing
5. Deploy production version of the tool

As a part of building enabling tools, dashboards, applications, integrating new data sources, or enhancing the DAISY 2.0 data model, the Service Provider may seek to leverage expertise from East Bay Community Energy (EBCE). Service Provider may reach out to EBCE (by email with SVCE approval and with SVCE copied) for support, insight, and experience with similar or identical datasets. Any fees incurred by EBCE providing this support to Service Provider will be governed by a Consulting Service Agreement between SVCE and EBCE. Any and all work incurred by Service Provider will be governed by this Agreement.

Ongoing Services. Beginning on the effective date of this Agreement, and for the duration of the Agreement, Service Provider shall provide software development and cloud administration services to deliver the following ongoing services for DAISY 2.0:

- Provide collaborative system administration services to SVCE's cloud data platform on GCP
- Given that SVCE's data sets include personally identifiable information, follow state-of-the-art encryption standards for data transfer, data at rest, and data disposal
- Maintain and enhance enabling tools as needed
- Develop and maintain ETL pipelines
    - Ingest datasets into data warehouse on a regular basis, ranging from daily to monthly
    - Enhance and/or create pipelines for new/updated sources of data from SVCE, PG&E, Calpine, and other sources on an ongoing basis. Data formats can change for existing data sources.
- Develop and manage core tables, dashboards, reports
- Provide ongoing support to tier 2, 3, and 4 users, e.g. query troubleshooting, answering questions related to data, tools, and documentation
- Mitigate and resolve any issues associated with the data services, as reported by SVCE. Service Provider will provide such support consistent with contractual service levels, including responsiveness and timeliness.
- Develop and maintain key applications to address use cases including, but not limited to:
    - Load forecasting
    - Precision program design & targeting
    - Load shape analysis and load disaggregation
    - Customer segmentation
    - Public-facing dashboard
    - Evaluation, Measurement, and Verification (EM&V)
    - Distributed energy resource (DER) forecasting
    - DER/electrification adoption models

The prioritization of DAISY 2.0 enhancements (e.g. new ETL pipelines, dashboards, reports, tools, and applications) are to be determined by SVCE. Service Provider and SVCE will schedule biweekly meetings to check in on the status of deliverables and revisit prioritization for each 2-week release cycle.

Start Date and End Date. Services shall begin on the Effective Date and be delivered over the course of 3 years according to the timelines laid out in Exhibit B. These dates represent the Initial Term of this Agreement.

Authorized Users and Services Fees. This Agreement will be governed by a Software-as-a-Service pricing model. Camus Energy Software-as-a-Service platform subscription fee is $100,000/year for the first year and $140,000 in the second and successive years. The platform includes 50 TB of storage and up to 10 Authorized Users of any tier. Storage may be added in increments of 10 TB for $2,400/year. Users may be added in increments of 10 users for $10,000/year. Google Cloud Storage and Compute Fees are $36,000/year. Service Provider shall invoice SVCE a fee of $136,000 for year 1 as outlined in the milestones in Exhibit B plus additional fees for additional Authorized Users and storage. In second and successive years, Service Provider shall invoice SVCE a fee of $44,000 per quarter for years 2 and 3 plus any additional fees for additional Authorized Users and storage.

Storage Threshold(s). Service Provider shall provide 50 TB of storage and include backups and additional environments as required by this Agreement. Storage may be added in increments of 10 TB.

Storage Fees. The $36,000/year Google Cloud Storage Fees include 50 TB of storage, as well as backups and additional environments as required by this Agreement. Storage may be added in increments of 10 TB for $2,400/year.

Technical Support Description.

Service Provider will provide to SVCE telephone and email support ("Technical Support") twenty-four (24) hours per day, seven (7) days per week, three-hundred-sixty-five (365) days per year. Technical Support will include any research and resolution activity performed by Service Provider.

a) Request for Technical Support. Authorized Users will make Technical Support requests by calling or emailing Service Provider's Technical Support staff or by submitting a request via Service Provider's customer service web portal. The Technical Support staff shall assign to the request the Problem Severity Level (as defined herein) indicated by the requestor.

b) Problem Severity Levels 1 and 2 Response and Resolution**.** For Technical Support requests not made by telephone, within the Request Response Time of such a request, Service Provider shall confirm to the requestor receipt of the request by Service Provider. If a Problem Severity Level 1 or 2 request cannot be corrected to the reasonable satisfaction of the requestor within the Request Resolution Time after the requestor makes the initial request for Technical Support, Service Provider will: (a) immediately escalate the request to Service Provider's management; (b) take and continue to take the actions which will most expeditiously resolve the request; (c) provide a hourly report to the requestor of the steps taken and to be taken to resolve the request, the progress to correct, and the estimated time of correction until the request is resolved; and, (d) every [Time Duration], provide increasing levels of technical expertise and Service Provider management involvement in finding a solution to the request until it has been resolved.

c) Problem Severity Levels 3 and 4 Response and Resolution. For Technical Support requests not made by telephone, within the Request Response Time of such a request, Service Provider shall confirm to the requestor receipt of the request by Service Provider. If a Problem Severity Level 3 or 4 request cannot be corrected to the reasonable satisfaction of the requestor within the Request Resolution Time after the requestor makes the initial request for Technical Support, at the sole election of requestor: (a) Service Provider will work continuously to resolve the request; or, (b) requestor and Service Provider will mutually agree upon a schedule within which to resolve the request.

Technical Support Problem Severity Levels

a) Problem Severity Level 1.

1) Description. This Problem Severity Level is associated with: (a) Services, as a whole, are non-functional or are not accessible; (b) unauthorized exposure of all of part of SVCE Data; or, (c) loss or corruption of all or part of SVCE Data.

2) Request Response Time. 30 minutes.

3) Request Resolution Time. 2 hours.

b) Problem Severity Level 2.

1) Description. This Problem Severity Level is associated with significant and / or ongoing interruption of an Authorized User's use of a critical function (as determined by the Authorized User) of the Services and for which no acceptable (as determined by the Authorized User) work-around is available.

2) Request Response Time. 1 hour.

3) Request Resolution Time. 4 hours.

c) Problem Severity Level 3.

1) Description. This Problem Severity Level is associated with: (a) minor and / or limited interruption of an Authorized User's use of a non-critical function (as determined by the Authorized User) of the Services; or, (b) problems which are not included in Problem Severity Levels 1 or 2.

2) Request Response Time. 8 hours.

3) Request Resolution Time. 24 hours.

d) Problem Severity Level 4.

1) Description. This Problem Severity Level is associated with: (a) general questions pertaining to the Services; or, (b) problems which are not included in Problem Severity Levels 1, 2, or 3.

2) Request Response Time. 8 hours.

3) Request Resolution Time. 48 hours.

Customization / Integration Services. See Services Description in Exhibit A.

Training Services. Service Provider shall provide each Authorized SVCE User with on-boarding instructions and DAISY 2.0 documentation. In addition, Service Provider shall provide all training described in the Enabling Tools section of Exhibit A.

Transition Services. Service Provider shall be compensated for Transition Services for the duration of the Transition Services Period on a time and materials basis, unless an alternative fee is mutually agreed upon by the Parties, or such Transition Services are provided without charge as set forth in this Agreement. Camus hourly rates are as follows:

Role	Hourly Rate
Senior Software Engineer	$250
Junior Software Engineer	$175
Relationship Manager	$250

Service Levels.

a) Availability Service Level.

1) Definitions.

(a) "Actual Uptime" shall mean the total minutes in the reporting month that the Services were actually available to Authorized Users for normal use.

(b) "Maintenance Window" shall mean the total minutes in the reporting month represented by the following day(s) and time(s) during which Service Provider shall maintain the Services: [Day(s) and Time(s)].

(c) "Scheduled Downtime" shall mean the total minutes in the reporting month represented by the Maintenance Window.

(d) "Scheduled Uptime" shall mean the total minutes in the reporting month less the total minutes represented by the Scheduled Downtime.

2) Service Level Standard. Services will be available to Authorized Users for normal use 100% of the Scheduled Uptime.

3) Calculation. (Actual Uptime / Scheduled Uptime) * 100 = Percentage Uptime (as calculated by rounding to the second decimal point)

4) Performance Credit.

(a) Where Percentage Uptime is greater than 99.98%, no Performance Credit will be due to SVCE.

(b) Where Percentage Uptime is equal to or less than 99.98%, SVCE shall be due a Performance Credit in the amount of 10% of the Services Fees (as calculated on a monthly basis for the reporting month) for each full 1% reduction in Percentage Uptime.

5) Example Calculation.

(a) Assuming reporting month is February 2012 (41,760 minutes).

(b) Assuming a Maintenance Window of Sundays from Midnight to 4:00 a.m. Eastern Standard Time (equals Scheduled Downtime of 960 minutes).

(c) Scheduled Uptime equals 40,800 minutes (total minutes of 41,760 in February 2012 less 960 minutes of Scheduled Downtime).

(d) Assuming Actual Uptime of 40,000 minutes. A Percentage Uptime is calculated as follows: (40,000 / 40,800) *100 = 98.04%.

(e) The threshold of 99.99% less the Percentage Uptime of 98.04% = 1.95%.

(f) The difference is greater than a 1% reduction but is less than a 2% reduction; therefore, SVCE is due 10% of the Services Fees as a Performance Credit.

b) Services Response Time Service Level.

1) Definition(s).

(a) "Response Time" shall mean the interval of time from when an Authorized User requests, via the Services, a Transaction to when visual confirmation of Transaction completion is received by the Authorized User. For example, Response Time includes the period of time representing the point at which an Authorized User enters and submits data to the Services and the Services display a message to the Authorized User that the data has been saved.

(b) "Total Transactions" shall mean the total of Transactions occurring in the reporting month.

(c) "Transaction" or "Transactions" shall mean Services web page loads, Services web page displays, and Authorized User Services requests.

2) Service Level Standard. Transactions will have a Response Time of 1 second or less 100% of the time each reporting month during the periods for which the Services are available.

3) Calculation. ((Total Transactions – Total Transactions failing Standard) / Total Transactions) * 100 = Percentage Response Time (as calculated by rounding to the second decimal point).

4) Performance Credit.

(a) Where Percentage Response Time is greater than 95.00%, no Performance Credit will be due to SVCE.

(b) Where Percentage Response Time is equal to or less than 95.00%, SVCE shall be due a Performance Credit in the amount of 1% of the Services Fees (as calculated on a monthly basis for the reporting month) for each full 1% reduction in Percentage Response Time.

5) Example Calculation.

(a) Total Transactions during the reporting month equal 42,078.

(b) Total Transactions failing the Standard of 100% equal 2,163.

(c) Percentage Response Time is calculated as follows: ((42,078 – 2,163) / 42,078) * 100 = 94.86%

(d) The threshold of 95.01% less the Percentage Response Time of 94.86% = .15%. The difference is less than a 1% reduction; therefore, SVCE is not due a Performance Credit.

c) Technical Support Problem Response Service Level.

1) Definition. "Total Problems" shall mean the total of problems occurring in the reporting month.

2) Service Level Standard. Problems shall be confirmed as received by Service Provider 100% of the time each reporting month, in accordance with the Request Response Time associated with the Problem Severity Level.

3) Calculation. ((Total Problems – Total Problems failing Standard) / Total Problems) * 100 = Percentage Problem Response (as calculated by rounding to the second decimal point). Note: This Calculation must be completed for each Problem Severity Level.

4) Performance Credit.

(a) Problem Severity Level 1 – 2.

(1) Where Percentage Problem Response is greater than 99.00%, no Performance Credit will be due to SVCE.

(2) Where Percentage Problem Response is equal to or less than 99.00%, SVCE shall be due a Performance Credit in the amount of 1% of the Services Fees (as calculated on a monthly basis for the reporting month) for each full 1% reduction in Percentage Problem Response.

(b) Problem Severity Level 3 – 4.

(1) Where Percentage Problem Response is greater than 90.00%, no Performance Credit will be due to SVCE.

(2) Where Percentage Problem Response is equal to or less than 90.00%, SVCE shall be due a Performance Credit in the amount of .5% of the Services Fees (as calculated on a monthly basis for the reporting month) for each full 1% reduction in Percentage Problem Response.

5) Example Calculation (Using Problem Severity Level 1 – 2).

(a) Total Problems during the reporting month equal 68.

(b) Total Problems failing the Standard of 100% equal 3.

(c) Percentage Problem Response is calculated as follows: ((68 – 3) / 68) * 100 = 95.59%

(d) The threshold of 99.01% less the Percentage Problem Response of 95.59% = 3.42%. The difference is greater than a 3% reduction but is less than a 4% reduction; therefore, SVCE is due 3% of the Services Fees as a Performance Credit.

d) Technical Support Problem Resolution Service Level.

1) Definition. "Total Problems" shall mean the total of problems occurring in the reporting month.

2) Service Level Standard. Problems shall be resolved by Service Provider 100% of the time each reporting month, in accordance with the Request Resolution Time associated with the Problem Severity Level.

3) Calculation. ((Total Problems – Total Problems failing Standard) / Total Problems) * 100 = Percentage Problem Resolution (as calculated by rounding to the second decimal point). Note: This Calculation must be completed for each Problem Severity Level.

4) Performance Credit.

(a) Problem Severity Level 1 – 2.

(1) Where Percentage Problem Resolution is greater than 99.00%, no Performance Credit will be due to SVCE.

(2) Where Percentage Problem Resolution is equal to or less than 99.00%, SVCE shall be due a Performance Credit in the amount of 5% of the Services Fees (as calculated on a monthly basis for the reporting month) for each full 1% reduction in Percentage Problem Resolution.

(b) Problem Severity Level 3 – 4.

(1) Where Percentage Problem Resolution is greater than 90.00%, no Performance Credit will be due to SVCE.

(2) Where Percentage Problem Resolution is equal to or less than 90.00%, SVCE shall be due a Performance Credit in the amount of 1% of the Services Fees (as calculated on a monthly basis for the reporting month) for each full 1% reduction in Percentage Problem Resolution.

5) Example Calculation (Using Problem Severity Level 3 – 4).

(a) Total Problems during the reporting month equal 17.

(b) Total Problems failing the Standard of 100% equal 2.

(c) Percentage Problem Resolution is calculated as follows: ((17 – 2) / 17) * 100 = 88.24%

(d) The threshold of 90.01% less the Percentage Problem Resolution of 88.24% = 1.77%. The difference is greater than a 1% reduction but is less than a 2% reduction; therefore, SVCE is due 1% of the Services Fees as a Performance Credit.

EXHIBIT B

SCHEDULE OF PERFORMANCE

Service Provider shall perform the services so as to complete each Project Deliverable according to the schedule set forth below. This schedule may be modified with the written approval of SVCE.

Following the completion of the key DAISY 2.0 transition tasks outlined in the DAISY 2.0 RFP scope, ongoing DAISY 2.0 maintenance and enhancement work will be tracked in the form of quarterly milestones. Service Provider and SVCE will schedule biweekly meetings to define quarterly milestones, check in on the status of deliverables, and revisit prioritization for each 2-week release cycle/quarterly milestone.

Task	Begin	Complete	Fees
1. Project scoping a. Kickoff: framing project goals, expand on use cases, identify any changes to key participants and stakeholders b. Define any changes to administrative standards and processes c. Conduct data model reviews with EBCE	September 9, 2021	October 31, 2021	$34,000 due at project start on September 9, 2021 (pending Board approval)
2. New dataset ingestion a. Weather data (openweathermap.org, National Weather Service, or other) b. CAISO market data (historical, real-time, and day-ahead prices, grid emissions) c. Third-party program data d. Existing forecasting, procurement, scheduling, and settlement data from third-party services e. Resource and physical asset data f. Air quality data g. Write data processing pipeline components h. Translate into historical time series i. Cross check imported data set results	September 27, 2021	Data will be made available to BigQuery iteratively over the course of the targeted development period	
3. Transform, standardize, and integrate data a. Normalize common dimensions – e.g. time, location/address, identifier	October 4, 2021	Data will be made available to BigQuery iteratively over the course of the targeted development period	

b. Correlate third-party data sources with meter and billing info c. Deploy enabling tools for geocoding, spatial analysis, and address standardization d. Document data model and standardize processing pipeline to ensure data provenance e. Add geocoding and address standardization to the ETL data process a. Confer with EBCE on geocoding and address standardization process			
4. Add to existing cloud-based data store a. Generate snapshot data output b. Load data set into BigQuery	October 18, 2021	Data will be made available in BigQuery iteratively over the course of the development period. We expect to have this completed by February28, 2022	
5. BigQuery Validation a. Testing, quality assurance, and SVCE acceptance of Tasks 2, 3, and 4 b. Data provenance reporting	March 1, 2022	March 31, 2022	$34,000 due upon SVCE acceptance of data in BigQuery on March 31, 2022
6. Designs for Data Studio reports a. Coordination with EBCE, feedback and input b. Load aggregation c. Load shape visualization and analysis d. Enrollment reporting e. Exception reports	October 1, 2021	November 15, 2021	
7. Designs for Map UI a. Data aggregations and map visualizations (heatmaps, choropleths, and municipality based views) b. Leveraging various data inputs as requested by SVCE (e.g., census tract, ICE/EV/PHEV penetration, PSPS events, etc.) 8. Designs for Dashboards and Reports a. Municipality aggregation	November 15, 2021	December 31, 2021	$34,000 due upon SVCE acceptance of Data Studio and Map UI designs on December 31, 2021

b. Decarbonization potential c. Supply & Demand Analysis d. Census tract analysis			
9. Develop and deploy tool for weather normalization	March 1, 2022	March 31, 2022	
10. Map UI Implementation	March 1, 2022	March 31, 2022	
11. Dashboard and Report implementation	April 1, 2022	May 31, 2022	
12. Data provenance through UI infrastructure	June 1, 2022	June 30, 2022	
13. Map and Dashboard Validation a. Testing, quality assurance, and SVCE acceptance of Tasks 9, 10, 11, and 12	July 1, 2022	July 31, 2022	$45,333.33 due upon SVCE acceptance of Map and Dashboard UI on July 31, 2022
14. Q3 2022 milestone*	July 1, 2022	September 30, 2022	$20,666.67 due upon completion and SVCE acceptance of Q3 2022 milestone
15. Q4 2022 milestone*	October 1, 2022	December 31, 2022	For the avoidance of doubt, a quarterly payment schedule of $44,000 per quarter (plus any additional fees for Authorized Users and storage) shall continue hereafter
16. Q1 2023 milestone*	January 1, 2023	March 31, 2023	
17. Q2 2023 milestone*	April 1, 2023	June 30, 2023	
18. Q3 2023 milestone*	July 1, 2023	September 30, 2023	
19. Q4 2023 milestone*	October 1, 2023	December 31, 2023	
20. Q1 2024 milestone*	January 1, 2024	March 31, 2024	
21. Q2 2024 milestone*	April 1, 2024	June 30, 2024	

22. Q3 2024 milestone*	July 1, 2024	September 9, 2024	

*In addition to the maintenance of core functionalities as described in Exhibit A, each quarterly milestone will involve the delivery of DAISY 2.0 enhancements. The specific enhancements to be completed in each quarter are to be defined by SVCE and Service Provider prior to the beginning of the quarter, but may be altered during the course of the quarter in the event that reprioritization is needed. Timelines may be adjusted based on emerging requirements. Any timelines assume that the required data is accessible from either SVCE or specified partners at the start of the milestone, and that it contains enough fidelity for key analyses. If there are larger than expected gaps, or significant delays, it may impact the project delivery timeline.

DAISY 2.0 enhancements can be broadly categorized into tiers below. However, each deliverable is subject to a scoping exercise and timelines may be adjusted based on emerging requirements.

DAISY 2.0 Enhancement Tier	Estimated Time	Example Deliverables
Tier 1	3-12 months	• Open source work of data models, translation layers, or dashboards
Tier 2	6-8 weeks	• New enabling tool • New key application (e.g. load forecasting)
Tier 3	4 weeks	• New core dashboard • New core report
Tier 4	2 weeks	• New dataset ingestion

The schedule of performance table is intended to match the below Gantt chart for both payment and expected milestones for the first year of the contract, with work covering the period August and September 2022 TBD.

	September	October	November	December	January	February	March	April	May	June	July	August	September
Project Scoping	$34,000												
Conduct model reviews with EBCE													
Data ETL and delivery to BigQuery													
-- Includes Geocoding and address standardization process													
-- Includes cross-checking geocoding process with EBCE													
-- Promises iterative development (not a big bang release on Feb 28)													
Data provenance reporting, validation, testing, and acceptance							$34,000						
Designs and implementation for Data Studio reports with EBCE													
Designs for Map UI and Reports				$34,000									
Develop tool for weather normalization													
Map UI implementation													
Dashboards and Reports implementation													
Data provenance through UI infrastructure													
Validation, testing, and acceptance											$45,333.33		
Work TBD													$20,666.67

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1e

Item 1e: SVCE 2020 Annual Power Source Disclosure Report Attestation

From: Girish Balachandran, CEO

Prepared by: Monica Padilla, Director of Power Resources
Thomas Messier, Power Settlements and Compliance Analyst

Date: 9/8/2021

RECOMMENDATION

Staff recommends that the Board approve the use of statistics reflected in SVCE's 2020 annual Power Source Disclosure reports for purposes of preparing SVCE's 2020 Power Content Label and endorse the accuracy of information presented in SVCE's 2020 Power Source Disclosure report for Green-Start service. SVCE's Board viewed and approved 2019 Power Content Label on Wednesday, October 14, 2020.

BACKGROUND

California Public Utilities Code requires all retail sellers of electric energy, including SVCE, to disclose "accurate, reliable, and simple-to-understand information on the sources of energy" that are delivered to their respective customers.[1] Applicable regulations direct retail sellers to provide such communications to customers following each year of operation. The format for requisite communications is highly prescriptive, offering little flexibility to retail sellers when presenting such information to customers. This format has been termed the "Power Content Label" (or PCL) by the California Energy Commission (CEC). Prior to distributing the PCL to its customers, SVCE annually submits a report regarding its specified power purchases to the CEC. This report is a required element of California's Power Source Disclosure Program (PSD Program) and was timely submitted to the CEC prior to the June 1st reporting deadline. Both the aforementioned annual report and the PCL are required elements of California's PSD Program, and information reflected in the annual report is contributory to the PCL (with the annual report's power supply breakout being inserted in the PCL).

Information presented in the PCL includes the proportionate share of total energy supply attributable to various resource types, including both renewable and conventional fuel sources. SVCE's Public Affairs team is in the process of designing the 2020 Power Content Label.

ANALYSIS & DISCUSSION

During the 2020 calendar year, SVCE successfully delivered a substantial portion of its electric energy supply from various renewable energy sources, including wind, solar, geothermal, hydroelectricity, biomass and biogas

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[1] California Public Utilities Code Section 398.1(b) Note: that Section (b)(1), as referenced in the excerpt from applicable PSD regulations, refers to the completion of annual independent audits.

– for Green-Start customers, the percentage of supply attributable to renewable energy sources approximated 42.5 percent[2]; for Green-Prime customers, renewable energy comprised 100 percent of the supply portfolio.

Consistent with applicable regulations, SVCE will complete requisite customer communications following the Board's approval of pertinent information to be included in the 2020 PCL. Customers receiving PCL communications will include those enrolled in the SVCE program as of December 31, 2021 – the distribution list was derived based on prior discussions with designated CEC staff.

SVCE's Green-Prime retail service option is a Green-e Energy certified product, conforming to guidelines established by the Center for Resource Solutions, the Green-e Energy program administrator. As part of this certification, SVCE must successfully complete an annual independent audit of power sources, ensuring the delivery of qualifying renewable energy to participating Green-Prime customers. Such audits were timely completed, noting "no exceptions" in related audit reports.

While preparing SVCE's 2020 annual PSD report, staff performed a detailed review of all power purchases completed for the 2020 calendar year. This review included an inventory of all renewable energy transfers within SVCE's Western Renewable Energy Generation Information System (WREGIS) accounts, pertinent transaction records, and requisite independent audits for SVCE's voluntary Green-Prime, 100% renewable energy program, which also provides 100% renewable energy to participating customers. Based on staff's review of available data and findings of the independent auditor (related to the Green-Prime product offering), the information presented in the annual report was determined to be accurate. Again, such information will be reflected in SVCE's upcoming PCL for 2020 operations.

To fulfill its obligations under the PSD Program, SVCE must also provide the CEC with an attestation of its Governing Board regarding the accuracy of information included in the PSD annual reports.

Because SVCE's Green-Prime product offering is independently audited (a process that was completed in July 2021 for the 2020 operating year), SVCE is proceeding with self-certification of its annual report for the Green-Start product offering, consistent with PSDP regulations. Evidence of such attestation (for Green-Start) as well as the aforementioned audit report (for Green-Prime) must be provided to the CEC by October 1st.

Should the Board endorse staff's recommendation, a copy of this staff report, related meeting minutes and a copy of SVCE's 2020 Audit Report for the Green-Prime product offering will be forwarded to the CEC, thereby completing SVCE's obligations under the PSD Program for the 2020 calendar year.

STRATEGIC PLAN

As referenced in SVCE's Strategic Plan, SVCE will use various channels and platforms to cultivate relationships with and bring customer value to all segments of the communities we serve. Complying with these regulations will increase customer trust and continue SVCE's transparency.

ALTERNATIVE

Should the Board choose not to endorse the information provided for the power content label, staff will need to file an extension with the CEC and hire an auditor to review SVCE's data for compliance.

FISCAL IMPACT

N/A

[2] Assembly Bill 1110, passed on 9/26/16, California Energy Commission "Modification of Regulations Governing the Power Source Disclosure Program" 5/15/20, modified the PCL reporting requirements starting with reporting year 2020 to include emissions associated with power supply and treatment of over procurement of resources. As such, for 2020 while SVCE has procured 49.6% RPS eligible resources under Green Start, because SVCE had more clean resources than load only 42.5% will be shown on the PCL.

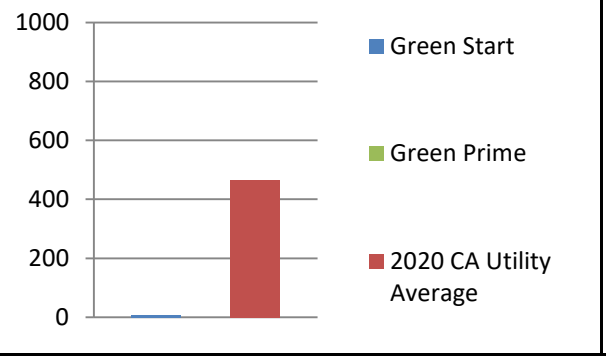
ATTACHMENTS

1. 2020 SVCE Power Content Label

2020 POWER CONTENT LABEL
SILICON VALLEY CLEAN ENERGY

https://www.svcleanenergy.org/

Greenhouse Gas Emissions Intensity (lbs CO_2e/MWh)		
Green Start	Green Prime	2020 CA Utility Average
7	**0**	**466**



Energy Resources	Green Start	Green Prime	2020 CA Power Mix
Eligible Renewable[1]	**42.5%**	**100.0%**	**33.1%**
Biomass & Biowaste	2.8%	0.0%	2.5%
Geothermal	1.9%	0.0%	4.9%
Eligible Hydroelectric	5.2%	0.0%	1.4%
Solar	18.3%	75.0%	13.2%
Wind	14.3%	25.0%	11.1%
Coal	**0.0%**	**0.0%**	**2.7%**
Large Hydroelectric	**47.5%**	**0.0%**	**12.2%**
Natural Gas	**0.0%**	**0.0%**	**37.1%**
Nuclear	**9.5%**	**0.0%**	**9.3%**
Other	**0.3%**	**0.0%**	**0.2%**
Unspecified Power[2]	**0.2%**	**0.0%**	**5.4%**
TOTAL	**100.0%**	**100.0%**	**100.0%**
Percentage of Retail Sales Covered by Retired Unbundled RECs[3]**:**	**0%**	**0%**	

[1]The eligible renewable percentage above does not reflect RPS compliance, which is determined using a different methodology.

[2]Unspecified power is electricity that has been purchased through open market transactions and is not traceable to a specific generation source.

[3]Renewable energy credits (RECs) are tracking instruments issued for renewable generation. Unbundled renewable energy credits (RECs) represent renewable generation that was not delivered to serve retail sales. Unbundled RECs are not reflected in the power mix or GHG emissions intensities above.

For specific information about this electricity portfolio, contact:	**Silicon Valley Clean Energy** **1-844-477-SVCE (7823)**
For general information about the Power Content Label, visit:	http://www.energy.ca.gov/pcl/
For additional questions, please contact the California Energy Commission at:	Toll-free in California: 844-454-2906 Outside California: 916-653-0237

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1f

Item 1f:	**Authorize the Chief Executive Officer to Execute an Agreement for FY21-22 with Richards, Watson & Gershon for Legal Services**
From:	Girish Balachandran, CEO
Prepared by:	Kevin Armstrong, Administrative Services Manager
Date:	9/8/2021

RECOMMENDATION

Staff recommends that the Board authorize the CEO to execute a new FY21-22 agreement with Richards, Watson & Gershon (RWG) for legal services from October 1, 2021 through September 30, 2022, for an amount not to exceed $235,000.

BACKGROUND

Silicon Valley Clean Energy (SVCE) has been utilizing the services of RWG since the Agency's formation with the current agreement expiring on September 30, 2021. Staff continues to have a successful working relationship with Richards, Watson, and Gershon as General Counsel to SVCE, and recommends continuing the partnership.

Compensation for the upcoming agreement for fiscal year 2021 – 2022 is to not exceed $235,000 for the term of the agreement. This compensation cap matches the amended agreement amount from FY20-21 and recognizes that consultation with RWG has increased over the past several years due to increasing program and contractual needs. Staff and RWG believe that this increased initial agreement will reduce the possibility of an amendment to increase the amount later in the fiscal year.

ANALYSIS & DISCUSSION

The scope of work for fiscal year 2021 – 2022 is included in Exhibit A to the Agreement with RWG (see Attachment 1) and includes:

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

STRATEGIC PLAN

The recommendation supports staff in all areas of the Strategic Plan.

ALTERNATIVE

Staff is open to alternatives from the Board.

Agenda Item: 1f **Agenda Date: 9/8/2021**

FISCAL IMPACT

The recommendation results in a fiscal impact of $235,000 for Fiscal Year 2021-22. The recommended contract is equal to the current, amended agreement expiring on September 30, 2021.

ATTACHMENTS

1. Agreement with Richards, Watson & Gershon for FY21-22 legal services.

AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND RICHARDS, WATSON & GERSHON FOR LEGAL SERVICES

THIS AGREEMENT, is entered into this 1st day of October, 2021 day, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and RICHARDS, WATSON & GERSHON, a professional corporation whose address is 44 Montgomery St., Suite 3800, San Francisco, CA 94104 (hereinafter referred to as "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 Legal Services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2021, 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 two hundred and thirty-five thousand and 00/100 dollars and no/100 ($235,000.00) dollars 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, and any subconsultant under the 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, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

A. 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.

B. Intellectual Property Indemnification. Consultant hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights"), except as otherwise expressly provided by this Agreement. Consultant warrants that the services to be provided pursuant to this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Consultant shall indemnify, defend, and hold Indemnitees, harmless from and against any Liabilities by a third party that the services to be provided pursuant to this Agreement infringe or violate any third-party's IP Rights, provided any such right is enforceable in the United States. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation.

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

D. 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. Richards, Watson & Gershon (Consultant Representative") shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL 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 agrees to comply with the confidentiality provisions set forth in Exhibit "E," attached hereto and incorporated herein by this reference.

E. 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:
Richard, Watson & Gershon
Attn: Gregory W. Stepanicich
44 Montgomery St., Suite 3800
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 determined by the Authority but 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

_____
Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
RICHARD, WATSON & GERSHON

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

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

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

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

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

Exhibit B
Schedule of Performance

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

Task	Begin	Complete
1. Legal Services	October 2021	September 2022

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 two hundred and thirty-five thousand and 00/100 dollars and no/100 ($235,000.00) as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Rates

Personnel	**Hourly**
Shareholders	$335/Hour
Associates	$285/Hour
Paralegals	$180/Hour

Invoices

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

(5) **Privacy and Cybersecurity**
Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs of at least $5,000,000 US per occurrence.

Exhibit E
Confidentiality Requirements

Subject to the terms and conditions of the Agreement, current proprietary and confidential information of Authority regarding customers of Authority ("Authority Customers") and/or other confidential information (collectively "Confidential Information") may be disclosed to Consultant from time to time in connection herewith solely for the purposes set forth in the Agreement. Such disclosure is subject to the following legal continuing representations and warranties by Consultant:

1. The Confidential Information disclosed to Consultant in connection herewith may include, without limitation, the following information about Authority Customers: (a) names; (b) addresses; (c) telephone numbers and email addresses; (d) service agreement numbers and account numbers; (e) meter and other identification numbers; (f) Authority-designated account numbers; (g) electricity and gas usage (including monthly usage, monthly maximum demand, electrical or gas consumption, HP load, and other data detailing electricity or gas needs and patterns of usage); (h) billing information (including rate schedule, baseline zone, CARE participation, end use code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); (i) payment / deposit status; (j) number of units; and (k) other similar information specific to Authority Customers individually or in the aggregate. Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by Consultant or its representatives that are derived from or based on Confidential Information disclosed by Authority, regardless of the form of media in which it is prepared, recorded or retained.

2. Except for electric and gas usage information provided to Consultant pursuant to this Agreement, Confidential Information does not include information that Consultant proves (a) was properly in the possession of Consultant at the time of disclosure; (b) is or becomes publicly known through no fault of Consultant, its employees or representatives; or (c) was independently developed by Consultant, its employees or representatives without access to any Confidential Information.

3. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by Consultant, or used for any purpose other than the purposes set forth in the Agreement.

4. Consultant shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. Consultant shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for purposes not set forth in the Agreement. Specifically, Consultant shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of Consultant who have a "need to know" such Confidential Information in the course of their duties with respect to the Consultant program and who agree to be bound by the

nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement. Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority.

5. Notwithstanding the above, Consultant may disclose Confidential Information to the extent required by an order, subpoena, or lawful process requiring the disclosure of such Confidential Information issued by a court or other governmental authority of competent jurisdiction, provided that Consultant notifies Authority immediately upon receipt thereof to allow Authority to seek protective treatment for such Confidential Information.

6. Consultant shall immediately notify Authority if it reasonably believes that there has been unauthorized access to the Confidential Information by a non-authorized person that could reasonably result in the use, disclosure, or theft of the Confidential Information.

7. It shall be considered a material breach of this Agreement if Consultant engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Consultant understands that if Authority finds that Consultant is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement Authority shall promptly cease all disclosures of Confidential Information to Consultant. Consultant further understands that if Authority receives a customer complaint about Consultant's misuse of data or other violation of the Disclosure Provisions, Authority shall promptly cease disclosing that customer's information to Consultant and shall notify the California Public Utilities Commission of the complaint.

8. Consultant shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Authority directly against such employees or representatives for improper disclosure and/or use. In no event shall Consultant or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Consultant shall immediately notify Authority in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Consultant or any of its employees or representatives. However, nothing in this Agreement shall obligate the Authority to monitor or enforce the Consultant's compliance with the terms of this Agreement.

9. Consultant shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.

10. In addition to any other requirements set forth in the Agreement, within ten (10) business days of receipt of Authority's written request, and at Authority's option, Consultant will

either return to Authority all tangible Confidential Information, including but not limited to all electronic files, documentation, notes, plans, drawings, and copies thereof, or will provide Authority with written certification that all such tangible Confidential Information of Authority has been destroyed.

11. Consultant acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Authority and/or Authority Customers, the amount of which may be difficult to assess. Accordingly, Consultant hereby confirms that the Authority shall be entitled to apply to a court of competent jurisdiction or the California Public Utilities Commission for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Consultant or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the Authority, in law or equity.

12. In addition to all other remedies, Consultant shall indemnify and hold harmless Authority, its officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of Consultant and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.

13. When Consultant fully performs the purposes set forth in the Agreement, or if at any time Consultant ceases performance or Authority requires Consultant cease performance of the purposes set forth in the Agreement, Consultant shall promptly return or destroy (with written notice to Authority itemizing the materials destroyed) all Confidential Information then in its possession at the direction of Authority. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1g

Item 1g:	**Authorize the Chief Executive Officer to Execute Agreement with Maher Accountancy for Accountant Services**
From:	Girish Balachandran, CEO
Prepared by:	Kevin Armstrong, Administrative Services Manager
Date:	9/8/2021

RECOMMENDATION

Staff recommends the Board of Directors approve and authorize the Chief Executive Officer to execute an agreement with Maher Accountancy for $255,000.00 through September 30, 2022.

BACKGROUND

SVCE has been utilizing the services of Maher Accountancy since March 2017 with the current agreement expiring on September 30, 2021. There is a minor increase in cost between the proposed agreement and the current agreement, to adjust for inflation (using 3.2% from the Bureau of Labor Standards). In addition to service costs, the contract includes a $20,000 contingency for business continuity support services that was unaffected by the inflationary adjuster.

Maher Accountancy services strengthen internal controls and provide institutional knowledge based on years of experience with other Community Choice Aggregators.

ANALYSIS & DISCUSSION

Maher Accountancy shall provide accounting services and financial operational assistance to the Authority for a fixed monthly fee. Services include (See Exhibit A of Attachment 1):

1. Maintenance of the General Ledger including reconciling customer data management reports of customer activity and accounts receivable and reconciliation of the agency's financial institution for cash activity and balances.
2. Assist staff with the development of the operating budget.
3. Manage accounts payable by providing a cloud-based accounts payable document management system that enhances internal controls.
4. Manage compliance with fiscal provisions of vendor contracts including the verifying of time periods, rates, and financial limits before payment is released.
5. Monitor expenditures budget compliance and make timely suggestions and budget amendments when necessary.
6. Financial reporting including periodic and year-to-date accrual basis financial statements.
7. Present financial information to Board of Directors, as needed.
8. Assist the treasury function.
9. File various compliance reports for state and local agencies, such as user taxes, energy surcharges, and state controller reports
10. File annual information returns such as 1099's/1096's.
11. Provide hosting and portal to assist with contracts management.

Maher Accountancy shall also assist with coordination of an independent auditor for the annual audit and prepare annual financial statements. In addition, Maher Accountancy developed and manages an online contract portal, allowing staff to track open contracts and expenditures.

STRATEGIC PLAN

The recommendation supports the financial goals of the Strategic Plan.

ALTERNATIVE

Staff is open to alternatives from the Board.

FISCAL IMPACT

This recommendation results in a $255,000 fiscal impact to the agency but is offset with the avoidance of SVCE hiring internal staff to perform these duties. The recommended contract is an increase of $7,330 consisting solely of the inflationary adjustment.

ATTACHMENTS

1. Agreement with Maher Accountancy

AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND MAHER ACCOUNTANCY FOR ACCOUNTING SERVICES

THIS AGREEMENT ("Agreement"), is entered into this 1st day of October, 2021, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and MAHER ACCOUNTANCY, a California Corporation whose address is 1101 Fifth Avenue, Suite 200, San Rafael, CA 94901 (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 Accounting Services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2021, 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 two hundred fifty-five thousand and five hundred dollars (255,500.00) 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 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, and any subconsultant under the 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, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

A. 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.

B. Intellectual Property Indemnification. Consultant hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights"), except as otherwise expressly provided by this Agreement. Consultant warrants that the services to be provided pursuant to this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Consultant shall indemnify, defend, and hold Indemnitees, harmless from and against any Liabilities by a third party that the services to be provided pursuant to this Agreement infringe or violate any third-party's IP Rights, provided any such right is enforceable in the United States. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation.

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

D. 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. Maher Accountancy (Consultant Representative") shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL 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 agrees to comply with the confidentiality provisions set forth in Exhibit "E," attached hereto and incorporated herein by this reference.

E. 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:
Michael Maher, CPA
Maher Accountancy
1101 Fifth Avenue, Suite #200
San Rafael, CA 94901

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 determined by the Authority but 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

_____
Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
MAHER ACCOUNTANCY

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

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

Monthly Financial Operational Assistance:

1. Assist in development of operating budget in collaboration with management and technical consultants.

2. Maintain the general ledger by:
   a. Posting billings, accrued revenue, cash receipts, accounts payable, cash disbursements, payroll, accrued expenses, etc.
   b. Prepare or maintain the following monthly analysis regarding general ledger account balances:
      i. Reconciliation to statements from Authority's financial institution for cash activity and balances;
      ii. Reconcile customer data manager reports of customer activity and accounts receivable;
      iii. Estimated user fees earned but not billed as of the end of the reporting period;
      iv. Schedule of depreciation of capital assets;
      v. Aged schedule of accounts payable;
      vi. Schedules of details regarding all remaining balance sheet accounts.

3. Manager accounts payable: Consultant utilizes a cloud-based accounts payable document management system to provide for documentation of management review, proper segregation of duties, and access to source data. Consultant ensures that required authorization is documented, and that account coding is correct. SVCEA staff then authorizes the release of payment by an independent payment service in order to provide an additional safeguard.

4. Manage compliance with fiscal provisions of vendor contracts: Before submitting vendor invoices for management approval, Consultant verifies that a vendor invoice with contract provisions regarding time periods, rates, and financial limits.

5. Monitor expenditure budget compliance. Consultant monitors budget available and will make timely suggestions for any necessary budget amendments.

6. Provide periodic and year-to-date accrual basis financial statements with comparison to projections.

7. Provide modified accrual basis financial statement with comparison to budget.

8. Filing annual information returns such as form 1099/1096's.

9. Present financial information to Board of Directors, as needed.

10. Assist the treasury function.

11. Provide services to meet the requirements of applicable laws and regulations relating to the provisions of accounting services for Authority.

12. File various compliance reports for state and local agencies, such as user taxes, energy surcharges, and state controller reports

13. Provide hosting and portal management for the contracts management portal. Prepare annual financial statements and coordination with independent auditor

Exhibit B
Schedule of Performance

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

Task	Begin	Complete
1. Accounting Services (Monthly)	October 2021	September 2022
2. Prepare annual financial statements and coordinate with external auditor (Annual)	October 2021	September 2022
3. Contract Portal Management (Annual)	October 2021	September 2022
4. Business Continuity Support	October 2021	September 2022

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 two hundred fifty-five thousand and five hundred dollars and no/100 ($255,500.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	**Cost**
1. Accounting Services (Monthly)	**$17,300**
2. Prepare annual financial statements and coordinate with external auditor (Annual)	**$15,000**
3. Contract Portal Management (Annual)	**$12,400**
4. Business Continuity Support	**$20,000**
Total	**$255,000**

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.

(5) **Privacy and Cybersecurity Liability**
Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs of at least $5,000,000 US per occurrence.

Exhibit E
Confidentiality Requirements

Subject to the terms and conditions of the Agreement, current proprietary and confidential information of Authority regarding customers of Authority ("Authority Customers") and/or other confidential information (collectively "Confidential Information") may be disclosed to Consultant from time to time in connection herewith solely for the purposes set forth in the Agreement. Such disclosure is subject to the following legal continuing representations and warranties by Consultant:

1. The Confidential Information disclosed to Consultant in connection herewith may include, without limitation, the following information about Authority Customers: (a) names; (b) addresses; (c) telephone numbers and email addresses; (d) service agreement numbers and account numbers; (e) meter and other identification numbers; (f) Authority-designated account numbers; (g) electricity and gas usage (including monthly usage, monthly maximum demand, electrical or gas consumption, HP load, and other data detailing electricity or gas needs and patterns of usage); (h) billing information (including rate schedule, baseline zone, CARE participation, end use code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); (i) payment / deposit status; (j) number of units; and (k) other similar information specific to Authority Customers individually or in the aggregate. Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by Consultant or its representatives that are derived from or based on Confidential Information disclosed by Authority, regardless of the form of media in which it is prepared, recorded or retained.

2. Except for electric and gas usage information provided to Consultant pursuant to this Agreement, Confidential Information does not include information that Consultant proves (a) was properly in the possession of Consultant at the time of disclosure; (b) is or becomes publicly known through no fault of Consultant, its employees or representatives; or (c) was independently developed by Consultant, its employees or representatives without access to any Confidential Information.

3. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by Consultant, or used for any purpose other than the purposes set forth in the Agreement.

4. Consultant shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. Consultant shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for purposes not set forth in the Agreement. Specifically, Consultant shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of Consultant who have a "need to know" such Confidential Information in the course of

their duties with respect to the Consultant program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement. Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority.

5. Notwithstanding the above, Consultant may disclose Confidential Information to the extent required by an order, subpoena, or lawful process requiring the disclosure of such Confidential Information issued by a court or other governmental authority of competent jurisdiction, provided that Consultant notifies Authority immediately upon receipt thereof to allow Authority to seek protective treatment for such Confidential Information.

6. Consultant shall immediately notify Authority if it reasonably believes that there has been unauthorized access to the Confidential Information by a non-authorized person that could reasonably result in the use, disclosure, or theft of the Confidential Information.

7. It shall be considered a material breach of this Agreement if Consultant engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Consultant understands that if Authority finds that Consultant is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement Authority shall promptly cease all disclosures of Confidential Information to Consultant. Consultant further understands that if Authority receives a customer complaint about Consultant's misuse of data or other violation of the Disclosure Provisions, Authority shall promptly cease disclosing that customer's information to Consultant and shall notify the California Public Utilities Commission of the complaint.

8. Consultant shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Authority directly against such employees or representatives for improper disclosure and/or use. In no event shall Consultant or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Consultant shall immediately notify Authority in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Consultant or any of its employees or representatives. However, nothing in this Agreement shall obligate the Authority to monitor or enforce the Consultant's compliance with the terms of this Agreement.

9. Consultant shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.

10. In addition to any other requirements set forth in the Agreement, within ten (10) business days of receipt of Authority's written request, and at Authority's option, Consultant will either return to Authority all tangible Confidential Information, including but not limited to all electronic files, documentation, notes, plans, drawings, and copies thereof, or will provide Authority with written certification that all such tangible Confidential Information of Authority has been destroyed.

11. Consultant acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Authority and/or Authority Customers, the amount of which may be difficult to assess. Accordingly, Consultant hereby confirms that the Authority shall be entitled to apply to a court of competent jurisdiction or the California Public Utilities Commission for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Consultant or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the Authority, in law or equity.

12. In addition to all other remedies, Consultant shall indemnify and hold harmless Authority, its officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of Consultant and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.

13. When Consultant fully performs the purposes set forth in the Agreement, or if at any time Consultant ceases performance or Authority requires Consultant cease performance of the purposes set forth in the Agreement, Consultant shall promptly return or destroy (with written notice to Authority itemizing the materials destroyed) all Confidential Information then in its possession at the direction of Authority. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1h

Item 1h:	**Authorize CEO to Execute Agreements with Ad-Vantage Marketing for Mailing Services and Pacific Printing for Printing Services**
From:	Girish Balachandran, CEO
Prepared by:	Pamela Leonard, Communications Manager
Date:	9/8/2021

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy (SVCE) Board of Directors authorize the CEO to execute a five-year agreement with Ad-Vantage Marketing for mailing services and a four-year agreement Pacific Printing for printing services. The agreement with Ad-Vantage Marketing is not-to-exceed $625,000 over five years, with an anticipated annual spend of $125,000. The agreement with Pacific Printing is not-to-exceed $100,000 over four years, with an anticipated annual spend of $25,000.

BACKGROUND

SVCE has worked with Ad-Vantage Marketing for mailing services since launching in 2017, and with Pacific Printing since 2018 for printing marketing materials. Both vendors have provided excellent service with superior customer service and delivering quality products. Given that contracts for these services are coming up on five years in length, staff issued a Request for Proposals (RFP) on July 26, 2021 for printing and mailing services to seek possible alternatives and review competitive bids from other qualified vendors.

SVCE received seven proposals for printing and mailing vendors. Most bids came from Bay Area-based companies, with just two from outside the area. All proposals were competitive from a cost standpoint, and each vendor proposal met the minimum requirements detailed in the scope of work. Staff gave extra consideration for vendors with existing CCA experience and strong environmental practices.

ANALYSIS & DISCUSSION

After reviewing, shortlisting, and interviewing the top bidders, staff recommends continuing to work with our existing printing and mailing vendors under two separate contracts. The reason for maintaining separate contracts is that it allows SVCE to take advantage of the two areas where each vendor is particularly strong and offers the most cost-competitive services. The vendors continue to offer excellent customer service and quality work to meet the agency's needs and requirements, and they remain cost competitive. SVCE will also save time and money continuing to work with our existing vendors as we will not have to set up a new secure file transfer systems or ship existing stock to a new warehouse.

Ad-Vantage Marketing is a family-owned printer based in Santa Rosa that has served as SVCE's mailing services provider since the agency began sending out enrollment notices in January 2017, prior to launching service. Ad-Vantage Marketing consistently provides reliable service, as well as timely and effective customer service, and they seek out ways to identify cost-saving opportunities with USPS bulk-mail postage requirements.

To comply with state regulatory requirements and CCA operational requirements set forth by CCA laws, SVCE is responsible for sending out specific mailings to customers throughout the year. Ad-Vantage Marketing is

already familiar with these required mailings from working with Sonoma Clean Power since 2015, and through having served SVCE since our launch. Ad-Vantage Marketing has established operational mechanisms in place to serve CCAs, such as secure data transfers with Calpine, which ensures a smooth process when dealing with mass mailings and customer data.

Mailings that Ad-Vantage Marketing is responsible for include:

1. Annual Joint Rate Mailer
2. Annual Power Content Label
3. Weekly maintenance mailings (opt outs, upgrades, delinquent accounts, etc.)
4. Notifications for new move in accounts
5. Various customer outreach letters and program marketing letters

Pacific Printing is a union printing company offering a variety of printing services including business cards, brochures, booklets, flyers, and banners. SVCE utilizes Pacific Printing for print services for physical collateral such as business cards, flyers, brochures, booklets, stickers and banners. These services are an ongoing need for SVCE as a means to effectively communicate with customers and build the agency's brand recognition through community events.

Despite a temporary slowdown in community events caused by the pandemic, SVCE continues to need printing services for a variety of special projects. Having a local printer able to quickly turn around projects and do special jobs, such as stickers for EV charging stations, has helped to SVCE achieve its annual marketing objectives. SVCE anticipates a return to in-person community events and will need to re-print various materials and handouts to reflect the most up-to-date rate information and program offerings.

SVCE has an existing contract with Pacific Printing that does not expire until September 30, 2022, so the new agreement with Pacific Printing will be effective October 1, 2022 and last for four years. This will align SVCE's print and mailing service vendors onto the same timeline for the next RFP cycle in 2026.

Both Advantage and Pacific Printing follow industry-standard environmental practices such as use of recycled and FSC-certified paper, printing with soy ink, or UV printing, which does not emit volatile organic compounds (VOCs).

STRATEGIC PLAN

Providing printed materials and delivering physical letters to customers aligns with strategic plan goal #10: empower customers with the awareness, knowledge and resources needed to make effective clean energy choices.

ALTERNATIVE

Staff could consolidate the work into a single contract with only one of these vendors, but the RFP results indicated that the economics were better keeping the services separate. Another alternative is to reduce the number of years committed to each agreement and run another printing and mailing solicitation.

FISCAL IMPACT

The five-year agreement with Ad-Vantage Marketing is not-to-exceed $625,000 over five years, with an anticipated annual spend of $125,000. The agreement with Pacific Printing is not-to-exceed $100,000 over four years, with an anticipated annual spend of $25,000. These amounts are accounted for in the annual budget process, which includes the anticipated costs of annual customer notices, ongoing weekly mailing maintenance and other marketing needs.

ATTACHMENTS

1. Agreement with Ad-Vantage Marketing
2. Agreement with Pacific Printing

AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND AD-VANTAGE MARKETING FOR PRINTING AND MAILING SERVICES

THIS AGREEMENT ("Agreement"), is entered into this 1st day of October 2021, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and AD-VANTAGE MARKETING, a California corporation whose address is 455 Tesconi Circle, Santa Rosa, CA 95401 (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 printing and mailing services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2021, and shall terminate on September 30, 2026, 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 six-hundred and twenty-five thousand dollars and no/100 ($625,000.00) 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, and any subconsultant under the 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, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

A. 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.

B. Intellectual Property Indemnification. Consultant hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights"), except as otherwise expressly provided by this Agreement. Consultant warrants that the services to be provided pursuant to this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Consultant shall indemnify, defend, and hold Indemnitees, harmless from and against any Liabilities by a third party that the services to be provided pursuant to this Agreement infringe or violate any third-party's IP Rights, provided any such right is enforceable in the United States. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation.

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

D. 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. Glen Rankin (Consultant Representative") shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL 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 agrees to comply with the confidentiality provisions set forth in Exhibit "E," attached hereto and incorporated herein by this reference.

E. 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:
Glen Rankin
Ad-Vantage Marketing
455 Tesconi Circle
Santa Rosa, CA 95401

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 determined by the Authority but 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

_____

Don Bray, Director of Account Services & Community Relations

RECOMMENDED FOR APPROVAL

_____

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
Ad-Vantage Marketing

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

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

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

1. Weekly account maintenance
    a. Enrollment notifications for new accounts
        i. As new customers set up electric accounts in the SVCE service area, they must receive two notices to inform them of their enrollment with a Community Choice Energy provider.
    b. Opt Out and Upgrade to GreenPrime notices
        i. Customers may elect to receive a mailed confirmation of their opt out or upgrade transaction with SVCE
    c. Late payment letters
        i. SVCe sends delinquent payment notices to customers 90 and 60 days in advance of them being returned to PG&E

2. Annual Joint Rate Mailer
    a. Per a California Public Utilities Commission requirement, SVCE and PG&E send an annual mailer no later than July 1 so customers may compare rates and power content for the two providers.

3. Annual Power Content Label
    a. Per a California Energy Commission requirement, SVCE must mail all customers the Power Content Label in Q3 of each year with the verified power content from the prior year.

4. Data Processing
    a. List setup, checking National Change of Address database and reporting any changes to SVCE for each mailing.

5. Production
    a. Inkjet print setup, addressing letters, sort and bag, deliver to main Santa Clara County mail processing facilities.

6. Printing
    a. Printing 6x11 cards for items 1a, 2 and 3 above, using FSC Certified recycled paper and soy-based ink.
    b. Printing of weekly maintenance and late payment letters.

7. Contingency for additional communications and program-related mailings
    a. To be used at the discretion of staff for additional customer communications for operations, customer service or program marketing purposes.

Exhibit B
Schedule of Performance

Weekly and annual mailings have a set schedule. However, some mailings, such as the Joint Rate Mailer may experience changes in timing due to extensions granted by the CPUC that may be necessary if there are external factors that delay information from participating parties. All contingency communications are on an as-needed basis.

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

Task	Begin	Complete
1. Weekly account maintenance	Ongoing	
2. Annual Joint Rate Mailer	June	July
3. Annual Power Content Label	August	September
4. Marketing letters	As needed	
5. Special communications	As needed	

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 six-hundred and twenty-five thousand dollars and no/100 ($625,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	**Estimated Budget**
1. Weekly Mailings ($1000.00/week)	$ 52,000.00
2. Joint Rate Mailer	$ 14,000.00
3. Power Content Label	$23,000.00
4. Contingency letters/special projects	$36,000.00
Total	$125,000.00

Total for five-year contract term: $625,000.00

Invoices

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

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.

(5) **Privacy and Cybersecurity Liability**
Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs of at least $5,000,000 US per occurrence.

Exhibit E
Confidentiality Requirements

Subject to the terms and conditions of the Agreement, current proprietary and confidential information of Authority regarding customers of Authority ("Authority Customers") and/or other confidential information (collectively "Confidential Information") may be disclosed to Consultant from time to time in connection herewith solely for the purposes set forth in the Agreement. Such disclosure is subject to the following legal continuing representations and warranties by Consultant:

1. The Confidential Information disclosed to Consultant in connection herewith may include, without limitation, the following information about Authority Customers: (a) names; (b) addresses; (c) telephone numbers and email addresses; (d) service agreement numbers and account numbers; (e) meter and other identification numbers; (f) Authority-designated account numbers; (g) electricity and gas usage (including monthly usage, monthly maximum demand, electrical or gas consumption, HP load, and other data detailing electricity or gas needs and patterns of usage); (h) billing information (including rate schedule, baseline zone, CARE participation, end use code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); (i) payment / deposit status; (j) number of units; and (k) other similar information specific to Authority Customers individually or in the aggregate. Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by Consultant or its representatives that are derived from or based on Confidential Information disclosed by Authority, regardless of the form of media in which it is prepared, recorded or retained.

2. Except for electric and gas usage information provided to Consultant pursuant to this Agreement, Confidential Information does not include information that Consultant proves (a) was properly in the possession of Consultant at the time of disclosure; (b) is or becomes publicly known through no fault of Consultant, its employees or representatives; or (c) was independently developed by Consultant, its employees or representatives without access to any Confidential Information.

3. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by Consultant, or used for any purpose other than the purposes set forth in the Agreement.

4. Consultant shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. Consultant shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for purposes not set forth in the Agreement. Specifically, Consultant shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of Consultant who have a "need to know" such Confidential Information in the course of

their duties with respect to the Consultant program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement. Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority.

5. Notwithstanding the above, Consultant may disclose Confidential Information to the extent required by an order, subpoena, or lawful process requiring the disclosure of such Confidential Information issued by a court or other governmental authority of competent jurisdiction, provided that Consultant notifies Authority immediately upon receipt thereof to allow Authority to seek protective treatment for such Confidential Information.

6. Consultant shall immediately notify Authority if it reasonably believes that there has been unauthorized access to the Confidential Information by a non-authorized person that could reasonably result in the use, disclosure, or theft of the Confidential Information.

7. It shall be considered a material breach of this Agreement if Consultant engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Consultant understands that if Authority finds that Consultant is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement Authority shall promptly cease all disclosures of Confidential Information to Consultant. Consultant further understands that if Authority receives a customer complaint about Consultant's misuse of data or other violation of the Disclosure Provisions, Authority shall promptly cease disclosing that customer's information to Consultant and shall notify the California Public Utilities Commission of the complaint.

8. Consultant shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Authority directly against such employees or representatives for improper disclosure and/or use. In no event shall Consultant or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Consultant shall immediately notify Authority in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Consultant or any of its employees or representatives. However, nothing in this Agreement shall obligate the Authority to monitor or enforce the Consultant's compliance with the terms of this Agreement.

9. Consultant shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.

10. In addition to any other requirements set forth in the Agreement, within ten (10) business days of receipt of Authority's written request, and at Authority's option, Consultant will either return to Authority all tangible Confidential Information, including but not limited to all electronic files, documentation, notes, plans, drawings, and copies thereof, or will provide Authority with written certification that all such tangible Confidential Information of Authority has been destroyed.

11. Consultant acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Authority and/or Authority Customers, the amount of which may be difficult to assess. Accordingly, Consultant hereby confirms that the Authority shall be entitled to apply to a court of competent jurisdiction or the California Public Utilities Commission for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Consultant or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the Authority, in law or equity.

12. In addition to all other remedies, Consultant shall indemnify and hold harmless Authority, its officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of Consultant and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.

13. When Consultant fully performs the purposes set forth in the Agreement, or if at any time Consultant ceases performance or Authority requires Consultant cease performance of the purposes set forth in the Agreement, Consultant shall promptly return or destroy (with written notice to Authority itemizing the materials destroyed) all Confidential Information then in its possession at the direction of Authority. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.

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

THIS AGREEMENT, is entered into this 1st day of October 2022, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and Pacific Printing, a California corporation whose address is 1445 Monterey Highway, San Jose, CA 95110 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties" 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 printing services upon the terms and conditions herein.

D. The Consultant and SVCEA entered an engagement dated October 1, 2019, as (the "Prior Agreement"). Once fully executed, this engagement letter (the "Agreement") shall amend, replace and supersede in its entirety the Prior Agreement.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2022, and shall terminate on September 20, 2026, 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 thousand dollars ($100,000.00) 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, and any subconsultant under the 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, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

A. 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.

B. Intellectual Property Indemnification. Consultant hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights"), except as otherwise expressly provided by this Agreement. Consultant warrants that the services to be provided pursuant to this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Consultant shall indemnify, defend, and hold Indemnitees, harmless from and against any Liabilities by a third party that the services to be provided pursuant to this Agreement infringe or violate any third-party's IP Rights, provided any such right is enforceable in the United States. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation.

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

Liability. D. 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. Andrew Goett (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:

Andrew Goett
Pacific Printing
1445 Monterey Highway
San Jose, CA 95110

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 determined by the Authority but 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

_____

Don Bray, Director of Account Services & Community Relations

RECOMMENDED FOR APPROVAL

_____

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
PACIFIC PRINTING

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

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

Silicon Valley Clean Energy will utilize Pacific Printing for print services for a variety of collateral needs such as business cards, flyers, brochures, window clings and banners. This list is a sample of common projects, and not an exhaustive list. Additional projects may arise outside of this scope.

Project Type	Format, Paper & Specs	Quantity	Estimated Cost for Printing
Flyers	- 4/4 color - 80# book - 8.5″ x 11″ - Satin, AQ	100 – 500 (varies)	$0.50 per unit
Brochures	- Tri-fold - 80# book - 8.5″ x 11″ - Satin, AQ	250 – 1,000 (varies)	$0.65 per unit
Banners	- 72″ retractable banners - Horizontal, vinyl banners w/ grommets	1 unit per order	$275 – retractable banner $7 per sq ft. for vinyl banners
Booklets	- 4/4 color - 100# dull book - 17″ x 11″, folded to 8.5″ x 11″ - Satin, AQ	50 – 200 (varies)	$0.75 per unit
Postcards	- 4/4 color - 80# dull cover - 7″ x 5″	200 – 500 (varies)	$0.20 per unit

Exhibit B
Schedule of Performance

All printing projects with Pacific Printing are on an as needed basis.

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 thousand dollars and no/100 ($100,000.00), 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.

All tasks vary by type of project and quantity ordered. See list of estimates in Exhibit A.

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.

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.

Staff Report – Item 1i

Item 1i:	**Authorize the Chief Executive Officer to Execute Agreement with Keyes and Fox, LLP for Legal Services around Power Transactions**
From:	Girish Balachandran, CEO
Prepared by:	Monica Padilla, Director of Power Resources Kevin Armstrong, Administrative Services Manager
Date:	9/8/2021

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy Authority Board ("Board") authorize the Chief Executive Officer ("CEO") to execute the Keyes and Fox, LLP ("K&F") agreement in substantial form for legal services around power transactions for a total amount not to exceed ("NTE") $50,000.

BACKGROUND

SVCE has approved previous agreements for regulatory and legislative counsel services with Keyes and Fox. This new agreement will provide legal representation and support with respect to the procurement of wholesale electricity supply and related services including, energy, energy storage, resource adequacy, renewable power to serve the Authority's customers.

ANALYSIS & DISCUSSION

As a load serving entity in California, the Authority is required to procure resources and products for multiple objectives and mandates. The number and complexity of such transactions has grown since the Authority launched first launched. The number of community choice aggregators in California has also grown resulting in high demand for resources and services including legal support. The Authority's Power Resources Department needs additional legal support on retainer to review power transactions, including renewable power purchase agreements and energy and capacity transactions under master agreements and bilateral contracts.

Staff is requesting this additional Keyes and Fox agreement to provide that additional capacity, based on their familiarity with the power market and the transactions in question, and their long track record of working constructively with SVCE and other CCAs on joint representation issues across a variety of regulatory proceedings and procurement efforts. Having an additional firm on contract for transactional support will allow SVCE to be more responsive to market opportunities and thus reduce transactional risk. Staff is recommending a new, separate agreement with K&F due to the differing standards of legal representation between procurement and regulatory representation.

STRATEGIC PLAN

Approving this contract will directly support Goal 7 of the Strategic Plan is to "Ensure SVCE adopts the appropriate tools, systems, and resources to support portfolio optimization, risk management, load forecasting, compliance, and settlements".

ALTERNATIVE

If the Board does not approve this contract, SVCE will face transactional risk, due to potential lack of legal support given the high demand for legal support and limited capacity.

FISCAL IMPACT

The recommendation results in a total fiscal impact of $50,000, with a minimal amount occurring in September (FY20-21) and the majority during Fiscal Year 2021-22. This recommended agreement is in addition to the previous, existing agreement with Keyes and Fox for regulatory and legislative representation on CPUC General Rate Case and ERRA proceedings, which has an NTE amount of $216,100, resulting in an aggregate impact of $266,100 across all agreements.

ATTACHMENTS

1. Draft Agreement with Keyes & Fox LLP

KEYES&FOX LLP

1580 Lincoln Street, Suite 880
Denver, CO 80203

September 7, 2021

Attn: Girish Balachandran
Silicon Valley Clean Energy Authority
333 W. El Camino Real, Suite 330
Sunnyvale CA 94087

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

Keyes & Fox LLP ("K&F") welcomes the opportunity to represent Silicon Valley Clean Energy Authority, a California joint powers authority, ("SVCE") with respect to the procurement of wholesale electricity supply, energy storage, resource adequacy, renewable energy credits, and transmission rights to serve SVCE customers (referred to herein as "Legal Services"). This Engagement Letter excludes work that K&F is currently performing for SVCE under a separate representation agreement. This Engagement Letter describes the basis of the attorney-client relationship between K&F and SVCE with respect to the Legal Services, along with an explanation of how K&F will bill for those services.

1. Scope of Engagement

Pursuant to this engagement letter, K&F agrees to represent SVCE as its client with regard to the Legal Services described above. Keyes & Fox will do its utmost to serve SVCE effectively, provide Legal Services in an efficient manner, and respond promptly to SVCE's inquiries.

K&F has run a conflict check as it relates to the contemplated Legal Services and has not found any direct conflicts with undertaking them. If a conflict arises that may impact our ability to provide SVCE with effective representation, including with respect to negotiations that may involve current or former K&F clients as counterparties, we will promptly bring that conflict to SVCE's attention. If you have any concerns regarding any relationship K&F may have with particular companies, organizations, or individuals, please bring those concerns to our attention.

K&F will coordinate the provision of the Legal Services with Monica Padilla as the designated representatives of SVCE, or with whomever she may specifically delegate that authority. We understand that Ms. Padilla has the authority to make decisions on behalf of SVCE in connection with the Legal Services, and we are relying on that understanding.

2. Confidentiality of Communications and Work Product

It is in SVCE's interest to preserve confidentiality of all communications with K&F and such work product related to the Legal Services not intended for use with third parties. If SVCE discloses any of our communications, it jeopardizes the privileged nature of the communications or work product. Accordingly, we advise our clients to take care not to disclose privileged information or work product not intended for use with third parties to any third-party person or entity.

3. Fees, Expenses, Invoicing, and Retainer

By signing this Engagement Letter, SVCE agrees to pay K&F for all professional fees and out-of-pocket expenses related to the Legal Services, according to the terms set forth below. Compensation under this Engagement Letter shall not exceed fifty thousand dollars ($50,000) without prior written authorization by SVCE.

a. Professional Fees

K&F will keep an hourly total of time spent on the Legal Services. Work will be performed at the hourly rates set forth in the Rates for Professionals provided in Attachment A to this Engagement Letter, which is incorporated by reference herein. Attachment A lists those persons we anticipate may work on the Legal Services. In addition to the K&F attorneys listed in Attachment A, the assistance of other K&F attorneys and/or staff may be enlisted from time to time as determined necessary for the provision of the Legal Services.

It is K&F's policy to adjust hourly rates for all attorneys and staff at the beginning of the calendar year. Historically, rate increases have been between 5-8% per year. Rates quoted in Attachment A are 2021 rates. K&F shall not increase hourly rates charged for work performed during calendar year 2021 Legal Services above those listed in Attachment A. K&F's practice is to charge for travel time, as discussed in Attachment A.

Mr. Fox will be the lead K&F attorney working with you in connection with the Legal Services. Mr. Fox may utilize the services of other K&F attorneys in connection with this matter. By entering into this Engagement Letter, you consent in writing to Mr. Fox serving as the lead attorney in this matter and to Mr. Fox's assignment, with authorization by SVCE, of work on this matter to the other persons listed in Attachment A.

b. Expenses

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

c. Invoices and Payments

K&F will invoice SVCE at the beginning of each month for Legal Services during the prior calendar month. Invoices will list the matter worked on and provide information on the dates of service, time involved, person responsible and activity undertaken. K&F will use best efforts to respond to requests for special invoice formats. Upon receipt of properly prepared invoicing, SVCE shall pay K&F within thirty (30) calendar days for services provided in accordance with this Engagement Letter.

4. Termination of K&F's Representation

Either SVCE or K&F may terminate K&F's representation of SVCE at any time and for any reason. At the time K&F's representation of SVCE concludes, all unpaid fees and costs for work performed by K&F become due and payable. If at that time SVCE does not request the

return of files related to the Legal Services, K&F will retain such files for a period of three (3) years, after which K&F may have the files destroyed.

5. Miscellaneous

This letter is the entire agreement between SVCE and K&F concerning the Legal Services and supersedes all prior or contemporaneous agreement between SVCE and K&F, whether written or verbal, for the Legal Services. This agreement and the scope of work provided under it may be amended from time to time by mutual agreement among K&F and SVCE. California law will govern this agreement and any subsequent amendments.

6. Conclusion

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

We look forward to our representation of SVCE.

Sincerely,



Kevin Fox, Partner
Keyes & Fox LLP

By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Engagement Letter. This agreement shall not take effect, and K&F shall have no obligation to provide the work described herein, until SVCE has returned a signed copy of this letter.

Silicon Valley Clean Energy Authority

I have read the foregoing letter, understand it and agree to it on behalf of SVCE.

By:_____
[Name]

Title:_____

Date: _____

Attachment A

Rates for Professionals

Hourly Rates and Other Terms

Kevin Fox, Partner	*$395*
Caryn Lai, Counsel	*$320*
Lilly McKenna, Associate	*$265*
Julia Kantor, Associate	*$245*
Beren Argetsinger, Associate	*$225*
Alicia Zaloga, Paralegal	*$95*

Firm Travel: Travel time is billed at the one-half of the listed hourly rate. Every effort will be made to work productively on the Legal Services during travel. All reasonable travel expenses are billable – hotel, airfare, car rental, meals, taxi, public transit, etc.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1j

Item 1j:	**Executive Committee Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Liz Gibbons, Chair of the Executive Committee
Date:	9/8/2021

At the August 27, 2021 Executive Committee meeting, the committee received an update from CEO Girish Balachandran which included an announcement that the CCCFA approved the $1.25 Billion 30-year clean energy prepay bond issuance for EBCE and SVCE, a SVCE staffing update regarding the status of employment offers, and the announcement that SVCE will follow the County's vaccination policy. Senior Government Affairs Manager Bena Chang gave an update on the Bipartisan Infrastructure Program and corresponding Reconciliation Package. Director of Regulatory and Legislative Policy Melicia Charles provided an update on regulatory issues regarding the Governor's proclamation calling for increased capacity for grid reliability.

CEO Balachandran provided a presentation Update for the Strategic Plan. There was discussion of adding a sixth focus area dealing with decarbonization programs. This will be added to the budget item that will be heard by the full Board on September 8th.

Director of Regulatory and Legislative Policy Melicia Charles updated the Board on the Equity Policy strategy and detailed the framework and schedule for Programs, Supplier Diversity, and Staffing.

Materials from the August 27, 2021 meeting can be found here: SVCE Executive Committee Meeting Materials, 8/27/21

The next meeting of the Executive Committee will be September 24, 2021 at 2:45 p.m.; materials will be posted no later than 72 hours in advance of the meeting.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1k

Item 1k:	**Finance and Administration Committee Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Rob Rennie, Chair of the Finance and Administration Committee Bryan Mekechuk, Vice Chair of the Finance and Administration Committee
Date:	9/8/2021

No report as the Finance and Administration Committee has not met since August 2, 2021.

The next meeting of the Finance and Administration Committee will be December 16, 2021; materials will be posted no later than 72 hours in advance of the meeting.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1l

Item 1l:	**Audit Committee Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Bryan Mekechuk, Chair of the Audit Committee
Date:	9/8/2021

At the August 18, 2021 Audit Committee meeting, due to connectivity issues, Chair Mekechuk noted Vice Chair Wei would be chairing the meeting.

Amrit Singh, CFO for SVCE, presented the Financial Audit Kick-off. He introduced Brett Bradford and Andrea Lifto with Pisenti and Brinker, SVCE Auditors. Mr. Bradford reported he is planning the audit for the fiscal year that ends September 30, 2021. Mr. Bradford indicated that the audit would cover the three main items that Chair Mekachuk had identified, including large, key transactions with particular attention to allowances, key estimates, including accounts receivable, and any internal controls or weaknesses that need addressing. Previous internal reviews have revealed weaknesses in some controls, and staff has implemented measures to address those and enhance its management of operational risk. Mr. Bradford will meet with Chair Mekechuk before year end. The auditors will be independent going forward and have open channels of communication to the committee.

Jim Steele of Management Partners reported on the Development of Controls. He introduced three specific projects his firm is focusing on: one, creating a more flexible budget model for the 2021-2022 fiscal year; two, reviewing financial policies and reporting practices, and three, making recommendations to the CEO for improvements in internal controls and desk procedures in accordance with best practices.

Kevin Armstrong, Administrative Services Manager, presented an overview of SVCE's three internal technology audits, covering the following areas: an Information Technology Audit; an Advance Metering Infrastructure Audit; and a Security Review and Gap Assessment. The firms conducting these audits each gave presentations. The Information Technology Audit is conducted by Hutchinson and Bloodgood via Abbott, Stringham, Lynch; the Advance Metering Infrastructure Audit will be conducted by Abbott, Stringham, Lynch; and the Security Review and Gap Assessment is conducted by Securicon.

Materials from the August 18, 2021 Audit Committee meeting can be found here: SVCE Audit Committee Meeting, 8/18/21

The next meeting of the Audit Committee will be scheduled for a yet to be determined date in early 2022. Materials will be posted not less than 72 hours prior to the meeting.

California Community Power

70 Garden Court, Suite 300, Monterey, CA 93940 | cacommunitypower.org

TO: CC Power Board of Directors **DATE:** 8/19/21
FROM: Tim Haines – Interim General Manager
SUBJECT: Report on CC Power Board of Directors Meeting – 8/18/21

The CC Power Board of Directors held a specially scheduled meeting on Wednesday, 8/18/21, via Zoom. Details on the Board packet, presentation materials, and public comment letters can be found under the Meetings tab at the CC Power website: https://cacommunitypower.org

Highlights of the meeting included the following:

- **Public Comment**
  - Two public comments were received in support of finalizing CC Power Labor, Environmental and Environmental Justice policies.
- **Consent Calendar** - The Board unanimously approved the following items:
  - Minutes of the 6/18/21 Regular Board Meeting
- **Board Chair's Report**
  - *Ad Hoc* Committee Report – Board Chair Balachandran announced that, with the selection of Tim Haines as the Interim General Manager and Braun Blaising Smith and Wynne as General Counsel, the ad hoc committee is dissolved.
  - LDS Ad hoc Committee Update – The Chair appointed Directors Mitchell and Sears to the LDs Ad hoc committee. The committee will provide support to Interim General Manager Haines in the final stages of LDS contracting.
- **General Managers Report**:
  - Interim GM Haines will reconvene the Board Ad hoc Policy Committee to finalize CC Power Board Labor, Environmental and Environmental Justice policies. Board Member Hale has provided administrative support to schedule meetings of the Ad hoc committee members. Members of the Board and public spoke in support of finalizing the policy.
  - Mr. Haines alerted the Board he plans to ask the Board to issue a notice to the Members of the intent to enter LDS projects in September. The notice initiates a 60-day review and approval process with November the earliest that contracts can be entered. Staff will provide the Board with further details about the process including timing and information that will be available to evaluate the projects. Additionally, in September CC Power staff will recommend the Board authorize issuance of a Request for Offers for geothermal and biomass resources. This request will include the budget and

schedule for the RFO effort. Mr. Haines also noted that during the remainder of 2021 Board meetings the Board will be asked to consider the CC Power budget for 2022. Board in October and December will be added to Board calendar.

- **Long Lead-Time RFO** – Interim GM Haines informed the Board that staff will request authority to issue the Request for Offers for geothermal and biomass resources and recommend an associated budget in September. Mr. Haines stated that staff expects that the joint-participation contracting effort will be available for use in this project contracting effort. The Board was also informed that 'lessons-learned' from the LDS project will reduce time and costs to complete the contracting effort. An example of how those reductions will occur is the projected geothermal / biomass contracting effort is currently projected to be one half of that required for the LDS.
- **Long Duration Storage Update** – Interim GM Haines provided highlights in recent accomplishments for the LDS project. A major challenge that has been overcome is that CC Power is a new entity without an established track record that will need the financial support of the participating members. The Membership has developed a series of contracts that limit participating member liability while providing the necessary support for sellers to finance their projects. Mr. Haines informed the Board that this structure is fundamental to joint contracting and can be applied in subsequent contracting activities. The Board was informed that negotiations and final documents are being finalized.
  This accomplishment makes it feasible for CC Power Board to provide a notice to the Membership of intent to enter LDS contracts in November. In response, members of the Board and public commented on the need for sufficient time and information to evaluate the recommended contracts.
- **Budget Adjustment (action)** – The CC Power Board authorized the $123,016 budget adjustment and allocated the costs to LDS project participants. The allocation is based on the expected share in the project by each participant. The allocation was presented during the meeting. Mr. Haines explained these funds will support the completion of the Energy Storage and Service Agreement, the Project Participation Agreement and addition joint contracting agreements. The funds also support the review and approval final contracts in the fourth quarter of 2021. The Interim GM also reminded the Board that completing the agreements make the contracts available for future projects. Marin Clean Energy and Central Coast Community Energy informed the Board that neither will fund the adjustment to funding the LDS activities. Members expressed their views of the budget adjustment and cost allocation and voted unanimously in support.
- **Discussion of Any Individual Member Items** – not recorded in these notes.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 2

Item 2:	**CEO Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Girish Balachandran, CEO
Date:	9/8/2021

REPORT

Granicus Digital Government Award

Granicus, a civic engagement platform provider for the public sector, announced the winners of its 12th annual Digital Government Awards. The SVCE communications team submitted and won the Digital Efficiency Award for our efforts to streamline mandatory customer communications using the Granicus govDelivery software, which saves at least $50,000 annually in traditional mailing costs, increases efficacy, and reduces environmental impact. At the time of the award entry in August 2020, SVCE had sent over 940,000 emails with an open rate of 33.7%. Other notable awardees include the U.S. Department of Veterans Affairs, Los Alamos National Laboratory, and City of Nashville and Davidson County.

CEO Agreements Executed

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

1) NeoCharge, Agreement, Reducing barriers to home EV charging/electrification with the Smart Splitter, NTE $20,000 expiration 7/28/2022
2) Degrees3, Agreement, Support in Generating Low Carbon Fuel Standard Credits, NTE $95,000, expiration 3/21/2023
3) Securicon, Agreement, Cyber Training, NTE $18,800, expiration 8/31/2022
4) SMUD, Task Order 7, FutureFit Fundamentals Contractor Rebate Program Support, NTE $102,900, expiration 12/31/2021
5) Abbot, Stringham & Lynch, Amendment, IT Audit and Focused Security Assessment, extending expiration date to 9/31/2021
6) Richard, Watson & Gerson, Amendment, Legal Services, NTE $235,000
7) Hall Energy Law PC, Agreement, Legal Representation, NTE $540,000, expiration date 6/30/24
8) Ascend Analytics, Task Order Amendment, Portfolio Management, CAISO Market Reports & Analytic Platform, NTE $255,000

CEO Power Supply Agreements Executed

Counterparty Name	Execution/Effective Date	Transaction Type	Product	Start Date	End Date	Notional Value
Southern California Edison	8/8/2021	Purchase	Resource Adequacy	4/1/2022	6/30/2022	$576,000
Central Coast Community Energy	8/2/2021	Sale	Resource Adequacy	10/1/2021	10/31/2021	$175,000
Elk Hills Power, LLC	6/30/2021	Purchase	Resource Adequacy	12/1/2021	12/31/2021	$15,000
PG&E	8/12/2021	Sale	Resource Adequacy	11/1/2021	12/31/2021	$12,000
PG&E	8/12/2021	Purchase	Resource Adequacy	11/1/2021	12/31/2021	$12,000
PG&E	8/12/2021	Sale	Resource Adequacy	10/1/2021	10/31/2021	$6,000
PG&E	8/12/2021	Purchase	Resource Adequacy	10/1/2021	10/31/2021	$6,000

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
- CCCFA Cal Community Choice Financing Auth Board meeting 8/26/21
- CC Power Board Meeting, August 18, report included on the Consent Calendar

Staff Presentations

- Aug 26: Presentation given in a webinar sponsored by the Silicon Valley Business Journal entitled “Climate Change in Business”; Director of Account Services and Community Relations, Don Bray.

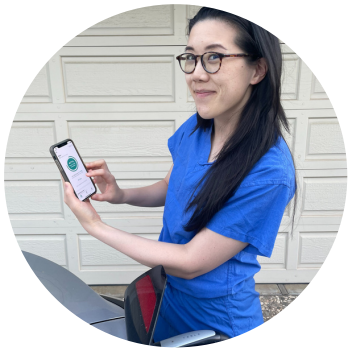
ATTACHMENTS

1. Decarb & Grid Innovation Programs Update, August 2021
2. Account Services & Community Relations Update, August 2021
3. Regulatory and Legislative Update, August 2021

DECARBONIZATION & GRID INNOVATION PROGRAMS UPDATE

SEPTEMBER HIGHLIGHTS

SILICON VALLEY CLEAN ENERGY



GridShift: EV Charging Launch & Enrollment

SVCE scaled up the GridShift: EV Charging pilot to a full program in July 2021. The program partner, ev.energy, is a Palo Alto-based firm whose software optimizes EV charging schedules around renewable energy generation, energy costs and grid constraints. SVCE customers can use the GridShift app to save on bill costs and emissions and participate in grid-supportive events. There are currently 215 vehicles participating in the program.



Resilience Projects

SVCE has committed to providing $5M to member agencies for grants that support energy resilience. To date, we have approved $1.4M in funding for four capital projects and two planning projects. Three capital grants are for solar-plus-storage projects and one is for battery back-up at traffic lights. Both planning grants are for technical support related to RFP development. We will release an overarching resilience framework, critical facility decision support tool and set of technical resources in September.



FutureFit Fundamentals Contactor Training

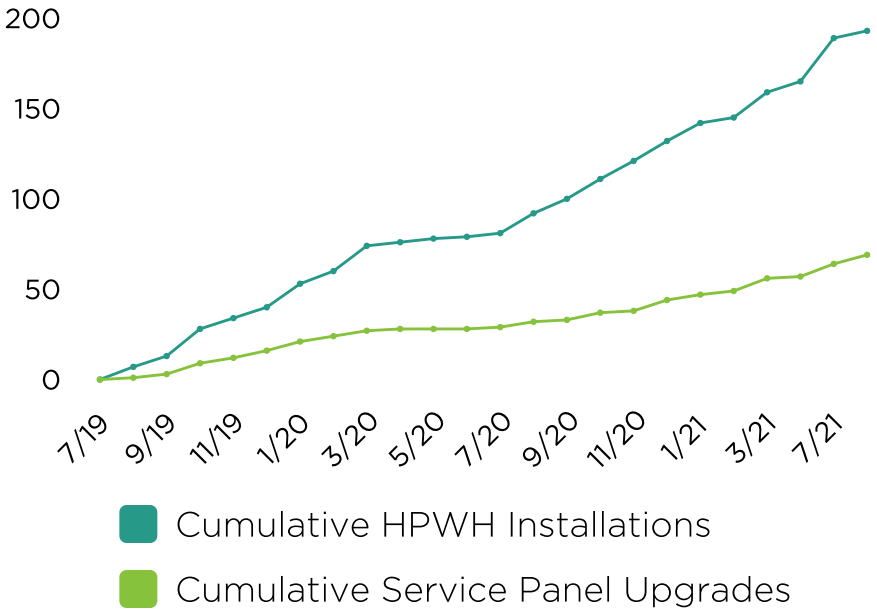
SVCE has concluded testing of course material and platform logistics with a select first round of contractors and participants for the FutureFit Fundamentals Contractor Training. The course will soon be available for the initial launch this month. Check out the latest trailer for the training and more information at SVCleanEnergy.org/FutureFit-Fundamentals

ONGOING METRICS SEPTEMBER 2021

Heat Pump Water Heater

Provide incentives for electric heat pump water heaters and service panel upgrades to residents using gas or electric resistance heaters

Funding: $1.15M
Goal: 220 HPWH by 2022



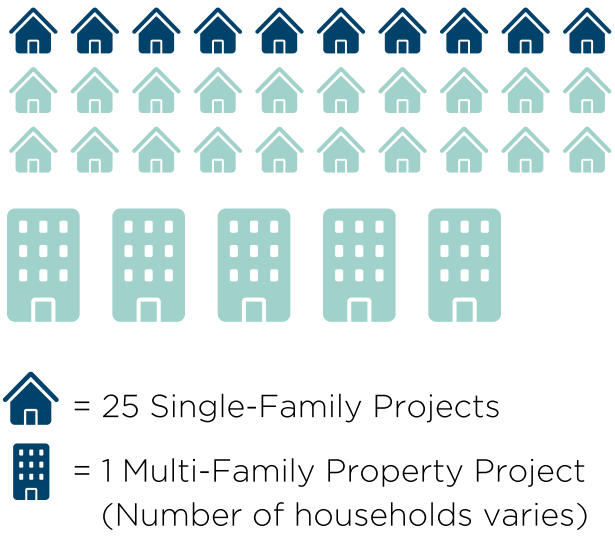


Lights On Silicon Valley

Provide incentives for enrolling solar and battery systems in the SVCE grid services program

Funding: ≤ $7.4M
Goal: 750 Single-Family + 5 Multi-Family Projects Completed by 2023





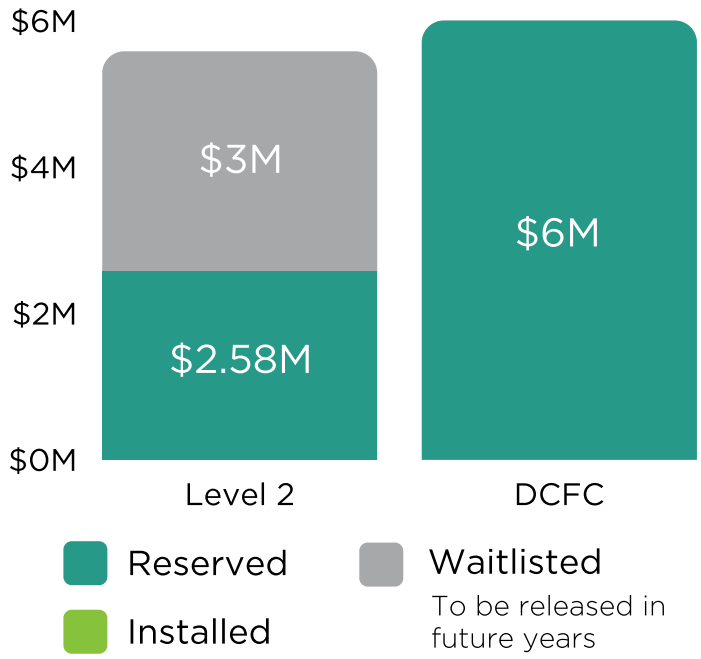
ONGOING METRICS SEPTEMBER 2021

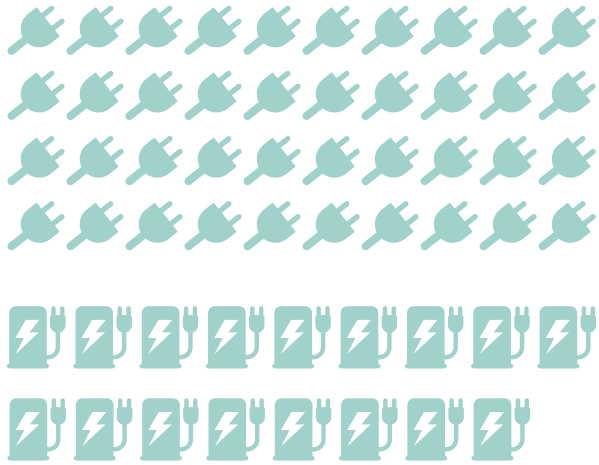
CALeVIP

Provide incentives for electric vehicle (EV) chargers as part of a regional program

Funding: $11.58M

Goal: 1K Level 2 + 85 DC Fast Chargers by 2023





= 25 Level 2 Installations

= 5 DCFC Installations

FutureFit Fundamentals

Provide financial relief to contractors by expanding their knowledge of electrification technologies

Funding: $1.5M

Goal: 150 Participants (Phase 1)





= 5 Participants Complete Course

PROGRAMS AT A GLANCE SEPTEMBER 2021

Click for More Information

Active | In Development | Complete

POWER SUPPLY

- C&I Clean Power Offerings

BUILT ENVIRONMENT

- Reach Codes
- All-Electric Showcase Grants
- FutureFit Heat Pump Water Heater
- Streamlining Community-Wide Electrification
- Building Decarb Joint Action Plan
- Resilience at Community Facilities
- FutureFit Fundamentals
- CRCR Bill Relief
- FutureFit Homes & Buildings
- Regional Coordination
- Accessible Financing
- Local Policy to Decarbonize Existing Buildings
- Feasibility Assessment - Natural Gas Phase Out By 2045

MOBILITY

- EV Infrastructure Strategy & Plan
- CA Electric Vehicle Infrastructure Project (CALeVIP)
- Priority Zone DCFC
- MUD Technical Assistance
- Fleet Electrification Grants
- SV Transportation Electrification Clearinghouse (SVTEC)
- Regional Recognition

GRID INTEGRATION

- Virtual Power Plant

EDUCATION OUTREACH

- Customer Resource Center (eHub)
- Community Engagement Grants

INNOVATION

- Innovation Partners
- Innovation Onramp
  - UtilityAPI
  - EVmatch
  - Ecology Action
  - Extensible Energy / Community Energy Labs
  - ev.energy
  - Span.IO
  - Outthink
  - Electron
  - Stanford
  - NeoCharge
  - XeroHome









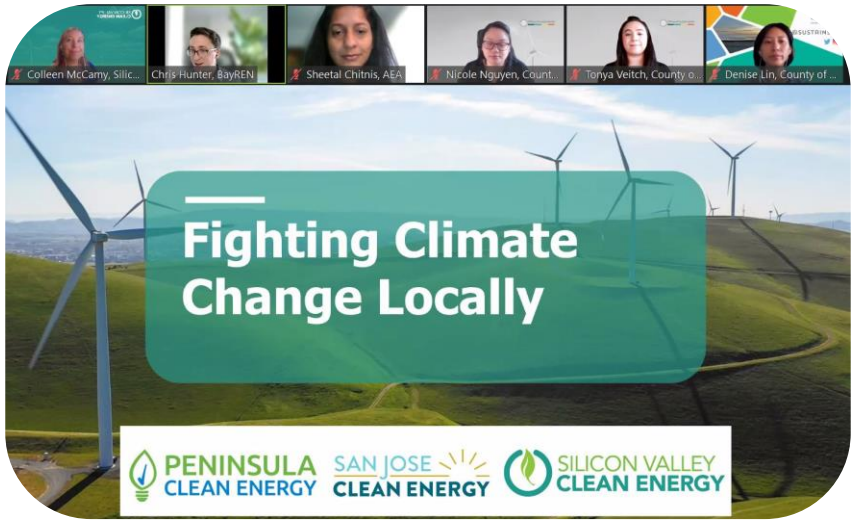
1. Outreach Events & Sponsorships

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

Date	Time	Description	Location
August 24	6 – 7 PM	*BayREN BAMBE Multifamily – co-presentation*	Virtual
August 26	10 – 11:30 AM	Silicon Valley Business Journal Climate Change in Business – sponsor and speaking	Virtual
August 31	6 – 7:15 PM	BayREN Home+ Campbell – presentation	Virtual
September 11	10 – 4 PM	Cupertino Rotary Fall Festival – sponsor	Memorial Park, Cupertino
September 14	6 – 7:15 PM	BayREN Home+ Morgan Hill, San Martin & Gilroy presentation	Virtual

1. Outreach Events & Sponsorships Continued

Date	Time	Description	Location
September 17	6 – 9 PM	Morgan Hill Friday Night Music Series – sponsor and tabling	Morgan Hill Amphitheatre
September 28	9 – 4 PM	American Institute of Architects Silicon Valley Conference - sponsor	Mountain View
September 30	7 – 8:30 PM	*GreenTown Los Altos Fall Fundraiser – sponsor*	Virtual



2. Customer Participation

	Participation Rate	Overall Participation Rate
Residential	96.30%	96.31%
Commercial	96.33%	

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3. Member Agency Working Group July Update

The recent MAWG meeting was held virtually on August 26, 2021 and was attended by 10 different agencies with a total of 27 participants.

The following agenda items were presented and discussed:

- 2020 GHG Inventory Update and 2019 PG&E Emission Factor
- CEQA Qualified Climate Action Plans
- County of Santa Clara's Climate Roadmap 2030
- Community Energy Resilience Update
- EV/EVI Baseline Study Introduction

4. Resilience Ads

New set of ads to promote resilience programs, solar + battery storage options during fire season





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5. Recent Customer Testimonials



Solar+Battery Assistant

“When we decided to install a solar system, we prepared for a long, difficult process. But it couldn’t have been easier! The Solar+Battery tools helped us clearly understand our choices, and the people who guided us through the process were knowledgeable and responsive. I can’t remember the last time I experienced such good customer service. Our system is up and running and we couldn’t be happier with our decision.” - Michele, Los Gatos

Medical Baseline Customer Communications

I recently received a letter from your organization about the Disability Disaster Access & Resources Program. I applied, thanks to you, and if found eligible, it could be of real benefit to me. I currently have no solution to use my medical device during a power outage. Thank you for letting me know of this resource!!!
- Michelle

HPWH Rebate Program

“Thank you for offering these rebates! This allowed me to replace my very old gas water heater with a new heat pump water heater and upgrade the electric panel that enabled additional home electrification! All running on rooftop solar + extra clean energy from @SVCleanEnergy” - Maria

EV Assistant

“I was just using the EV Assistant this morning! Love seeing the environmental impact of the EV but also super helpful especially where you compare cost savings vs a comparable gas car.”
- Christina

6. Medical Baseline Outreach

SVCE sent a letter to Medical Baseline customers in partnership with the Silicon Valley Independent Living Center (SVILC) to let them know about the Disability Disaster Access & Resources Program.

SVILC has received **more than 100 applications** to their program which provides access to the following:

- Disaster kits and emergency preparedness training
- Short and long-term portable battery solutions
- Accessible transportation resources
- Food stipends (during a PSPS event)
- Lodging assistance and hotel vouchers (during a PSPS event)
- Advanced notifications of a PSPS event

7. Emergency Load Reduction Program Webinar

On Thursday August 25th, SVCE hosted a webinar for commercial and industrial energy customers on the new Emergency Load Reduction Program (ELRP). The webinar featured speakers from PG&E and the program administrator, Olivine.

ELRP is a new priority program for California in summer 2021, authorized by the CPUC to address grid emergencies by offering customers $1/kWh for load reduction during emergency events.

20 attendees from key commercial and industrial accounts attended and provided feedback that the webinar was very useful and informative.





Emergency Load Reduction Program for Customers

Join us to help prevent rotating power outages this summer.

What is the Emergency Load Reduction Program?
Get financial incentives for reducing energy use during times of high grid stress and emergencies, with the goal of avoiding rotating power outages while minimizing costs to customers through participation in the Emergency Load Reduction Program. This is a five year pilot program ordered by the California Public Utilities Commission in rulemaking 20-11-003 and administered by PG&E.

This program will run between May and October each year. Events can occur any day of the week between 4-9 p.m. and can last anywhere from 1 to 5 hours. You may be asked to participate on consecutive days if conditions warrant, but you will not be asked to participate for more than 60 hours per year.

Your participation in events is voluntary and there is no penalty if you are not able to participate in an event. You will be compensated for your participation.

What are the benefits of participating in the program?
In addition to helping avoid rotating power outages, you can earn $1/kWh for load reduction during program events.

How is this program different from other demand response programs?
Unlike other demand response programs, this program allows limited dual participation for customers enrolled in the Base Interruptible Program, the Capacity Bidding Program, and with third-party demand response providers. In addition, this program allows participants to use backup generation resources in response to an event and incentivizes the export of energy for participants with a behind-the-meter Rule 21-interconnected device with an existing Rule 21 export permit.

What triggers an event and how will I be notified?
Events are triggered per the California Independent System Operator (CAISO)Alert, Warning, Emergency process. Day-Ahead Events are triggered by CAISO Alerts. Day-Of Events are triggered by CAISO Warnings and Emergencies. Only directly enrolled customers, Base Interruptible Program aggregators, and Virtual Power Plants are eligible to participate in Day-Of Events. Notifications for Day-Ahead events will be sent by 5 p.m. via email and/or text the day before the event occurs. Event notifications sent to third-party demand response providers are courtesy notifications. Third-party demand response providers are solely responsible for monitoring CAISO Day-Ahead Alerts themselves if they plan to participate. Notifications for Day-Of Events will be sent shortly after a Warning or Emergency is declared by the CAISO. Base Interruptible Program participants are only eligible for ELRP compensation for ELRP events that overlap with BIP events.

olivine

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7. Latest SVCE News

- Community Energy Agencies Contract for 778 MW of Renewable Energy and 118.75 MW of Storage, *Press Release, 07-19-21*
- Community Choice Providers Form California Community Choice Financing Authority, *Press Release, 07-29-21*
- Construction Begins on New, State-of-the-Art Geothermal Project, *Press Release, 08-11-21*

CCCFA California Community Choice Financing Authority

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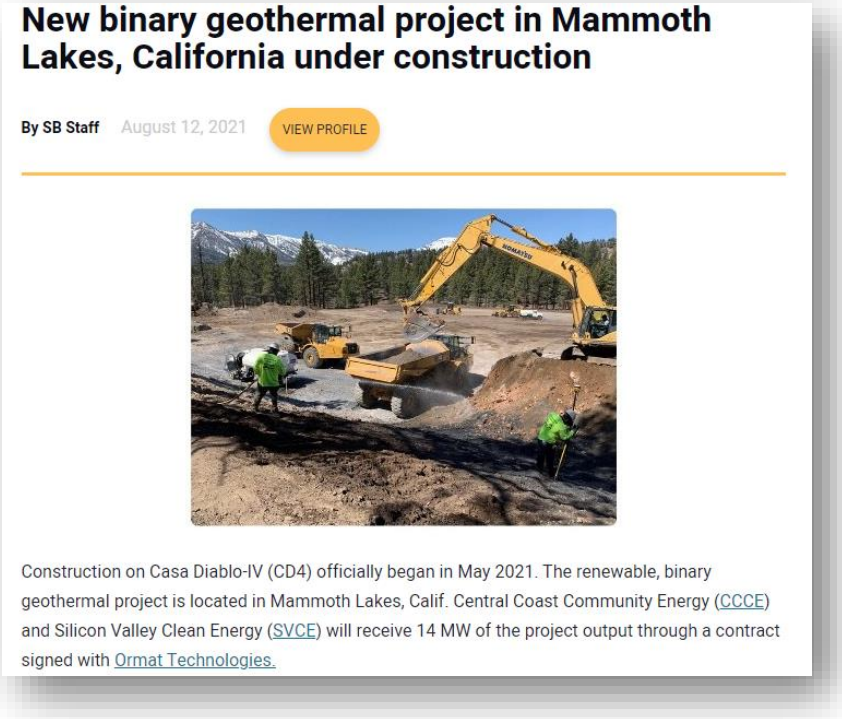
8. Media

- Sunrise brief: Senate votes to advance a bipartisan $1 trillion infrastructure bill, *pv magazine, 07-29-21*
- California Community Choice Aggregators Form Financing Authority, *American Public Power Authority, 08-01-21*
- Renewable Energy Update - July 2021 #5, *JD Spura, 08-04-21*
- Newsletter: Introducing the Canary Media energy and climate playlist, *Canary Media, 08-11-21*
- Comment period opens for 1 GW of solar + storage in the California desert, *pv magazine, 08-12-21*
- New binary geothermal project in Mammoth Lakes, California under construction, *Solar Builder, 08-12-21*
- Central Coast secures new geothermal power source, *Monterey Herald, 08-12-21*
- Quick Bites: Energy News Roundup, *Energy NewsData, 08-13-21*



New binary geothermal project in Mammoth Lakes, California under construction

By SB Staff August 12, 2021 VIEW PROFILE

Construction on Casa Diablo-IV (CD4) officially began in May 2021. The renewable, binary geothermal project is located in Mammoth Lakes, Calif. Central Coast Community Energy (CCCE) and Silicon Valley Clean Energy (SVCE) will receive 14 MW of the project output through a contract signed with Ormat Technologies.



SVCE Legislative and Regulatory Update

September 8, 2021

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Policy Updates

Regulatory Update:

1. Power Charge Indifference Adjustment (PCIA)
2. Integrated Resource Planning (IRP)
3. Resource Adequacy (RA)
4. Renewables Portfolio Standard (RPS)

Legislative Update:

1. Federal Infrastructure Proposal



Regulatory Update

PCIA: SVCE appeals the PCIA Working Group 3 decision

The Power Charge Indifference Adjustment (PCIA) is the CPUC-authorized mechanism for PG&E to recover uneconomic or legacy procurement costs via a fee that is charged to CCA customers.

New rules for legacy energy resources

May 2021: CPUC adopted a decision addressing CCA access to legacy energy resources, which:

- Removes the “cap” and “trigger” mechanism which address the PCIA's uncollected balances and should help reduce volatility in PCIA rates.
- Authorizes RPS resource allocations beginning in 2023.
- Approves a process for increasing transparency of investor-owned utilities’ RA resources.
- Does not allow for legacy resource allocations (GHG, RA), that help reduce the PCIA, beyond 2023.

June 2021: CalCCA, SVCE and other CCAs jointly filed an appeal to the CPUC decision.

Next Steps: A decision on the appeal is pending before the CPUC. SVCE staff is currently engaged in the current PCIA forecast proceeding in coordination with CalCCA and other CCAs.

IRP: CPUC considering additional measures to enhance summer reliability during 2022-23

Integrate Resource Planning (IRP) is a two-year process to ensure that the electricity sector is on track to meet its portion of the State's GHG reduction and reliability goals.

New Procurement Mandates for CCAs and other load-serving entities

- June 2021: CPUC mandated 11,500 MW to be procured by 2026 for midterm reliability.
  - SVCE is responsible for 237 MW

Proposed Mandates for CCAs and other load serving entities

- July 2021: Governor issued Emergency Proclamation to increase supply and reduce demand during extreme weather and wildfire events and expedite clean energy.
- August 2021: Energy Commission issued an analysis projecting up to 5,200 MW of additional procurement needed next summer.
- August 2021: The CPUC issued a concept paper proposing accelerating midterm procurement for next summer, as well as additional penalties for load-serving entities who do not meet procurement targets.

Next steps: SVCE staff provided testimony on proposed mandates through CalCCA on September 1. A decision is expected later this year.

Resource Adequacy (RA) Program: Work has begun to finalize the restructuring rules

RA is a program developed to ensure that there will be sufficient resources available to serve electric demand under most conditions.

New rules for Resource Adequacy

June 2021: CPUC adopts a decision modifying RA rules, which:

- Adopts increasing penalties for repeated RA non-compliance.
- Adopts changes to requirements to ensure greater reliability.

June 2021: CPUC adopts a second decision that will restructure the RA Program, which:

- Adopts a process and schedule for developing a final restructuring plan.
- Orders a series of workshop over the next six months that will inform the final restructuring plan.

Next steps: SVCE staff is coordinating with CalCCA on workshop participation and development of the final restructuring plan.

RPS: 2021 Draft Procurement Plan submitted in July

The Renewables Portfolio Standard (RPS) requires 60% of electrical sales by CCAs and IOUs to be served by renewable energy by 2030 and requires all the state's electricity to come from carbon-free resources by 2045.

2020 RPS Procurement Plan

- February 2021: SVCE filed its final plan.
- March 2021: CPUC approved the SVCE plan.

2021 RPS Procurement Plan

- July 2021: SVCE filed its draft plan

Next Steps: The 2021 RPS Plan is pending approval by the CPUC.



Legislative Update

Bipartisan Infrastructure Package moves on to House to be considered with $3.5 reconciliation package.

Programs denoted with asterisk are areas where SVCE may be able to access funding directly. Staff is exploring further.

Bipartisan Package Program	Funding
Energy Efficiency and Conservation Block Grant Program – grants to local governments for energy efficiency projects	$550 million
Electric Grid Reliability and Resiliency R&D program*	$5 billion – for FY '22-'26
Smart Grid Investment Matching Grant Program*	$3 billion
Charging Infrastructure*	$7.5 billion
Cost-Effective Codes Implementation for Efficiency and Resilience*	$225 million
Career Skills Training for Energy Efficient Design and Ops.	$10 million
Revolving Loans for New or Upgraded Transmission Lines	$2.5 billion



SILICON VALLEY CLEAN ENERGY

Staff Report – Item 3

Item 3:	**Adopt the FY 2021-22 Recommended Operating Budget, Resolution Authorizing the Chief Executive Officer to Act as Chief Personnel Officer, and Updated Budget and Reserves Policies**
From:	Girish Balachandran, CEO
Prepared by:	Amrit Singh, CFO and Director of Administrative Services Kevin Armstrong, Administrative Services Manager
Date:	9/8/2021

RECOMMENDATION

Staff recommends that the Board of Directors approve the following items:

1. Resolution 2021-21 adopting the fiscal year (FY) 2021-22[1] Operating Budget that projects depositing $36.5M into reserves.
2. Resolution 2021-22 creating a Personnel System and designating the CEO as Chief Personnel Officer
3. Updated Budget and Reserves Policies that clarify CEO's authority to respond to market volatility and other sources of variability such as revenue fluctuations and energy supply contract collateral/margin postings.

FINANCE AND ADMINISTRATION COMMITTEE and BOARD REVIEWS

The Finance and Administration Committee met August 2, 2021, and were unanimous in recommending that staff present the Proposed FY 2021-22 Operating Budget to the full Board. In addition, the committee unanimously recommended that the Board receive the revised Budget and Reserves policies and Personnel Resolution to provide additional feedback.

At the August 11, 2021, Board meeting, staff presented the Proposed FY21-22 budget and updated policies. The Board engaged in discussion and provided feedback to staff. The accompanying budget and policies reflect the Board's direction to:

1. Limit the CEO's authority to exceed the budget due to power price volatility and other sources of variability to the lesser of ten percent of the power supply budget or $30 million.
2. Clarify that Board approval is required if the use of reserves will result in levels dropping below the minimum threshold of 120 days of cash on hand.
3. Clarify that the CEO must present recommendations to the Board and receive authorization for any other use of reserves.

Specific changes can be found in the attached Budget and Reserves policies. Based on feedback from the Board, no changes were made the Resolution authorizing the CEO to act as Chief Personnel Officer.

ANALYSIS & DISCUSSION

Minor Change to Operating Expenses

The recommended Operating Budget now results in an $36.5 million balance available for reserves for fiscal

[1] The fiscal year 2021-22 starts on October 1, 2021 and ends on September 30, 2022.

year 2021-22. This is a $84,000 decrease in the balance available for reserves compared to the Proposed Budget presented to the Board at the August 11th meeting. The additional expense is to account for an increase in CalCCA membership fees by $40,000 and another $40,000 increase in other strategic membership fees (including the CA Energy Storage Alliance plus future additions) along with $4,000 for the application of the 5 percent contingency factor.

The table below shows the comparison between the August Proposed Budget and the Recommended Budget:

	FY 2021-22 PROPOSED BUDGET*	FY 2021-22 RECOMMENDED BUDGET	VARIANCE $	VARIANCE %
General & Administrative	1,129	1,213	84	7%
BALANCE AVAILABLE FOR RESERVES	**$36,567**	**$36,483**	**($84)**	**($0)**

Previous Discussion from the August Board meeting, presented for information:
The Recommended FY 2021-22 Operating Budget is balanced and presents Silicon Valley Clean Energy (SVCE) in stable financial condition. The projected balance available for reserves of $36.5 million is an increase of $42.5 million above the $6.0 million withdrawal presented in the FY 2020-21 Mid-Year Budget.

The following key elements contribute to the $36.5 million in projected balance available for reserves from this annual budget.

Energy Revenues

The Recommended budget shows an increase in revenues of $87.3 million compared to the FY20-21 adjusted mid-year budget. The biggest contributor to this increase in revenues is the increased headroom forecast based on a reduced PCIA and higher PG&E generation rate.

The recommended budget anticipates a decrease in the PCIA to occur in January 2022 (from 4.59 to 2.43 cents/kWh), with a corresponding 9.5% increase in PG&E's generation rates, both based on CalCCA's NewGen Model using SVCE's updated market prices. These forecast rates are comparable to those in PG&Es 2022 Forecast ERRA Filing[2] made in June 2021. While this is still just a forecast, and actual rates won't be finalized by the CPUC until December, if they prevail, this combination should increase SVCE's margin by about 50% in 2022. Based on this forecast, staff recommends keeping the SVCE discount to PG&E rates at 1% for the recommended budget, with the possibility of revisions once final PG&E rates are determined later this year.

The recommended budget continues to reduce revenues to account for potential write-offs that SVCE could still incur because of the large increases in the accounts receivable balances resulting from our customers facing COVID-19 related economic hardships. SVCE is currently budgeting revenues to include a 0.75% write-off rate, which amounts to roughly $2.5 million. This is a conservative estimate, as statewide efforts are underway to potentially cover a large portion of those losses.

Power Supply Expenses

Power supply expenses are expected to increase to $273.5 million due to increasingly volatile market prices. In addition, the costs for non-RPS, carbon-free attributes are expected to remain high, due to the ongoing drought in the western US and the resultant low hydropower production. SVCE does expect to receive PG&E allocations in 2022 to offset some of those cost increases, but the volumes are unknown at this time. Finally, as SVCE's

[2] PG&E's 2022 Forecast ERRA filing shows a PCIA rate of 2.71 cents/kWh and PG&E generation rate of 11.77 cents/kWh.

long-term PPAs begin to come online starting in late 2021 and early 2022, they will put downward pressure on SVCE's power supply costs, however, delays in their operational starts will subject SVCE to additional RPS and RA volumes at currently high market prices.

Updated Budget and Reserves Policies

As the fiscal year is structured to begin on October 1, and end on September 30 of the following year, SVCE faces its most volatile months (July, August, September) in the power market at the end of its fiscal year. To better respond to the potential for market fluctuations, SVCE is proposing to revise the budget and reserves policy to allow staff to use reserves to cover any unanticipated power supply cost increases, and other sources of variability such as revenue fluctuations and energy supply contract collateral/margin postings using up to the lesser of 10% of the approved power supply budget or $30 million.

SVCE currently has a $35 million line of credit (LOC) with River City Bank that will expire in October 2021. Given SVCE's healthy reserve balance and improved financial outlook for the upcoming years, staff recommends to not renew the LOC, which will save the organization about $150,000 a year. Depending on a particular year's operating budget, the LOC provided an additional liquidity of about 30 to 50 days of cash on hand. Staff recommends to self-fund this level of liquidity by building reserves. Staff proposes to add 30 days of cash on hand to the current minimum reserve level and 50 days to the current target, and maximum reserve levels. The minimum operating reserve target will increase from 90 days of cash on hand (DCOH) to 120 DCOH, the target operating reserve level will increase from 180 DCOH to 230 DCOH, and the maximum operating reserve level will increase from 270 DCOH to 320 DCOH.

Operating Expenses

Operating expenses are expected to grow significantly in the recommended budget, increasing by $5.2 million from the FY20-21 adjusted midyear budget. The increase in projected operating expenses is largely comprised of costs associated with SVCEs transition to a more mature organization, with staffing and professional services needs aligned with the "operationalization" of the many power purchase agreements that are starting to come online. In addition, the operating budget includes an overall 5% contingency, or just over $1 million.

In terms of personnel, expenses are expected to increase by $2.6 million, through a combination of factors. $400 thousand comes from the annualization of positions adopted during FY20-21. $1.2 million of the increase is associated with the request for six new positions, spread across the organization. These new positions will focus on risk management, contract management, business process optimization, and administrative support. In addition to these new positions, SVCE is engaging several individual consultants, working both limited and long-term engagements, which contribute an additional $700 thousand in increased staffing costs. Two consultants will be working with the Power Resources team during this time of tight staffing, helping to bring our PPAs into operational status while assessing and minimizing risk.

In addition, the staffing budget includes a 5% cost-of-living adjustment to salaries, as they were not adjusted in FY20-21 due to the tighter operating margin, and this adds $300 thousand in additional cost. Finally, the personnel budget does conservatively budget for full staffing for the year, with a 5% vacancy factor applied, although SVCE expects positions to likely remain vacant longer than desired, due to the tight recruiting market we are currently experiencing.

The six new positions being requested through this recommended budget reflect the increasing needs of a mature organization. The new positions include a Compliance Manager on the Legislative and Regulatory team, to centralize our regulatory reporting work, a second Power Resources Manager on the Power Resources team to oversee the operational PPAs, and a second Energy Services Lead on the Account Services and Community Relations team to oversee programs. Three new positions supporting the whole organization are proposed for the Finance and Admin team: a Human Resources generalist to enhance benefits and employee efforts, especially during the hybrid transition, a Senior Risk Manager to provide credit analysis and middle office

oversight, and a Technology Services Manager to lead the technical aspects of the business process optimization effort.

Associated with the additional staffing costs needed to bring SVCEs operations up to a fully staffed level to deal with these new operational needs, there is a $1.6 million increase in professional services costs in the recommended budget. In Finance and Admin, $100 thousand is being budgeted in recruiting for the use of outside search firms to attract talent in this competitive market. In Power Resources, $250 thousand is being added to increase PPA transaction support through our engagement with Hall Energy Law. An additional $100 thousand in costs are projected for each of Decarbonization and Grid Integration Programs, and Regulatory and Legislative Affairs, to support the Greenhouse Gas Inventory and Integrated Resource Plan efforts, respectively. In addition, staff has planned for an additional $150 thousand in cybersecurity expenses to deal with items identified in the current gap analysis and architectural review.

The final large increase in professional services is the $900 thousand being budgeted for the business process optimization (BPO) project, which addresses one of the 2021 strategic focus areas of building enterprise-wide systems. The recommended budget includes costs for software and consultant fees to support the implementation of a trade capture and contract management system, with integration to our data warehouse.

Personnel Resolution for Increased Flexibility

The Recommended Operating Budget funds thirty-two existing (32) full-time equivalent positions, five (5) part-time intern positions, two (2) climate corps fellows, four (4) independent consultants, and six (6) new full-time equivalent positions. Given past experience, SVCE expects that some assumptions around the positions needed will shift during the year, and that some of the assumed roles will need to be revised. To better allow staff to respond to changing organizational needs, SVCE is proposing a personnel resolution to formally authorize the CEO to act as Chief Personnel Officer, similar to the authorities granted to other CCAs and local governments. This would provide additional flexibility to better adapt and react to both changing needs, as well as the competitiveness of the hiring market. SVCE would continue to request approval for a total personnel budget and headcount annually and would regularly report personnel changes to the Board through the CEO report.

Programs Budget

Staff will be incorporating projected programs spending over the 5-year forecast period into the reserve balance projections. This will include remaining CRCR funds until they are drawn down completely by FY23-24. For this coming fiscal year, programs spending is projected to be $6.7 million, with an additional $3.0 million in CRCR spending. In addition to these previously allocated funds, staff is currently including $600,000 from the PG&E nuclear allocation, which represents the savings to the portfolio from accepting the allocation. Options for spending these nuclear funds will be presented for discussion either at the September or a future Executive Committee meeting. For the 2020 savings of $600,000, two new programs have been identified at a concept level for this funding. Staff expects to recommend that $400,000 goes towards funding the installation of EV chargers at multi-family properties. The remaining $200,000 would be dedicated to a program that will provide approximately 100 portable batteries to medical baseline customers who have historically been at risk of Public Safety Power Shutoffs. Staff will provide additional program details for these two program areas in the coming months. Funding for these programs, or others, may be scaled up once staff has an updated estimate on the expected carbon-free allocation savings for 2021.

Non-Operating Revenues

Non-operating revenues decreased by about $0.89 million. This decrease reflects the end of the BAAQMD grant funding for Heat Pump Water Heater installations, as well as continues the current downward trend on interest earned in the money market account to 0.2%

STRATEGIC PLAN

The recommendation supports all goals of the Board adopted Strategic Plan. Specifically, the recommendations strongly support Goal 13 - "Commit to maintaining a strong financial position" and the accompanying Measure "Balanced budget that achieves cash reserve targets and maintains customer value".

ALTERNATIVE

Staff is open to feedback and suggestions from the Board. At a high-level, the Board retains the options presented as "financial levers" earlier this year, which include changing the discount to PG&E, reducing the carbon-free % of power supply, reducing the renewable % of the power supply, and cutting the programs expenditure.

Considering any of the above options requires an extensive policy level discussion, and the Board can consider them while finalizing SVCE's strategic priorities during the coming months. Given a sufficient reserve balance that maintains SVCE's stable financial condition, and the intent to increase reserves to supplant the expiring line of credit, staff does not recommend any specific levers be utilized at this time.

FISCAL IMPACT

The FY 2021-22 Recommended Operating Budget includes total revenues of $339.1 million and total expenses of $302.8 million resulting in a surplus / contribution to reserves of $36.5 million.

ATTACHMENTS

1. FY 2021-22 Recommended Operating Budget
2. Resolution 2021-21, Adopting the FY 2021-22 Operating Budget
3. Updated Budget Adoption, Control and Reporting Policy
4. Updated Financial Reserves Policy
5. Resolution 2021-22, Creating a Personnel System and designating the CEO as Chief Personnel Officer
6. FY 2021-22 Salary Chart

SILICON VALLEY CLEAN ENERGY
FY 2021-22 RECOMMENDED BUDGET
($ in thousands)

	DESCRIPTION	FY 2020-21 BUDGET AS ADJUSTED MIDYEAR	FY 2021-22 RECOMMENDED BUDGET	VARIANCE $	VARIANCE %
	ENERGY REVENUES				
1	Energy Sales	250,747	338,603	87,856	35.0%
2	Green Prime Premium	981	470	(511)	-52.1%
3	**TOTAL ENERGY REVENUES**	**251,728**	**339,073**	**87,345**	**34.7%**
	ENERGY EXPENSES				
4	Power Supply	235,237	273,561	38,325	16.3%
5	**OPERATING MARGIN**	**16,491**	**65,511**	**49,021**	**297.3%**
	OPERATING EXPENSES				
6	Data Management	3,258	3,249	(9)	-0.3%
7	PG&E Fees	1,350	1,450	100	7.4%
8	Employment Expenses	6,248	9,271	3,023	48.4%
9	Professional Services	3,800	5,648	1,848	48.6%
10	Marketing & Promotions	820	919	99	12.0%
11	Notifications	100	131	31	31.3%
12	Lease	500	525	25	5.0%
13	General & Administrative	1,070	1,213	143	13.4%
14	**TOTAL OPERATING EXPENSES**	**17,147**	**22,407**	**5,260**	**30.7%**
15	**OPERATING INCOME (LOSS)**	**(656)**	**43,105**	**43,760**	
	NON-OPERATING REVENUES				
16	Other Income	50	50	0	-
17	Interest Income	321	300	(21)	-6.6%
18	Grant Income	68	0	(68)	-100.0%
19	**TOTAL NON-OPERATING REVENUES**	**439**	**350**	**(89)**	**-20.3%**
	NON-OPERATING EXPENSES				
20	Financing	139	40	(99)	-71.2%
21	Interest	0	0	0	-
22	**TOTAL NON-OPERATING EXPENSES**	**139**	**40**	**(99)**	**-71.2%**
23	**TOTAL NON-OPERATING INCOME (EXPENSES)**	**300**	**310**	**10**	**3.2%**
24	**CHANGE IN NET POSITION**	**(355)**	**43,415**	**43,770**	
	CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER				
25	Capital Outlay	400	150	(250)	-62.5%
26	Other	0	0	0	-
27	Transfer to CRCR Fund	0	0	0	-
28	Transfer to Programs Fund	5,270	6,781	1,511	28.7%
29	**TOTAL CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER**	**$5,670**	**$6,931**	**1,261**	**22.2%**
30	**BALANCE AVAILABLE FOR RESERVES**	**($6,025)**	**$36,483**	**$42,509**	

SILICON VALLEY CLEAN ENERGY AUTHORITY RESOLUTION

NO. 2021-21

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY TO APPROVE THE FISCAL YEAR 2021-2022 BUDGET FOR SILICON VALLEY CLEAN ENERGY

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 Authority operates on a fiscal year budget cycle from October 1st through September 30th;

WHEREAS, draft versions of the Authority's budget for fiscal year 2021-2022 were presented to the Finance & Administration Committee on August 2, 2021, and the Board of Directors on August 11, 2021 (collectively, the "Prior Presentations");

WHEREAS, staff has incorporated feedback from the Prior Presentations and has prepared a recommended budget, set forth in Exhibit A (the "Recommended Budget");

NOW THEREFORE, the Board of Directors of the Silicon Valley Clean Energy Authority does hereby resolve that**:**

1. The foregoing recitals are true and correct.

2. The Board of Directors hereby approves and adopts the Recommended Budget, as set forth in Exhibit A, as the Authority's fiscal year 2021-2022 budget.

PASSED AND ADOPTED this 8th day of September, 2021, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Sinks				
City of Gilroy	Alternate Director Armendariz				
City of Los Altos	Director Fligor				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Chua				
City of Monte Sereno	Director Ellahie				
City of Morgan Hill	Director Martinez Beltran				
City of Mountain View	Director Abe-Koga				

County of Santa Clara	Alternate Director Lee				
City of Saratoga	Director Walia				
City of Sunnyvale	Director Larsson				

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Chair

ATTEST:

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Dorothy Roberts, Interim Board Secretary

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SILICON VALLEY CLEAN ENERGY

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Category: FINANCE

BUDGET ADOPTION, CONTROL AND REPORTING

I. PURPOSE

This budget policy provides clarity about budget authority for the Chief Executive Officer (CEO) of Silicon Valley Clean Energy (SVCE) and lays out budget adoption and periodic budget reporting requirements. The policy also allows for sufficient flexibility to address changes in the market price of energy consistent with SVCE's Financial Reserves Policy.

II. POLICY

Budget Adoption

The CEO shall prepare a proposed budget overview and submit it to the Board for the following fiscal year two months prior to the end of the fiscal year. The Authority's Budget shall be balanced and in alignment with the Strategic Plan. The Authority's Budget reflects all activities, including operating and capital programs expenditures. A balanced budget is one in which expenditures are matched by revenues and recommended changes to Reserves.

The Chief Executive Officer shall submit a recommended budget document for adoption to the Board of Directors for approval by Resolution in the month following the proposed budget submittal. When approved by the Board, the budget shall be considered adopted and appropriated at the level it is controlled by the CEO, discussed below.

In the event that the Board of Directors does not adopt the Authority's Budget by the end of the fiscal year, the Board of Directors may adopt a continuing appropriations resolution until such time as the Authority's Budget is adopted. A continuing appropriations resolution would provide that payments for services

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performed on behalf of the Authority and authorization of awarded contracts would continue until such time as the Authority's Budget is adopted.

Staff will prepare a five-year financial forecast as part of the budget process projecting revenues and expenditures for all operating funds and planned capital projects in alignment with the Strategic Plan.

The budget document will also contain the following, at a minimum a schedule showing revenues, expenses, and changes to financial reserves. The first year of the five-year horizon is the budget to be considered and formally adopted by the Board by Resolution. The final four years are shown for planning purposes and may be shown at more summary levels.

The ~~first year~~first-year proposed budget shall further show:

- Expenditures by expense type/category across the organization;
- Projected revenues;
- Organization chart(s) showing all proposed budgeted positions in the organization;
- A current salary schedule for job classifications to be in effect for the proposed fiscal year (Salaries may be adjusted by the CEO in the fiscal year, with salary changes being reported to the Board).

Budget Control

After adoption, the budget shall be controlled by the CEO at the total annual expenditure level for the SVCE organization, which includes power purchases, employee costs, contract and professional services, capital improvements, debt service, and all other costs. The total budget may be amended by the Board during the year by Resolution.

The CEO may institute separate budget procedures internally that give him/her further controls at the department and/or expenditure category level if he/she so desires.

Budget Reporting

A budget-to-actual status update report shall be presented to the

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Board on a quarterly basis.

Authority to Flexibly Staff and Over hire Budgeted Positions

Under the personnel delegation resolution, the CEO is designated as the Personnel Officer and is authorized and directed to administer the personnel system, with duties that include the following with budgetary impacts:

- Define and prepare position classifications including the establishment of minimum standards of employment and qualifications for the various positions;
- Prepare a schedule of compensation including salary and other benefits covering all employees;
- Prepare and present to the Authority Board a budget for implementation of the personnel system including employee salary and benefit costs as part of the annual budget process.

Notwithstanding the duties defined in the resolution above, the CEO is also granted authority to take the following actions which may affect the annual budget:

- Outsource functions that are currently staffed by positions when contracting is more advantageous to the operations of the organization or is more cost effective;
- Bring in-house any functions that are currently outsourced if the result would be advantageous to the operations of the organization or more cost effective;
- Adjust salary schedules for market flexibility during the year to attract and retain talent;
- Over-hire the number of positions shown in the annual budget as follows:
    - On a temporary basis to minimize the impact that pending vacancies may have on the organization by allowing for cross training and overlap;
    - On a permanent basis to improve operations and organization effectiveness, provided that the CEO may not over hire on a permanent basis in excess of 10% of the authorized number of positions shown in the annual budget

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without prior approval of the Board.

- In no case shall positions be added or salaries be adjusted during the year that cause the total annual budget to be exceeded in total by fiscal year-end without prior Board approval by Resolution.
- In those instances where the CEO does over-hire positions during the year, he/she shall report such actions to the Board in a timely manner.

Power/Energy Purchases Contingency

The nature of the energy markets is one of rapid changes in prices and market volatility. The ability to quickly adapt to those changes is important for maintaining consistent power delivery to customers. Therefore, the CEO is granted authority to overspend the total annual budget for energy purchases by the lesser of ~~up to~~ 10% of the annual power supply budget, or $30 million, without Board approval provided the over expenditure is due to higher energy costs or greater customer demand. Overspending for these purposes may require use of reserves and the conditions on use of reserves as stated in the Financial Reserves Policy apply, where reserves cannot be drawn down more than 10% of the year's budgeted cost of power supply or $30 million, whichever is less, nor below the baseline Minimum Operating Reserve level without Board approval.

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Category: FINANCE

FINANCIAL RESERVES POLICY

I. PURPOSE

This Reserve Policy outlines the appropriate types and levels (minimum, goal, and maximum) of financial reserves as prescribed in the following policy. The primary reason for a reserve policy is to be prepared for contingencies, but other reasons also exist. Seven important purposes of a reserve policy are as follow:

1. **Plan for contingencies.** To maintain sufficient reserves to minimize rate increase due to market volatility(power supply shocks or maintain rate competitiveness), weather impacts on demands, economic downturns, emergencies (such as natural disasters), and regulatory changes.
2. **Maintain good standing with rating agencies.** By maintaining sufficient reserves, SVCE can preserve good credit ratings, allowing it to secure power at lower costs, that is, without posting credit enhancements, in the energy markets.
3. **Avoid interest expense.** To avoid interest expense to cover short-term cash shortfalls by having sufficient reserves to use for this purpose, rather than debt.
4. **Ensure cash availability when revenue is unavailable.** To bridge times of the year that normally see temporary low levels of cash.
5. **Plan for anticipated future rate increases by gradually raising those rates, using reserves to cushion the full impact on customers over an extended time period.** For example, if it is expected that rates are highly likely to increase in 3 to 5 years, higher reserves on hand can cushion those rate increases over a more gradual timeframe by drawing down on the accumulated funds that may be in excess of the reserves' goal.
6. **Manage the risks identified in the Energy Risk Management Policy, which are:**

Adopted: 3/08/2017
Proposed Amendment: 9/8/2021

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- Market price risk,
- Net revenue risk,
- Counterparty credit and performance risk,
- Load and generation volumetric risk,
- Operational risk,
- Liquidity risk, and
- Regulatory/legislative risk.

7. **Establish clear expectations between the Board of Directors and staff.** A formal reserve policy creates a shared understanding of the proper level and use of reserves.

II. POLICY

Reserve Levels Established

Financial reserves shall be set aside as follows:

The **Reserve targets** cover the operations of SVCE over a number of days in the event of emergencies or other significant unforeseen events. Three levels are defined, with the first being baseline. Given the purposes stated above, the Reserve shall be maintained at no less than the minimum described in (a) below. The reserve level described in (b) is recommended as the goal. The Maximum reserve level described in (c) would provide solid reserves for significant fluctuations in revenue or unforeseen circumstances. The Board shall review its reserve levels annually in context of SVCE's overall financial condition of the agency, as well as due to changes to the industry and/or risk factors as described in periodic review of targets below.

(a) ***Minimum Operating Reserve (baseline)*** shall be the minimum maintained to cover 120 days of operations of the annual operating budget;

(b) ***An Operating Reserve* goal** of covering 230 days of operations of the annual operating budget;

(c) ***Maximum Operating Reserve*** to cover 320 days of operations of the annual operating budget.

Adopted: 3/08/2017
Proposed Amendment: 9/8/2021

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Conditions for Use of Reserves

For purposes of this policy, use of reserves is defined as a projected or estimated[1] reduction in reserves by fiscal year-end. A temporary reduction in cash consistent with the expected peaks or dips in revenues and expenditures are normal cyclical occurrences to be expected during the fiscal year, and do not constitute a use of reserves.

The reserves may be drawn down upon by the CEO during the year, up to the lesser of 10% of the year's budgeted cost of power supply, or $30 million, to:

1. Cover increases in power supply expenses due to spikes in costs and/or due to higher customer demand;
2. Provide necessary funds to make up for unanticipated revenue shortfalls;
3. Meet any margin or collateral posting requirements under energy supply contracts; and,
4. Provide resources to meet emergency expenditures.

If further use of reserves are needed to manage the operations of the organization, or if the use of reserves would bring the balance below the Minimum Operating Reserve baseline, the CEO must present recommendations to the Board and the Board must authorize any such use.

Replenishment of Reserves

Should SVCE drawdown reserves below the Minimum Operating Reserve level, SVCE will implement plans to return reserves to their minimum targets within two (2) fiscal years. Such plans will be provided in subsequent budget and rate discussions with the Board.

[1] It is not practical to wait the formal fiscal year end closing of the accounting records to determine if the reserves have been "used". Therefore, it is appropriate for staff to estimate reserve levels, with the important amount being what is estimated for fiscal year end.

Adopted: 3/08/2017
Proposed Amendment: 9/8/2021

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Excess Reserves

If reserve funds are projected to exceed the maximum level, the CEO shall present options for consideration by the Board of Directors for proper disposition of those reserves during the next budget cycle.

Reserves between Minimum and Maximum

To the extent that reserves are above target and below the maximum, no other action by SVCE would be required.

Periodic Review of Reserve Goals

Reserve goals shall be periodically reviewed for consistency with industry standards. If significant risk factors are eliminated or significant new risks emerge as a result of changes in the industry, legislation, or economic conditions, the basis of the reserve policy shall be reviewed, and the funding level shall be adjusted accordingly. Unless the Reserves are approaching minimum levels, formal Reserve funding discussions with the Board may await the next budget process.

Reporting

Reserve levels will be monitored during the fiscal year and reported in the quarterly financial reports. Reserve target levels (minimum and maximum) will be analyzed annually, and over/under reserve determination shall be made in conjunction with year-end financial results. These results will be reported to the Board of Directors as part of the year-end financial report presentation.

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Adopted: 3/08/2017
Proposed Amendment: 9/8/2021

SILICON VALLEY CLEAN ENERGY AUTHORITY RESOLUTION

NO. 2021-22

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY TO: APPROVE THE CREATION OF A PERSONNEL SYSTEM TO INSURE EQUITABLE AND UNIFORM POLICIES AND PROCEDURES FOR ADMINISTERING PERSONNEL MATTERS IN COMPLIANCE WITH APPLICABLE LAWS; DESIGNATING THE CHIEF EXECUTIVE OFFICER (CEO) AS PERSONNEL OFFICER; AND DELEGATING AUTHORITY TO THE CEO TO CARRY OUT ALL DUTIES NECESSARY TO IMPLEMENT THE PERSONNEL SYSTEM

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, under Section 2.5 of the Joint Powers Agreement ("JPA") creating the Silicon Valley Clean Energy Authority ("Authority"), the Authority has the power to employ agents and employees; and

WHEREAS, in exercising its powers, the Authority wishes to establish a uniform and equitable system of personnel administration to ensure effective service to and on behalf of the Authority and to establish procedures for administering personnel matters in compliance with applicable laws and policies established by the Authority Board; and

WHEREAS, in adopting a personnel system, the Authority desires to promote fairness and equity to employees, to attract the best and most competent persons available, to assure the appointment and promotions of employees will be based on merit; and to implement best practices in the administration of its system; and

WHEREAS, the personnel system as set forth below meets all of the requirements of applicable Government Code provisions and the JPA.

NOW THEREFORE, the Board of Directors of the Silicon Valley Clean Energy Authority does hereby resolve that**:**

1. The foregoing recitals are true and correct.

2. A personnel system for the recruitment, selection, employment, classification, compensation, advancement, performance review, discipline, discharge and retirement of employees is hereby established.

3. The Chief Executive Officer (CEO) shall be designated as the Personnel Officer and is authorized and directed to administer the personnel system. The Chief Executive Officer may delegate powers conferred upon him or her by this Resolution as appropriate.

4. The Personnel Officer shall:

a. Act as the appointing authority for all employees of the Authority with the exception of the Authority's General Counsel;

b. Prepare and implement an employee handbook, along with any personnel rules and regulations necessary for the administration of this personnel system;

c. Define and prepare position classifications including the establishment of minimum standards of employment and qualifications for the various positions;

d. Prepare a schedule of compensation including salary and other benefits covering all employees;

e. Provide the publishing or posting of notices of recruitments for positions and develop and administer procedures of the selection process;

f. Prepare and present to the Authority Board a budget for implementation of the personnel system including employee salary and benefit costs as part of the annual budget process;

g. Prepare policies and procedures regarding ethics and the conduct of business including, without limitation, policies relating to conflict of interest, fair and equitable treatment of employees, use and safeguarding of Authority property and resources, and standards of ethical conduct by employees.

h. Perform such other functions as necessary to administer the personnel system as directed from time to time by the Authority Board.

5. Right to Contract for Special Services. The Personnel Officer may contract for the performance of technical or special services necessary for the establishment or operation of the personnel system including, without limitation, services for the preparation of personnel rules and subsequent revisions and amendments thereof; preparation of classification and pay plans and subsequent revisions and amendments thereof; the design and conduct of employee training programs; the conduct of recruitment and hiring processes; and, other special and technical services of an advisory or informational character on matters related to the administration of the personnel system.

PASSED AND ADOPTED this 8th day of September, 2021, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Sinks				
City of Gilroy	Alternate Director Armendariz				

City of Los Altos	Director Fligor				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Chua				
City of Monte Sereno	Director Ellahie				
City of Morgan Hill	Director Martinez Beltran				
City of Mountain View	Director Abe-Koga				
County of Santa Clara	Alternate Director Lee				
City of Saratoga	Director Walia				
City of Sunnyvale	Director Larsson				

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Chair

ATTEST:

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Dorothy Roberts, Interim Board Secretary

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FY 2021-22 Salary Chart

Title	Minimum Salary (Annual $)	Maximum Salary (Annual $)
Administrative Services Manager	127,000	199,570
Administrative Analyst	87,924	150,599
Administrative Assistant	58,615	93,031
Associate Program Manager	73,269	115,137
Associate Data Analyst	86,818	128,687
Associate Manager of Decarbonization and Grid Innovation Programs	116,127	166,368
Associate Power Analyst	86,818	128,687
Associate Power Resources Planner	116,127	178,968
Associate Legislative Analyst	75,711	118,976
Board Clerk / Executive Assistant	107,461	173,934
Chief Financial Officer and Director of Administrative Services	156,308	272,645
Communications Manager	117,230	184,219
Communications Specialist	63,500	103,777
Data Analyst	101,473	151,713
Data Engineer	116,127	166,368
Data Scientist	116,127	166,368
Director of Account Services and Community Relations	156,308	245,625
Director of Decarbonization and Grid Innovation Programs	138,659	245,625
Director of Power Resources	185,615	291,681
Director of Regulatory and Legislative Policy	156,308	245,625
Energy Services Specialist	73,269	115,137
Energy Services Lead	117,230	173,934
Financial Analyst	87,924	138,164
Management Analyst	107,461	168,868
Manager of Decarbonization and Grid Innovation Programs	127,000	199,570
Manager of Energy Services	117,230	199,570
Marketing Specialist	63,500	103,777
Policy Analyst	87,924	138,164
Power Analyst	101,473	151,713
Power Contracts and Settlements Manager	156,308	214,490
Power Resources Manager	146,539	230,274
Power Resources Planner	127,000	199,570

Power Settlements & Compliance Analyst	107,461	168,868
Principal Policy Analyst	127,000	199,570
Principal Power Analyst	156,308	214,490
Principal Data Engineer	127,000	199,570
Principal Data Scientist	127,000	199,570
Principal Program Manager	127,000	199,570
Program Manager	87,924	138,164
Rates Manager	127,000	199,570
Senior Program Manager	116,127	166,368
Senior Communications Specialist	76,604	116,377
Senior Data Analyst	116,127	166,368
Senior Data Engineer	128,727	178,968
Senior Data Scientist	128,727	178,968
Senior Energy Services Specialist	87,924	138,164
Senior Financial Analyst	116,127	166,368
Senior Government Affairs Manager	156,308	214,490
Senior Manager of Decarbonization and Grid Innovation Programs	156,308	214,490
Senior Marketing Specialist	76,604	116,377
Senior Policy Analyst	102,577	161,192
Senior Power Analyst	116,127	166,368
Senior Power Resources Planner	156,308	214,490
Senior Rates Analyst	115,681	174,296
Senior Regulatory Analyst	102,577	161,192

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 4

Item 4:	Adoption of FY22 Strategic Focus Areas and Update on FY22 Strategic Work Plan
From:	Girish Balachandran, CEO
Prepared by:	Melody Vega, Interim Executive Assistant
Date:	9/8/2021

An update to the FY22 Strategic Focus Areas and Strategic Work Plan will be given in the attached presentation.

ATTACHMENTS

1. Presentation: FY22 Strategic Focus Areas and Update on FY22 Strategic Work Plan

SILICON VALLEY CLEAN ENERGY

Silicon Valley Clean Energy
Board of Directors Meeting

September 8, 2021

Appendix A

Power Resource Contracts Executed by CEO

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MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
SOUTHERN CALIFORNIA EDISON COMPANY

This confirmation letter including all appendices hereto ("Confirmation") confirms the Transaction between Silicon Valley Clean Energy Authority ("Counterparty") and Southern California Edison Company ("SCE"), each individually a "Party" and together the "Parties", dated as of 8/2/2021 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation, in the amounts described in this Confirmation. This Transaction is governed by the Edison Electric Institute ("EEI") Master Power Purchase and Sale Agreement between the Parties, effective as of February 7, 2018, along with the Cover Sheet, any amendments and annexes thereto (the "Master Agreement"), and including, the EEI Collateral Annex to the Master Agreement along with the Paragraph 10 to the Collateral Annex between the Parties (such Paragraph 10 and the Collateral Annex are referred to collectively herein as the "Collateral Annex") (the Master Agreement and the Collateral Annex shall be collectively referred to as the "EEI Agreement"). The EEI 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 EEI Agreement, or the CAISO Tariff (defined herein below). To the extent this Confirmation is inconsistent with any provision of the EEI Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder.

ARTICLE 1. TRANSACTION TERMS

1.1 Product; Elections

Product: The product, including the Capacity Attributes of the Unit(s), as defined in Appendix C, or Alternate Unit(s) provided in accordance with Section 2.3.

Flexible Capacity: The Product shall include Flexible Capacity if identified in Appendix B as applicable.

1.2 Delivery and Receipt of Product

Seller shall sell and deliver to Buyer, and Buyer shall receive and purchase from Seller the Product in the amount of the applicable Contract Quantity for each month of the Delivery Period.

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1.3 Delivery Period and Term

(a) Delivery Period. The Delivery Period is as specified in Appendix B of this Confirmation in the row titled "Delivery Period", unless terminated earlier in accordance with the terms of this Agreement.

(b) Term. The Term of this Transaction shall commence upon the Confirmation Effective Date and shall continue until the later of (i) the expiration of the Delivery Period or (ii) the date the Parties' obligations under this Confirmation have been satisfied. This Confirmation shall be effective and binding as of the Confirmation Effective Date.

1.4 Contract Quantity

The Contract Quantity for each applicable Showing Month is as shown in Appendix B of this Confirmation under the heading titled "Contract Quantity."

1.5 Flexible Capacity

If the Parties have designated Flexible Capacity as "Applicable", then the Flexible Capacity included in the Contract Quantity for each applicable Showing Month is as shown in Appendix B of this Confirmation under the heading titled "Flexible Capacity."

1.6 Contract Price

The Contract Price means, for any Showing Month, the price specified in Appendix B of this Confirmation under the heading titled "Contract Price," for such Showing Month.

ARTICLE 2. DELIVERY OBLIGATIONS

2.1 Seller's Delivery Obligations

Seller shall provide Buyer with the Expected Contract Quantity of Product for each Showing Month consistent with the following:

(a) Seller shall, on a timely basis, submit, or cause the Unit's SC to submit, (i) Monthly Supply Plans and (ii) Annual Supply Plans if the Confirmation Effective Date is prior to the year-ahead Compliance Showing deadline applicable for the Showing Months as specified in Sections 1.4 and 1.5 herein, in accordance with the CAISO Tariff, identifying and confirming the transfer of the Expected Contract Quantity of Product to Buyer for each Showing Month.

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(b) Seller shall or shall cause the Unit's SC to submit written notification to Buyer, no later than fifteen (15) Business Days before the initial Compliance Showing deadline for each Showing Month ("Compliance Notification Deadline"), confirming that Buyer will be specified as the recipient of the Expected Contract Quantity for such Showing Month in the Unit's SC Supply Plan (such notice, the "Expected Contract Quantity Notice"). For illustrative purposes only, as of the Confirmation Effective Date, the applicable Compliance Showing deadlines are as follows: (A) forty-five (45) days prior to the Showing Month covered by the Supply Plan for the Monthly Supply Plan; and (B) the last Business Day of October that is prior to commencement of the year for the Annual Supply Plan. The Parties acknowledge and agree that such dates may be modified by the CAISO from time to time throughout the Term.

(c) If Seller is delivering Product to Buyer from more than one Unit, Seller shall deliver such Product to Buyer from each Unit in accordance with the Contract Quantity Unit Allocation, as set forth in Appendix C; provided, Seller may modify the Contract Quantity Unit Allocation from time to time by providing email notice to Buyer's Supply Plan contact, as set forth in Appendix D, no later than the initial Compliance Showing deadline for each Showing Month.

2.2 Adjustments to Contract Quantity

Seller shall deliver to Buyer the Contract Quantity of Product for each Showing Month consistent with the following:

(a) Planned Outages: 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 if the following conditions are satisfied:

(i) Seller notifies Buyer no later than the Compliance Notification Deadline, of the amount of Product from the Unit Buyer is permitted to include in Buyer's Compliance Showings applicable to that month as a result of such Planned Outage; and

(ii) such reduction to the Contract Quantity of Product can be reflected on Supply Plans in accordance with the CAISO Tariff.

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(b) Reductions in Unit NQC and Unit EFC: Seller's obligation to deliver the applicable Contract Quantity for each Showing Month may also be reduced in the event the Unit experiences a reduction in Unit NQC or Unit EFC after the Confirmation Effective Date as determined by the CAISO. In the event the Unit experiences such a reduction in Unit NQC or Unit EFC, Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product or (ii) from Alternate Units, provided, that in each case Seller provides and identifies such Alternate 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 in accordance with Section 2.2 for any Showing Month for any reason, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Product from one or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units is not more than the Contract Quantity for the applicable Showing Month, provided that in each case:

(a) Seller shall notify Buyer no later than the Compliance Notification Deadline for such Showing Month of its intent to provide Product from and identify alternate units that (i) are like-for-like units similar to the Unit originally identified in Appendix C and have the same Capacity Attributes of the Unit originally identified in Appendix C, including the Resource Category and the Unit EFC Category; (ii) are accepted by the CAISO, and (iii) otherwise that satisfy the requirements of this Agreement ("Alternate Units");

(b) Seller shall, or shall cause the Unit's SC to submit a Monthly Supply Plan and an Annual Supply Plan, as applicable, that includes the Alternate Units, in accordance with the CAISO Tariff, no later than the Compliance Notification Deadline for such Showing Month;

(c) if Seller does not comply with the requirements of Sections 2.3(a) and (b) for the applicable Showing Month, then any such Alternate Units shall not be deemed a Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product.

Subject to the satisfaction of the conditions contained in subsections (a) – (c) of this Section 2.3, once Seller has identified in writing any Alternate Units that meet the requirements of this Section 2.3, then any such Alternate Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.

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2.4 Damages for Failure to Provide Capacity

If Seller fails to provide Buyer with the Expected Contract Quantity of Product for any Showing Month, in accordance with Section 2.1 (the "Replacement Obligation"), in each case as applicable, then the following shall apply:

(a) Buyer may, but shall not be required to, replace all or any portion of the Replacement Obligation for the applicable Showing Month with capacity having equivalent Capacity Attributes as the Expected Contract Quantity; provided, if, using commercially reasonable efforts, Buyer is unable to acquire capacity having equivalent Capacity Attributes for any portion of any Showing Month, Buyer may replace such portion of the Replacement Obligation with capacity having Capacity Attributes in excess of the Contract Quantity (the "Replacement Capacity"). Buyer may enter into purchase transactions with one or more parties to purchase Replacement Capacity. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party, and such arrangements shall be considered the procurement of Replacement Capacity. Buyer shall act in a commercially reasonable manner to minimize damages in procuring any Replacement Capacity.

(b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, including any transaction costs and expenses incurred in connection with such procurement, plus (B) each applicable Replacement Capacity Price multiplied by the aggregate amount of Replacement Obligation neither provided by Seller as Alternate Capacity nor purchased by Buyer as Replacement Capacity, for all applicable portions of the applicable Showing Month pursuant to Section 2.4(a), and (ii) the Replacement Obligation minus the Alternate Capacity, not provided for all applicable portions of the applicable Showing Month times the Contract Price for that month. Buyer's invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount and shall include supporting documentation.

2.5 Indemnities for Failure to Deliver Expected Contract Quantity

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

(a) Seller's failure to provide any portion of the Expected Contract Quantity for any portion of the Delivery Period;

(b) Seller's failure to provide notice of the non-availability of any portion of the

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Expected Contract Quantity for any portion of the Delivery Period as required under Section 2.2;

(c) Seller's or the Unit's SC's failure to timely submit Supply Plans that identify Buyer's right to the Expected Contract Quantity for each Unit purchased hereunder for each Showing Month of the Delivery Period;

(d) Seller's or the Unit's SC's failure to submit accurate Supply Plans that identify Buyer's right to the Expected Contract Quantity for each Unit purchased hereunder for each Showing Month of the Delivery Period; or

(e) any other failure by Seller to perform its obligations under this Confirmation.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties.

2.6 Buyer's Re-Sale of Product

Buyer may re-sell all or a portion of the Product and any associated rights, in each case, acquired under this Confirmation, in accordance with Applicable Laws and CPUC Decisions ("Resold Product"); provided, with respect to Resold Product that includes the sale of Capacity Attributes that impact Seller's obligations under this Confirmation, Buyer agrees to: (a) notify Seller that such a sale has occurred; (b) provide Seller with the information described in Appendix E; and (c) notify Seller of any subsequent changes to the information in Appendix E with respect to any particular sale; in each case promptly following such sale and in no event later than the initial Compliance Showing deadline for each Showing Month. Subject to Article 6 below, Seller agrees, and agrees to cause the Unit's SC, to: (i) follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product; and (ii) take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product.

Seller acknowledges and agrees that with respect to any Resold Product, if Buyer incurs any liability to any purchaser of such Resold Product due to the failure of Seller or the Unit's SC to comply with the terms of this Confirmation, and Seller would have had liability to Buyer under this Confirmation for such failure had Buyer not sold the Resold Product to a subsequent purchaser, then Seller shall be liable to Buyer under this Confirmation, including without limitation, pursuant to Sections 2.4 and 2.5, for the amounts it would have been liable to Buyer for had such Resold Product not been sold to a subsequent purchaser. Buyer acknowledges and agrees that with respect to any Resold Product, if Seller incurs any liability to any purchaser of such Resold Product due to the failure of Buyer to comply with the terms of this Confirmation, and Buyer would have had liability to Seller under this Confirmation for such failure had Buyer not sold the Resold Product to a subsequent purchaser, then Buyer shall be liable to Seller under this Confirmation

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for the amounts it would have been liable to Seller for had such Resold Product not been sold to a subsequent purchaser.

2.7 CAISO Offer Requirements

Seller shall, or cause each Unit's SC to, schedule with, or make available to, the CAISO the Expected Contract Quantity for each Unit in compliance with the CAISO Tariff, and shall, or shall cause each Unit's SC, owner, or operator, as applicable, to perform all obligations under the CAISO Tariff 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 CAISO Tariff provisions, including any penalties, charges or fines imposed on Seller or such Unit's SC, owner, or operator for such noncompliance.

2.8 Unit SC's Substitution Obligation

After the obligation to replace all or any portion of the Expected Contract Quantity transfers from the load serving entity to the Unit's SC for a Showing Month in accordance with the CAISO Tariff, and if the CAISO determines that any portion of the Expected Contract Quantity for any portion of a Showing Month that was shown by Buyer in its Compliance Showings requires outage substitution in accordance with Section 40.9.3.6 of the CAISO Tariff because the Unit, or Alternate Unit, as applicable, is scheduled to take an outage (planned or otherwise) (such amount requiring outage substitution, the "SC Substitute Capacity"), then: (a) Seller shall have no liability under Sections 2.4 or 2.5 with respect to such SC Substitute Capacity; and (b) Seller shall have no liability to Buyer for any costs that are allocated to Buyer by the CAISO for any CPM Capacity procured by the CAISO pursuant to the Capacity Procurement Mechanism and that are related to such SC Substitute Capacity.

ARTICLE 3. PAYMENT

3.1 Monthly Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly Payment to Seller, after the applicable Showing Month, as follows:

Monthly Payment = (A x B x 1,000)

where:

A = applicable Contract Price for that Showing Month

B = The amount of Contract Quantity of Product actually delivered by Seller to Buyer pursuant to and consistent with Section 2.1 and, if applicable, Section 2.3, for the applicable Showing Month.

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The Monthly Payment calculation shall be rounded to two decimal places.

3.2 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 the Unit for (i) start-up, shutdown, and minimum load costs, (ii) energy sales, (iii) ancillary services, and (iv) black start or reactive power services.

(b) Buyer shall be entitled to receive and retain all revenues associated with the Aggregate Contract Quantity (including any capacity revenues from RMR Contracts for the Unit, Capacity Procurement Mechanism or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(iii)). To the extent permitted by the CAISO Tariff, Seller shall, or shall cause each Unit's SC to, submit RUC Availability Bids for the Expected Contract Quantity for each Unit for each hour of the Delivery Period at a bid price of Zero Dollars ($0) per MW per hour, regardless of whether each Unit is shown on a Supply Plan for the applicable Showing Month.

(c) In accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement,

(i) all such Buyer revenues described in this Section 3.2, 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. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts Buyer may owe to Seller. 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; and

(ii) all such Seller, or a Unit's SC, owner, or operator revenues described in this Section 3.2, but received by Buyer shall be remitted to Seller. If Buyer fails to pay such revenues to Seller, Seller may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Buyer.

(d) If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each Showing Month provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and

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receive any and all related revenues.

(e) Seller agrees that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the CAISO Tariff. Furthermore, the Parties agree that any Availability Incentive Payments are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges are the responsibility of the Seller and for Seller's account.

3.3 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.

ARTICLE 4. OTHER BUYER AND SELLER COVENANTS

4.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period: (a) cause the Benefiting Load Serving Entity SCID to be included in all applicable Supply Plans; (b) execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Aggregate Contract Quantity for the sole benefit of Buyer or any subsequent purchaser under Section 2.6; and (c) cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the CAISO Tariff. If during the Delivery Period, there is a change to the Benefiting Load Serving Entity SCID, the Parties agree to communicate such changes to each other promptly. 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, CAISO or other Governmental Authority having jurisdiction to administer Compliance Obligations, so as to maintain the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

4.2 Seller's Representations, Warranties and Covenants

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

(i) Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit, and shall furnish Buyer, CAISO, CPUC or other Governmental Authority with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

(ii) No portion of the Aggregate Contract Quantity has been committed by Seller to any third party in order to satisfy Compliance Obligations or

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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;

(iii) Seller shall comply with Applicable Laws relating to the Product;

(iv) (A) Seller shall, and shall cause the Unit's SC to promptly (and in any event within one (1) Business Day of the time Seller receives notification from the CAISO) notify Buyer in the event the CAISO designates any portion of the Aggregate Contract Quantity as CPM Capacity and (B) in the event the CAISO makes such a designation Seller shall, and shall cause the Unit's SC to not accept any such designation by the CAISO unless and until Buyer has agreed to accept such designation;

(v) Buyer shall have the exclusive right to offer the Aggregate Contract Quantity, or any portion thereof, to the CAISO as CPM Capacity and Seller shall not, and shall cause the Unit's SC not to, offer any portion of the Aggregate Contract Quantity to the CAISO as CPM Capacity or accept any designation of any portion thereof as CPM Capacity;

(vi) The Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(vii) Seller shall cause the Unit's SC, owner and operator to comply with Applicable Laws relating to the Product;

(viii) Buyer shall have no liability for the failure of Seller or the failure of the Unit's SC, owner, or operator to comply with such CAISO Tariff provisions, including any penalties, charges or fines imposed on Seller or the Unit's SC, owner, or operator for such noncompliance.

(ix) If Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit does not exceed the Unit NQC or Unit EFC for that Unit;

(x) Seller has notified the SC of the Unit that Seller has transferred the Contract Quantity, including the amount of Flexible Capacity and Inflexible Capacity, to the extent applicable, with respect to each Showing Month to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the CAISO Tariff and this Confirmation;

(xi) Seller has notified the SC of the Unit that Seller is obligated to cause the Unit's SC to provide to the Buyer, on or prior to the Compliance Notification Deadline, the applicable Expected Contract Quantity of the Unit for such Showing Month, including the amount of Flexible Capacity and Inflexible Capacity, to the extent applicable, that is to be

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submitted in the Supply Plan associated with this Agreement for the applicable period; and

(xii) Seller has notified the Unit's SC that Buyer is entitled to the revenues set forth in Section 3.2, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

(b) Seller represents, warrants and covenants to Buyer that, as of the Confirmation Effective Date, all of the information set forth on Appendix C hereto is true, correct and complete.

ARTICLE 5. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that: (i) Buyer may disclose the Aggregate Contract Quantity or any applicable portion of the Aggregate Contract Quantity, including any amounts of Flexible Capacity and Inflexible Capacity, to the extent applicable, under this Transaction to any Governmental Authority, the CPUC, the CAISO in order to support its Compliance Showings, if applicable; (ii) Seller may disclose the transfer of the Aggregate Contract Quantity and the applicable Contract Quantity and Expected Contract Quantity (as well as any amounts of Flexible Capacity and Inflexible Capacity, to the extent applicable) for each Showing Month under this Transaction to the SC of the Unit in order for such SC to timely submit accurate Supply Plans; (iii) both Parties may disclose the terms and conditions of the Agreement and any and all written or recorded or oral information, data, analyses, documents, and materials furnished or made available by a Party to the other Party in connection with this Agreement to the Independent Evaluator; and (iv) Buyer and the Independent Evaluator may disclose the terms and conditions of the Agreement and any and all written or recorded or oral information, data, analyses, documents, and materials furnished or made available by a Party to the other Party in connection with this Agreement to the CAISO, the CPUC, and all divisions thereof, the California Energy Commission, and participants of the Procurement Review Group established pursuant to D.02-08-071 and D.03-06-071; provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Authority, CAISO, or SC to further disclose such information. In addition, in the event Buyer resells all or any portion of the Aggregate Contract Quantity to another party, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

ARTICLE 6. HOLDBACK

No later than five (5) Business Days before the deadline for the initial Compliance Showing deadline with respect to a particular Showing Month, Buyer may request that Seller not list, or cause the Unit's SC not to list, a portion or all of a Unit's applicable Expected Contract Quantity for any portion(s) of such Showing Month on the Supply Plan. The amount of Expected Contract Quantity that is the subject of such a request shall be deemed

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Expected Contract Quantity provided consistent with Section 2.1 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.4 or 2.5. Seller shall, or shall cause the Unit's SC to, comply with Buyer's request under this Article 6.

ARTICLE 7. MARKET BASED RATE AUTHORITY

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

ARTICLE 8. COLLATERAL REQUIREMENTS

8.1 Counterparty Collateral Requirements

Notwithstanding anything to the contrary contained in the EEI Agreement, Counterparty shall have a Full Floating Independent Amount if Counterparty or its Guarantor, if any, does not maintain Credit Ratings of at least (a) BBB- from S&P and Baa3 from Moody's, if such entity is rated by the Ratings Agencies, or (b) BBB- by S&P or Baa3 by Moody's if such entity is rated by only one Ratings Agency. The Full Floating Independent Amount shall equal the value set forth in Appendix B of this Confirmation. Commencing after the initial Compliance Showing deadline of the first Showing Month of the Delivery Period, and for each initial Compliance Showing deadline during the Delivery Period thereafter, the Full Floating Independent Amount shall be reduced to twenty percent (20%) of the sum of the FFIA Monthly Payments for the Next Showing Month and all remaining months of the Delivery Period. For the purposes of calculating the Collateral Requirement pursuant to Paragraph 3 of the Collateral Annex, the Full Floating Independent Amount for Counterparty shall be added to the Exposure Amount for SCE and subtracted from the Exposure Amount for Counterparty.

For the purposes of calculating Exposure, the Monthly Payment shall be deemed accrued and payable upon the initial Compliance Showing deadline for the applicable Showing Month.

8.2 Current Mark-To-Market Value

The Parties further agree that for the purposes of calculating the Collateral Requirement pursuant to Paragraph 3 of the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for a resource adequacy Capacity product develops wherein price quotes for such a product can be obtained,

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the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction.

8.3 Credit Terms

The Parties agree that the credit and collateral provisions of the EEI Agreement shall govern this Transaction; provided, however, that for purposes of calculating a Party's Collateral Requirement pursuant to Paragraph 3 of the Collateral Annex, with respect to this Transaction only (a) if Counterparty has Exposure to SCE, then the amount of Exposure for this Transaction is deemed to be zero dollars ($0), and (b) in no event shall SCE be required to post or maintain an Independent Amount with Counterparty.

ARTICLE 9. OTHER

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement, provided that, with respect to this Transaction only, the following language is added at the end of Section 5.2 of the Master Agreement, with any terms which are defined in this Confirmation being used in the Master Agreement with the definitions given to such terms in this Confirmation:

> "If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur penalties, fines or costs from the CPUC, the CAISO, or any Governmental Authority having jurisdiction, because Buyer is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller's Event of Default, then Buyer may, in good faith, estimate the amount of those penalties or fines and include this estimate in its determination of the Settlement Amount, subject to accounting to Seller when those penalties or fines are finally ascertained. If this accounting establishes that Buyer's estimate exceeds the actual amount of penalties or fines, Buyer shall promptly remit to Seller the excess amount. 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."

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In WITNESS WHEREOF, the Parties have caused this Confirmation to be duly executed as of the Confirmation Effective Date first written:

SILICON VALLEY CLEAN ENERGY AUTHORITY,

a California joint powers authority.

By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...

Name: Girish Balachandran

Title: Chief Executive Officer

Date: 7/15/2021

SOUTHERN CALIFORNIA EDISON COMPANY,

a California corporation.

By: DocuSigned by: Gus Flores 2CF84CEB0B134E1...

Name: Gus Flores

Title: Principal Manager, Origination

Date: 8/2/2021

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APPENDIX A
DEFINED TERMS

"Aggregate Contract Quantity" means the aggregate amount of Product associated with the MWs set forth in Appendix B under the column titled "Contract Quantity" which Seller has agreed to provide to Buyer from the Unit throughout the entire term of the Delivery Period.

"Agreement" has the meaning specified in the introductory paragraph of this Confirmation.

"Alternate Capacity" means Product which Seller has elected to provide to Buyer in accordance with the terms of Section 2.3.

"Alternate Unit" means a generating unit meeting the requirements specified in Section 2.3.

"Annual Supply Plan" has the meaning set forth in the CAISO Tariff.

"Applicable Laws" means the CAISO Tariff and all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority that apply to either or both of the Parties, the Project, the Unit or the terms of this Agreement.

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

"Availability Standards" has the meaning set forth in the CAISO Tariff.

"Benefiting Load Serving Entity SCID" is as specified in Appendix D.

"Buyer" has the meaning specified in Appendix B.

"CAISO" means the California Independent System Operator Corporation, or any successor entity performing the same functions.

"CAISO Control Area" has the meaning set forth in the CAISO Tariff.

"CAISO Controlled Grid" has the meaning as set forth in the CAISO Tariff.

"CAISO Tariff" means the California Independent System Operator Corporation Tariff, Business Practice Manuals (BPMs), Operating Agreements, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by FERC, if applicable.

"Capacity Attributes" means, with respect to a Unit, any and all of the following, in each case which are attributed to or associated with the Unit at any time throughout the Delivery Period:

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(a) resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO, or other Governmental Authority having jurisdiction, that can be counted toward RAR;

(b) 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 Authority 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; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs, howsoever entitled, including any accounting construct counted toward any Compliance Obligation;

provided that, notwithstanding the foregoing, Capacity Attributes shall exclude all flexible capacity resource adequacy attributes, characteristics, certificates, tags, credits, or accounting constructs, howsoever entitled associated with the Unit; provided further, notwithstanding the foregoing, Capacity Attributes shall exclude intra-month substitution resource adequacy attributes.

"Capacity Procurement Mechanism" has the meaning set forth in the CAISO Tariff.

"Collateral Annex" has the meaning specified in the introductory paragraph of this Confirmation.

"Compliance Notification Deadline" has the meaning set forth in Section 2.1(b).

"Compliance Obligations" means the RAR and Local RAR.

"Compliance Showings" means the (a) Local RAR compliance or advisory showings (or similar or successor showings) and (b) RAR compliance or advisory showings (or similar or successor showings), in each case, a load serving entity is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, to the CAISO pursuant to the CAISO Tariff, or to any Governmental Authority having jurisdiction.

"Confirmation" has the meaning specified in the introductory paragraph of this Confirmation.

"Confirmation Effective Date" has the meaning specified in the introductory paragraph of this Confirmation.

"Contract Price" means, for any Showing Month, the price specified in Appendix B under the column titled "Contract Price" for such Showing Month.

"Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product associated with the number of MWs set forth in

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Appendix B under the column titled "Contract Quantity", which Seller has agreed to provide to Buyer from the Unit for each Showing Month.

"Contract Quantity Unit Allocation" means, if Seller is delivering Product to Buyer from more than one Unit, the allocation of Contract Quantity Seller will deliver from each Unit, as set forth in Appendix C and as modified by Seller from time to time in accordance with Section 2.1(c).

"Cover Sheet" has the meaning specified in the introductory paragraph of this Confirmation.

"CPM Capacity" has the meaning set forth in the CAISO Tariff.

"CPUC" means the California Public Utilities Commission.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

"CPUC Filing Guide" 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.

"Current Mark-to-Market Value" has the meaning specified in Section 8.2

"Delivery Period" has the meaning specified in Section 1.3(a).

"EEI" has the meaning specified in the introductory paragraph of this Confirmation.

"EEI Agreement" has the meaning specified in the introductory paragraph of this Confirmation.

"Expected Contract Quantity" means, with respect to any Showing Month of the Delivery Period, 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, and after giving effect to any reductions to Contract Quantity as specified in Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

"Expected Contract Quantity Notice" has the meaning specified in Section 2.1(b).

"FFIA Monthly Payment" shall be the Monthly Payment calculated using the Contract Quantity rather than the Expected Contract Quantity, such that variable B in the formula for Monthly Payment shall be as follows: B = the Contract Quantity of Product for each applicable Showing Month.

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"Governmental Authority" means any: (a) federal, state, local, municipal or other government; (b) governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (c) court or governmental tribunal.

"Independent Evaluator" has the meaning set forth in CPUC Decision 04-12-048.

"Local Capacity Area" has the meaning set forth in the CAISO Tariff.

"Local RAR" means the local resource adequacy requirements established for load serving entities by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority 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.

"Master Agreement" has the meaning specified in the introductory paragraph of this Confirmation.

"Monthly Payment" has the meaning specified in Section 3.1.

"Monthly Supply Plan" has the meaning set forth in the CAISO Tariff.

"MW" means megawatt (or 1,000 kilowatts) of alternating current electric energy generating capacity.

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

"Next Showing Month" means the next calendar month for which a Compliance Showing will be made.

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

"Planned Outage" means a maintenance outage taken by the Unit originally identified in Appendix C, as such maintenance outage is determined by the applicable Unit or Unit SC.

"Product" means the Capacity Attributes of the Unit(s), including any capacity from RMR Contracts for the applicable Unit, or its successor, Capacity Procurement Mechanism, or its successor, and RUC Availability Payments, or its successor; provided that:

(a) Product does not include any right to the energy or ancillary services from the Unit;

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(b) any change by the CAISO, CPUC or other Governmental Authority that defines new or re-defines existing Local Capacity Areas that results in a decrease or increase in the amount of Capacity Attributes related to a Local Capacity Area provided hereunder will not result in a change in payments made pursuant to this Transaction; and

(c) the Parties agree that, under this Confirmation, if the CAISO", CPUC or other Governmental Authority defines new or re-defines existing Local Capacity Areas whereby the Unit subsequently qualifies for a Local Capacity Area, the Product shall include all Capacity Attributes related to such Local Capacity Area.

"RAR" means the resource adequacy requirements established for load serving entities by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction.

"Replacement Capacity" has the meaning specified in Section 2.4.

"Replacement Capacity Price" means the market price for Product with Capacity Attributes reasonably equivalent to the quantity of Product not provided by Seller under this Confirmation, as determined in the manner upon which market prices are determined under Section 5.2(b) of the Master Agreement. For purposes of this Transaction and Confirmation, the "Replacement Capacity Price" shall be deemed to be the "Replacement Price" as defined in Section 1.51 of the Master Agreement.

"Replacement Obligation" has the meaning specified in Section 2.4.

"Resold Product" has the meaning specified in Section 2.6.

"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.

"RMR Contracts" has the meaning set forth in the CAISO Tariff.

"RUC Availability Bid" has the meaning set forth in the CAISO Tariff.

"RUC Availability Payment" has the meaning set forth in the CAISO Tariff.

"SC" has the meaning set forth in the CAISO Tariff.

"SC Substitute Capacity" has the meaning set forth in Section 2.8.

"Seller" has the meaning specified in Appendix B.

"Showing Month" shall be the calendar month of the Delivery Period that is the subject of the Compliance Showing, as set forth in the CPUC Decisions and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and CPUC

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Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Supply Plan" has the meaning set forth in the CAISO Tariff.

"Term" has the meaning specified in Section 1.3(b).

"Unit" shall mean the generation assets described in Appendix C (including any Alternate Units), from which Product is provided by Seller to Buyer.

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

ADDITIONAL DEFINED TERMS

To the extent that the Parties have selected Flexible Capacity as being "Applicable", the following definitions shall be utilized in lieu of the corresponding definition, where appropriate, or in addition to the definitions set forth in the above Defined Terms:

"Aggregate Contract Quantity" means the aggregate amount of Product associated with the MWs set forth in Appendix B under the column titled "Contract Quantity" which Seller has agreed to provide to Buyer from the Unit throughout the entire term of the Delivery Period and which includes Product which is Flexible Capacity in an amount equal to the aggregate amount identified in Appendix B under the column titled "Flexible Capacity". All Contract Quantity is Inflexible Capacity except to the extent identified as Flexible Capacity in Appendix B under the column titled "Flexible Capacity".

"Capacity Attributes" means, with respect to a Unit, any and all of the following, in each case which are attributed to or associated with the Unit at any time throughout the Delivery Period:

(a) resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO, or other Governmental Authority having jurisdiction, that can be counted toward RAR;

(b) 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 Authority 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;

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs, howsoever entitled, including any accounting construct counted toward any Compliance Obligations; and

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(d) flexible capacity resource adequacy attributes for the Unit, including, without limitation, the amount of Unit EFC and MWs associated with Unit EFC as may be identified from time to time by the CPUC, CAISO, or other Governmental Authority having jurisdiction, that can be counted toward Flexible RAR;

provided, notwithstanding the foregoing, Capacity Attributes shall exclude intra-month substitution resource adequacy attributes.

"Compliance Obligations" means the RAR, Local RAR and Flexible RAR.

"Compliance Showings" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, a load serving entity is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, to the CAISO pursuant to the CAISO Tariff, or to any Governmental Authority having jurisdiction.

"Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product associated with the number of MWs set forth in Appendix B under the column titled "Contract Quantity", which Seller has agreed to provide to Buyer from the Unit for each Showing Month, and which includes Product which is Flexible Capacity in an amount equal to the amount identified in Appendix B. All Contract Quantity is Inflexible Capacity except to the extent identified as Flexible Capacity Appendix C.

"Effective Flexible Capacity" has the meaning set forth in the CAISO Tariff.

"Flexible Capacity" means, with respect to any particular Showing Month of the Delivery Period, the number of MWs of Product set forth in Appendix B under the column titled "Flexible Capacity" which Seller has agreed to provide to Buyer from the Unit as part of the Contract Quantity for such Showing Month, and which such MWs of Product are eligible to satisfy a load serving entity's Flexible RAR and which such MWs of Product are associated with MWs of the Unit that are part of the Unit EFC.

"Flexible RAR" means the flexible capacity requirements established for load serving entities by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction and includes any non-binding advisory showings which a load serving entity is to make with respect to flexible capacity.

"Inflexible Capacity" means, with respect to any particular Showing Month of the Delivery Period, the number of MWs of Product set forth in Appendix B under the column titled "Contract Quantity", minus the number of MWs of Product set forth in Appendix B under the column titled "Flexible Capacity", which Seller has agreed to

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provide to Buyer from the Unit as part of the Contract Quantity for such Showing Month, and which such MWs of Product are not eligible to satisfy a load serving entity's Flexible RAR and which are Product associated MWs of the Unit that are not part of or outside the Unit EFC. Inflexible Capacity is also known as 'generic capacity'.

"Product" means the Capacity Attributes of the Unit, provided that:

(a) Product does not include any right to the energy or ancillary services from the Unit;

(b) any change by the CAISO, CPUC or other Governmental Authority that defines new or re-defines existing Local Capacity Areas that results in a decrease or increase in the amount of Capacity Attributes related to a Local Capacity Area provided hereunder will not result in a change in payments made pursuant to this Transaction;

(c) any change by the CAISO, CPUC or other Governmental Authority that defines new or re-defines existing Flexible RAR, Capacity Attributes related to Flexible RAR, or attributes of the Unit related to Flexible RAR, that results in a decrease or increase in the amount of Capacity Attributes related to Flexible RAR provided hereunder will not result in a change in payments made pursuant to this Transaction;

(d) the Parties agree that, under this Confirmation, if the CAISO, CPUC or other Governmental Authority defines new or re-defines existing Local Capacity Areas whereby the Unit subsequently qualifies for a Local Capacity Area, the Product shall include all Capacity Attributes related to such Local Capacity Area; and

(e) the Parties agree that, under this Confirmation, if the CAISO, CPUC or other Governmental Authority defines new or re-defines existing Flexible RAR, Capacity Attributes related to Flexible RAR, or attributes of the Unit related to Flexible RAR whereby the Unit, or a portion of the Unit which did not previously qualify to satisfy Flexible RAR, subsequently qualifies to satisfy Flexible RAR, the Product shall include all Capacity Attributes of the Unit related to Flexible RAR, including any Capacity Attributes related to Flexible RAR with respect to any portion of the Unit which previously was not able to satisfy Flexible RAR.

"Unit EFC" means the Effective Flexible Capacity (in MWs) of the Unit. The Parties agree that if the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Effective Flexible Capacity.

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

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APPENDIX B
FLEXIBLE CAPACITY, DELIVERY PERIOD, CONTRACT QUANTITY, CONTRACT PRICE, AND FULL FLOATING INDEPENDENT AMOUNT

The quantities specified in this table will control in the event of a conflict between these values and those in Appendix C. The Parties agree to revise the Appendix C as necessary to ensure that the Contract Quantity and Flexible Capacity are satisfied in full.

Buyer	Silicon Valley Clean Energy Authority
Seller	Southern California Edison Company

Flexible Capacity	☐ Applicable	☒ Not applicable
Delivery Period	[redacted]	

Showing Month	**Year**	**Contract Quantity (MW)**	**Flexible Capacity (MW)**	**Contract Price ($/kW-month)**
[redacted]				

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APPENDIX C
UNIT INFORMATION AND CONTRACT QUANTITY UNIT ALLOCATION

Unit 1 Information

Unit	**1**
CAISO Resource ID	LAPLMA_2_UNIT 4
Unit Name	LA PALOMA GENERATING PLANT, UNIT #4
Current Scheduling Coordinator SCID	EDF3
Resource Fuel Type	Natural Gas
Resource Category (1, 2, 3 or 4)	4
Unit EFC Category (1, 2, 3 or N/A)	NA
Local Capacity Area (if applicable, as of Confirmation Effective Date)	NA

Unit 1 Contract Quantity Unit Allocation

	Unit **NQC** (1)	Unit **EFC** (2)	**2022** Contract Quantity	**2022** Flexible Capacity
April	253.29	NA	1	NA
May	253.29	NA	1	NA
June	253.29	NA	120	NA

(1) Unit NQC (Net Qualifying Capacity in MW as of the Confirmation Effective Date)

(2) If Flexible Capacity is designated as applicable in Section 1.1,
Unit EFC (Effective Flexible Capacity in MW, as of the Confirmation Effective Date)

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APPENDIX D
SUPPLY PLAN INFORMATION

Benefitting load serving entity SCID: LVSCE

Counterparty Supply Plan contact information:

Name: Mark Thomas

Email: mthomas@acespower.com

Phone Number: 317-344-7136

SCE Supply Plan contact information:

Name: Angelica Sindelar

Email: Angelica.Sindelar@sce.com

Phone Number: 626-302-9576

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APPENDIX E
SUBSEQUENT SALE INFORMATION

Contract Key ID:	
Subsequent sale contract quantity (in MW):	
Subsequent sale delivery period:	
Amount of Inflexible Capacity included in subsequent sale contract quantity (in MW):	
New benefitting load serving entity SC identification number:	

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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 August 8, 2021 (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.

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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 duringthe 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 Plansin 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 identifiessuch 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

[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

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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

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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)

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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

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(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 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

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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

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 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'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

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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

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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.*]

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AGREED AS OF THE EFFECTIVE DATE:

Central Coast Community Energy, a California joint powers authority

By: DocuSigned by: Tom Habashi 69C253774488497...

Name: Tom Habashi

Title: CEO

Silicon Valley Clean Energy, a California joint powers authority

By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...

Name: Girish Balachandran

Title: Chief Executive Officer

Approved as to form:

By: DocuSigned by: Robert M. Shaw 398728BE39B342A...

Print: Robert M Shaw

Title: COO and General Counsel

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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

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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.

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"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.

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"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.

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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:
Resource Category (MCC Bucket):
CPUC Local Area (if applicable):
Flexible Capacity Category (if applicable):

Delivery period:

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

Showing Month and Year	Contract Quantity (MW)	Contract Price ($/kW-mo)
[redacted]		

Flexible Capacity, if applicable

Showing Month and Year	Contract Quantity (MW)	Contract Price ($/kW-mo)

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Unit 1

Unit Specific Information	
Resource Name	CARIBOU PH 2 UNIT 4 & 5 AGGREGATE
Physical Location	Plumas,, CA
CAISO Resource ID	CARBOU_7_PL4X5
SCID of Resource	
Resource Type (e.g., gas, hydro, solar, etc.)	Hydro
TAC Area (e.g., PG&E, SCE)	PG&E
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO SYSTEM
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4
[redacted]	

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Unit 2

Unit Specific Information	
Resource Name	SPI Anderson 2
Physical Location	Shasta, CA
CAISO Resource ID	SPIAND_1_ANDSN2
SCID of Resource	
Resource Type (e.g., gas, hydro, solar, etc.)	Wood/Wood Waste Biomass
TAC Area (e.g., PG&E, SCE)	PG&E
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO SYSTEM
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4
[redacted]	

(*Repeat for additional Units)*

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]

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APPENDIX C
PLANNED OUTAGE SCHEDULE

Unit Name	CAISO Resource ID *	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

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DRAFT
29 JUNE 2021

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation under the WSPP Agreement confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Purchaser" or "SVCE") and Elk Hills Power, LLC ("EHP" or "Seller") dated as of June 30, 2021 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Purchaser: Silicon Valley Clean Energy Authority

Seller: EHP

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B and C are incorporated into this Confirmation.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller will sell and deliver to Purchaser, and Purchaser will purchase and receive from Seller, the Contract Quantity of the Product from the Shown Unit(s).

(b) Seller will deliver the Contract Quantity of Product by submitting to CAISO in its Supply Plan the Shown Unit for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller will cause all Supply Plans to meet and be filed in conformance with the requirements of the 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 requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for each day of such Showing Month will equal the Contract Quantity, less any excused deductions to the Contract Quantity in the case of Flexible RA Capacity for excused reductions in Unit EFC.

(d) Seller may sell and deliver from a Shown Unit that meets requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. Seller will identify the Shown Unit(s) and Contract Quantity by providing Purchaser with the specific Unit information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Contract Quantity for the Shown Unit in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

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(f) The Product is delivered by Seller and received by Purchaser when either (i) the CIRA Tool shows the Supply Plan accepted for the Contract Quantity of Product from the Shown Unit by CAISO or (ii) Seller complies with Purchaser's written instruction to withhold all or part of the Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or, (ii) Seller fails to submit the volume of Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Purchaser will have received the Contract Quantity if (i) Seller's Supply Plan is accepted by the CAISO for the applicable Showing Month or (ii) Seller complies with Purchaser's instruction to withhold all or part of the Contract Quantity from Seller's Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.[1]

(h) Excused Reductions in Unit EFC: Unless the Parties have designated this Section 2.1(h) as "Not applicable", if the Product includes FCR Attributes, then Seller's failure to deliver any of the Contract Quantity of FCR Attributes during the Delivery Period will be excused if the Unit experiences a reduction in Unit EFC after the Effective Date as determined by CAISO and Seller has provided notice of such reduction to Purchaser by the Notification Deadline for the applicable Showing Month. The extent to which Seller's failure is excused will equal (i) the Contract Quantity of FCR Attributes for such day multiplied by (ii) the total amount (in MW) by which the Unit EFC was reduced since the Effective Date, divided by (iii) the Unit EFC as of the Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller may, but is not obligated to, provide the applicable part of the Contract Quantity of FCR Attributes for such day from the Shown Unit.

2.2 Purchaser's Remedies for Seller's Failure to Deliver Contract Quantity

In addition to Purchaser's rights under Section 21.3, Seller agrees to indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

[1] For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046

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2.3 Purchaser's Re-Sale of Product

(a) Purchaser may re-sell all or part of the Contract Quantity of Product; provided that any such re-sale must not increase or modify Seller's obligations hereunder other than as set forth in this Section 2.3(a). For any such a resale, Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller will, or will cause the Unit's SC, to follow Purchaser's instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller will, and will cause the Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser's rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Unit's SC to comply with this Confirmation, Seller will be liable to Purchaser for the same amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser will notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two Business Days before the Notification Deadline for the Showing Month. Purchaser will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to direct the Seller or the Unit's Scheduling Coordinator to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period provided to Purchaser pursuant to this Confirmation for re-sale in such market, and Seller and the Unit's Scheduling Coordinator shall comply with Purchaser's direction to the extent Seller is not required to incur any additional costs to qualify such Contract Quantity of Product for participation in such centralized capacity market or follow such direction from Purchaser. 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.

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3.2 Allocation of Other Payments and Costs

(a) Product does not confer to Purchaser any right to dispatch or receive the energy or ancillary services from a Shown Unit. Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller must promptly report receipt of any such revenues to Purchaser. Seller must pay to Purchaser any such amounts received by Seller, or a Unit's SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller will, or will cause the Unit's SC to, within one Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller must schedule or cause the Unit's SC to schedule or make available to CAISO the Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Unit's SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Nothing herein will prevent Seller from exercising any rights under the Tariff with respect to use of RA Substitute Capacity during the Delivery Period. Purchaser is not liable for, and Seller will indemnify and hold Purchaser harmless from, the failure of Seller or the Unit's SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Unit's SC, owner, or operator for noncompliance.

4.2 Seller's and Purchaser's Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Purchaser's rights to the Contract Quantity of Product for the sole benefit of Purchaser or any Subsequent Purchaser. If necessary, the Parties

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further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller's Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

(a) no part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) the Unit qualifies under the Tariff for the Product, and the Unit and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Unit during the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;

(d) if applicable, Seller has notified either the Unit's SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Unit's SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

4.4 Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the WSPP Agreement, neither Purchaser nor Seller shall be required to provide Performance Assurance to the other Party during the Delivery Period.

(b) Sections 22.1(d) of the WSPP Agreement shall not apply to either Party with respect to this Transaction.

ARTICLE 5
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

5.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination

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Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

5.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement, (i) Purchaser may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit's SC or as necessary for Supply Plans; (iii) each Party may disclose information to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser. 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.)

5.3 Dodd-Frank Act

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).

5.4 Joint Powers Authority

Purchaser is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (California Government Code Sections 6500 et seq.) and is a public entity separate and distinct from its members. Purchaser shall solely be responsible for all of such Party's debts, obligations and liabilities accruing and arising out of this Confirmation. Seller shall have no rights and shall not make any claim, take any actions or assert any remedies against any of the Purchaser's members, any cities or counties participating in Purchaser's community choice aggregation program, or any of Purchaser's retail customers in connection with this Confirmation.

5.5 Additional WSPP Agreement Amendments

For purposes of this Transaction only, the WSPP Agreement shall be amended as follows:

(a) Section 4 of the WSPP Agreement is amended by:

1. Adding "or the Friday after the United States Thanksgiving holiday" before the period at the end of the first sentence under the definition of "Business Day(s)".

2. Adding the following new definitions:

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> ""Governmental Entity or Public Power System" means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof."

(b) The first sentence of the second paragraph of Section 10 of the WSPP Agreement is amended by deleting the "or" before "(ii)" and adding to the end of such sentence "or (iii) if the Party claiming inability to perform is a Governmental Entity or Public Power System, any action taken by the Governmental Entity or Public Power System in its governmental capacity."

(c) Section 13.1 of the WSPP Agreement is amended to change "FERC" to "FERC or the CPUC".

(d) Section 21.2 of the WSPP Agreement is deleted and replaced with the following:

"Any Party due monies under this Agreement, the amounts of which are not in dispute or if disputed have been the subject of a decision awarding monies, (i) shall have the right to seek payment of such monies in court in accordance with Section 34.1 and (ii) shall possess the right to seek relief directly from such court without first exercising termination and liquidation rights under Section 22.

In addition, each Party shall possess the right to seek specific performance (injunctive relief) of the non-delivery related terms of this Agreement and any Confirmation in court in accordance with Section 34.1. In seeking to enforce the terms of this Agreement, however, consistent with Section 21.1, no Party is entitled to receive or recover monetary damages except as provided in Sections 21.3 and 22."

(e) Section 21.3(d) of the WSPP Agreement is modified by replacing the words "After informal dispute resolution as required by Section 34.1, any remaining dispute involving the calculation of the damages shall be referred to binding dispute resolution as provided by Section 34.2 of this Agreement" with "Unless otherwise resolved informally, any dispute involving the calculation of the damages shall be resolved in accordance with Section 34 of this Agreement".

(f) Section 21 of the WSPP Agreement is modified by adding the following Section 21.4:

"No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (provided such court is consistent with the venue provisions in Section 31.4), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment."

(g) Section 22.3(c) of the WSPP Agreement 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

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Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

(h) Section 22.3(e) of the WSPP Agreement is modified by deleting the entire provision (including subsections) and replacing it with the following: "[Intentionally omitted]"

(i) Section 22.3(e)(i) of the WSPP Agreement is modified by replacing the words "Any disputes as to the methodology shall be resolved pursuant to the dispute resolution procedures in Section 34, with binding arbitration pursuant to Section 34.2 required for disputes as to the methodology if mediation is unsuccessful" with "Unless otherwise resolved informally, any disputes as to the methodology shall be resolved in accordance with Section 34 of the WSPP Agreement".

(j) Section 22.3(f) of the WSPP Agreement is modified by deleting the entire provision and replacing 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 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 such dispute will be resolved in accordance with Section 34 of the WSPP Agreement."

(k) Section 24 of the WSPP Agreement is deleted in its entirety and replaced with the following:

"This Confirmation, including the provisions and requirements of the Tariff and the definition of the Product and its components, and any portion of the WSPP Agreement applicable to this Confirmation shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of laws rules thereof."

(l) Subsections 34.1 through 34.4 of the WSPP Agreement are deleted and replaced with the following:

"34.1 Consent to Jurisdiction. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE OF CALIFORNIA, COUNTY AND CITY OF SAN FRANCISCO. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (a) ACCEPTS GENERALLY AND UNCONDITIONALLY THE EXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS; (b) WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

34.2 Reserved.

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34.3 Reserved.

34.4 Reserved"

(m) Subsections 34.5 and 34.6 are hereby added to Section 34 of the WSPP Agreement:

"34.5 Waiver of Jury Trial. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THIS AGREEMENT.

34.6 LIMITATION OF DAMAGES. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT AND ANY CONFIRMATION SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION OF THIS AGREEMENT OR ANY CONFIRMATION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A CONFIRMATION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION SET FORTH IN THIS AGREEMENT OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS."

(n) Section 35 of the WSPP Agreement is modified by inserting the following paragraph between the first and second sentences: "The Parties agree that each Party's business consists in whole or in part of entering into forward contracts as or with merchants in capacity or energy, which is presently the subject of dealing in the forward contract trade. The Parties further agree that the transactions entered into pursuant to any Confirmations hereunder (as provided in Article 32 of the WSPP Agreement) are forward contracts involving the sale of capacity and/or energy, which are presently the subject of dealing in the forward contract trade. No Party shall assert before any court or other governmental authority either that another Party is not, or shall not be treated as, a forward contract

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merchant or that the transaction entered into pursuant, to any Confirmations hereunder (as provided in Article 32 of the WSPP Agreement) are not, or shall not be treated as, forward contracts under the United States Bankruptcy Code."

(o) The following phrase is inserted at the beginning of Section 37 of the WSPP Agreement: "On the date of entering into this Confirmation and throughout the Delivery Period,"

(p) Section 37 of the WSPP Agreement is further modified by adding the following new paragraph at the end:

"Seller represents and warrants that it (and in the case of Party B, if Party B is a cooperative, each member) is not:

(i) a federal agency;

(ii) a state, state agency, city, county, municipality, or other political subdivision of a state;

(iii) an employee benefit plan, as defined in Section 3 of the Employee Retirement Income Security Act of 1974;

(iv) a governmental plan, as defined in Section 3 of the Employee Retirement Income Security Act of 1974;

(v) an endowment, including an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986;

(vi) or a "special entity" as defined in Section 4s(h)(2)(C) of the U.S. Commodity Exchange Act and 17 C.F.R. § 23.401(c)."

"Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Agreement, with respect to this Agreement and each Confirmation, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Agreement and each Confirmation, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures, has or will be taken and performed as required under Joint Exercise of Powers Act of California (Government Code Section 6500 et seq.) (the "Act") and the Governmental Entity or Public Power System's ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Agreement by Governmental Entity or Public Power System are for a proper public purpose (iv) the term of this Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) prior to the commencement of each fiscal year, which fiscal year ends June 30, the Governmental Entity or Public Power System shall have obtained all necessary budgetary approval to perform all of its obligations to make payments hereunder for such fiscal year, and (vi) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues

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of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets."

(q) Section 41 "Witness" of the WSPP Agreement shall become Section 42 and the following "Mobile Sierra" Section shall be inserted as Section 41:

"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) To the fullest extent permitted by Applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by Applicable Law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in Applicable Law or market conditions that may occur. In the event it were to be determined that Applicable Law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (ii) shall not apply, provided that, consistent with the foregoing subsection (i), neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing section (i)."

(r) Exhibit D of the WSPP Agreement is deleted and replaced with:

"Exhibit D - RESERVED".

5.6 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.

5.7 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

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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.

AGREED AS OF THE EFFECTIVE DATE:

ELK HILLS POWER, LLC

DocuSigned by:
By: Joe Alves
3FDE7C41D238499...
Name: Joe Alves
Title: Manager, Power Marketing

SILICON VALLEY CLEAN ENERGY AUTHORITY

DocuSigned by:
By: Girish Balachandran
5CA64B9AC4C24C3...
Name: Girish Balachandran
Title: Chief Executive Officer

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DRAFT
29 JUNE 2021

APPENDIX A
DEFINED TERMS

"CAISO" means the California ISO and any successor entity.

"Capacity Attributes" means attributes of the Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

"CIRA Tool" means the CAISO Customer Interface for Resource Adequacy.

"Compliance Obligations" means, as applicable, RAR, Local RAR and FCR.

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

"CPUC Decisions" means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

"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.

"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.

"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.

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

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

"LSE" means "Load Serving Entity" as such term is used in Section 40.9 of the Tariff.

"MW" means megawatt.

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"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 that is specified and marked applicable in Appendix B.

"Prorated Percentage of Unit Factor" means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.
"Prorated Percentage of Unit Flexible Factor" means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

"RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

"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 Purchaser on the Effective Date.

"Subsequent Purchaser" means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

"Tariff" means the CAISO Tariff, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit described in Appendix B and any other generating unit that is capable of supply the Contract Quantity of Product during the Delivery Period.

"Unit EFC" means Unit Effective Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

"Unit NQC" means Unit Net Qualifying Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

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29 JUNE 2021

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ **System** RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: North
Resource Category (MCC Bucket): 4 (All Hours – planned availability is unrestricted)
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

Delivery Period: [redacted]

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

Showing Month and Year	Contract Quantity (MW)	Contract Price ($/kW-mon)
[redacted]		

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Unit 1

Unit Specific Information	
Resource Name	Elk Hills Power
Physical Location	4026 Skyline Road, Tupman, CA
CAISO Resource ID	ELKHIL_2_PL1X 3
SCID of Resource	EMM2
Unit NQC by month (e.g., Jan=50,Feb=65):	380 MWs
Unit EFC by month (e.g., Jan=30, Feb=50)	171 MWs
Resource Type (e.g., gas, hydro, solar, etc.)	Natural Gas Fired
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	_____
Prorated Percentage of Unit Flexible Factor	
Capacity Area (CAISO System, Fresno, Sierra, , Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO North System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4 (All Hours – planned availability is unrestricted)

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APPENDIX C
NOTICE INFORMATION

Seller: Elk Hills Power, LLC	**Purchaser:** Silicon Valley Clean Energy Authority
[redacted]	

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MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY ("PARTY A")
AND
PACIFIC GAS AND ELECTRIC COMPANY ("PARTY B")

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

ARTICLE 1
TRANSACTION TERMS

Buyer: Party B

Seller: Party A

Product: The Product is the Capacity Attributes of the Unit(s) as defined in Appendix B; provided that if Buyer does not specify the Local Capacity Area in Appendix B, when applicable, then Seller may provide Local RAR from any Local Capacity Area in the Seller's local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: [redacted]

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

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

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2.2 Seller To Identify Shown Unit

(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information no later than:

(i) Fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month, if the Confirmation Effective Date is at least fifteen (15) calendar days before such Compliance Showing deadline; or

(ii) One (1) business day from the Confirmation Effective Date if the Confirmation Effective Date is less than fifteen (15) calendar days from the Compliance Showing. Section 2.3 of this Confirmation does not apply when the Confirmation Effective Date is within fifteen (15) calendar days of the Compliance Showing.

(b) The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC.

(c) Seller's notice under this Section 2.2 shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) Business Days of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days. Provided such Shown Unit meets the requirements of this Confirmation, this second Shown Unit shall be deemed acceptable to and approved by Buyer upon receipt. This section does not apply if the Confirmation Effective Date is within fifteen (15) calendar days of the relevant Compliance Showing deadline.

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

2.3 Seller To Provide Alternate Capacity

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer, provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is equal to the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics

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specified in Appendix B no later than five (5) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller's notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within two (2) Business Days. Provided such Alternate Unit meets the requirements of a Shown Unit under this Confirmation, this second Alternate Unit is deemed acceptable to and approved by Buyer upon receipt.

(c) Once the Alternate Unit is approved or deemed approved in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed the Unit from which Product is delivered for purposes of this Confirmation for the affected Showing Month.

2.4 Delivery of Product

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:

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

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

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered, unless utilized under Article 7 as Substitute Capacity, then Contract Quantity is delivered according to the timeline requirements therein.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 7, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix B to be included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix B, the Parties agree to communicate such changes to each other promptly.

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2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller is liable for damages pursuant to Section 4.1 of the Master Agreement, and provided that Buyer has prepaid for the Contract of Quantity in accordance with Section 3.1, Seller shall pay to Buyer the following:

For each applicable day during the Showing Month included in the Delivery Period in which the Buyer's Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW per MW.

2.6 Indemnities for Failure to Deliver Contract Quantity

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

(i) Seller's failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer; or

(ii) A Unit's Scheduling Coordinator's failure to timely or accurately submit Supply Plans in accordance with the applicable Tariff that identify Buyer's right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

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

2.7 Buyer's Re-Sale of Product

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the Competitive Solicitation Process. If Buyer re-sells Product, Seller agrees, and agrees to cause the Unit's Scheduling Coordinator, to follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit's Scheduling Coordinator, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer's rights

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under this Confirmation. If Buyer incurs any liability to any subsequent purchaser of such Resold Product due to the failure of Seller or the Unit's Scheduling Coordinator to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Product, Buyer shall notify Seller in writing that such sale has occurred by providing to Seller the information described in Appendix C ("Re-sale Plan"). The Re-sale Plan shall be provided no later than three (3) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month, except where Buyer exercises its rights under Article 7, then Buyer shall notify Seller in accordance with deadlines described in Article 7. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix C in accordance with the deadlines described in this Section 2.7(b).

ARTICLE 3
PAYMENT

3.1 Monthly Payment

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

$$Monthly\ Payment = Q \times P \times CF$$

where:

Q = The Contract Quantity of Product to be delivered by Seller to Buyer pursuant to Appendix B and consistent with Section 2.4 for the Showing Month

P = The Contract Price for the Showing Month, expressed in dollars per kW-month, as stated in Appendix B

CF = The conversion factor equal to 1,000 kW per MW

The Monthly Payment calculation shall be rounded to two decimal places.

If the Confirmation Effective Date is more than fifteen (15) calendar days prior to the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, payment shall be paid by Buyer and received by Seller no later than fifteen (15) calendar days prior to the deadlines for the corresponding Compliance Showings applicable to the Showing Month. If the Confirmation Effective Date is fifteen (15) calendar days or less from the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, the Monthly Payment shall be made by Buyer and received by Seller no later than five (5) Business days following the Confirmation Effective Date.

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3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a subsequent purchaser of Resold Product fails to remit those revenues to Seller.

If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer.

Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys' fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit's Scheduling Coordinator to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive all revenues from such re-sale.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.

ARTICLE 4
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit's Scheduling Coordinator to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the

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Unit's Scheduling Coordinator (unless Seller is the Scheduling Coordinator), owner, or operator for such noncompliance.

ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take commercially reasonable actions (including the execution of documents or instruments) reasonably necessary to ensure Buyer's right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall make commercially reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit's Scheduling Coordinator, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the Scheduling Coordinator of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer, or, if applicable, to a subsequent purchaser.

(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall not offer, and shall ensure that the Unit's Scheduling

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Coordinator does not offer, any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall promptly notify Buyer, or shall cause the Unit's Scheduling Coordinator to promptly notify Buyer within one (1) Business Day of the time Seller receives notification from CAISO. If CAISO makes such a designation, Seller shall not accept, and shall ensure that the Unit's Scheduling Coordinator does not accept, any such designation by CAISO unless and until Buyer has agreed to accept such designation; and

(ii) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c)(i) is true and correct

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

5.3 Counterparts

This Confirmation 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. Counterparts may be delivered by electronic mail (including pdf or any electronic signature complying with the federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civ. Code Section 1633.1, et seq.) or other applicable law) or other transmission method and any other counterpart so delivered shall have the same legal effect as an original.

ARTICLE 6
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties may disclose all terms and conditions of this Transaction to any Governmental Body, the CPUC, CAISO and the Procurement Review Group, and Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the Scheduling Coordinator of the Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans. Each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or Scheduling Coordinator to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

ARTICLE 7
HOLD-BACK AND SUBSTITUTE CAPACITY

No later than three (3) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit's 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

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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 only for Planned Outages within the respective Showing Month. Such request shall be received by Seller no later than eight (8) Business Days prior to the first day of the Planned Outage for which Buyer seeks to use such Substitute Capacity as required by the CAISO. The amount of Contract Quantity that is the subject of Buyer's request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5 or 2.6. Seller shall, or shall cause the Unit's Scheduling Coordinator to, comply with Buyer's request under this Article 7.

Notwithstanding anything to the contrary in Sections 2.6, Seller shall not be liable for any costs, penalties, or fines assessed against Buyer by the CAISO as a result of Seller's failure to make Substitute Capacity available to Buyer if Buyer did not timely comply with the notification requirements of this Article 7.

ARTICLE 8
COLLATERAL REQUIREMENTS

8.1 Party A Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Party A shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Party B a Fixed Independent Amount as long as Party A or its Guarantor, if any, does not maintain Credit Ratings of at least BBB- from S&P and Baa3 from Moody's. The "Fixed Independent Amount" shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period. For the purposes of calculating the Collateral Requirement pursuant to Section 8.2 of the Master Agreement, entitled "Party B Credit Protection", and all corresponding provisions to Section 8.2 of the Master Agreement, such Fixed Independent Amount for Party A shall be added to the Exposure Amount for Party B and subtracted from the Exposure Amount for Party A.

(b) If the conditions in subsections (i) and (ii) of this Section 8.1(b) are satisfied throughout the Delivery Period, then this Confirmation's Fixed Independent Amount shall not apply for that time period during which all such conditions are satisfied:

(i) Party A's customers are PG&E's distribution or transmission customers and PG&E is the billing agent for those customers; and

(ii) PG&E is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Party A's retail electric customers.

(c) If at any time during the Delivery Period, one or more of the conditions in subsections (i) and (ii) of Section 8.1(b) is no longer satisfied, and Party B has

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provided Party A with written notice of such failure to satisfy (Condition Notice), then Party A shall comply with the credit requirements of Section 8.1(a), above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

8.2 Party B Collateral Requirements

Section 8.1 of the Master Agreement, entitled "Party A Credit Protection", and all corresponding provisions to Section 8.1 of the Master Agreement do not apply to this Confirmation.

8.3 Current Mark-to-Market Value

For the purposes of calculating Exposure pursuant to the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction, consequently affecting each Party's Exposure.

ARTICLE 9
ADDITIONAL MASTER AGREEMENT AMENDMENTS

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the Master Agreement:

> "If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller's Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer's estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

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ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

Silicon Valley Clean Energy Authority, a California joint powers authority	**Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions**
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: Beverly Chan
Name: Girish Balachandran	Name: Beverly Chan
Title: Chief Executive Officer	Title: Sr. Portfolio Management Analyst, Energy Transactions
Date: 8/10/2021	Date: 8/12/2021

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APPENDIX A
DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

"Advice Letter" means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

"Alternate Unit" means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

"CAISO" means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

"Capacity Attributes" means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

"Compliance Obligations" means the RAR and Local RAR, and if applicable FCR.

"Compliance Showings" means the monthly, annual, or multi-year (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

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"Confirmation" is defined in the introductory paragraph of this Confirmation.

"Confirmation Effective Date" is defined in the introductory paragraph of this Confirmation.

"Contract Price" means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

"Contract Quantity" means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

"CPUC" means the California Public Utilities Commission.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

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

"Delivery Period" is defined in Article 1 of this Confirmation.

"Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

"FERC" means the Federal Energy Regulatory Commission.

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"FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

"FCR Attributes" means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE's FCR.

"FCR Contract Quantity" means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include "market participants" as defined in the CAISO's Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

"Hold-Back Capacity" is defined in Article 7 of this Confirmation.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"LSE" means "Load Serving Entity" as such term is defined in the Tariff.

"Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

"Master Agreement" is defined in the introductory paragraph of this Confirmation.

"Monthly Payment" is defined in Section 3.1 of this Confirmation.

"MW" means megawatt.

"Path" refers to the Path 26 transmission constraint which is surrounded by two zones; North of Path 26 (PG&E's TAC) and South of Path 26 (SCE and SDG&E's TACs), as identified by the Commission in D.07-06-029.

"Planned Outage" means any outage that was submitted to the CAISO for approval at least eight (8) calendar days prior to the outage start date.

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"Procurement Review Group" has the meaning set forth in CPUC Decision D. 02-08-071.

"Product" is defined in Article 1 of this Confirmation.

"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.

"Re-sale Plan" is defined in Section 2.7(b) of this Confirmation.

"Resold Product" is defined in Section 2.7 of this Confirmation.

"SCID of Benefitting LSE" means the Scheduling Coordinator ID Code (SCID) of the Load Serving Entity (LSE) that will be using the Product toward meeting their RAR in the given Showing Month.

"Showing Month" means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Shown Unit" means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

"Substitute Capacity" means "RA Substitute Capacity" as defined in the Tariff.

"System RAR" means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

"Tariff" means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means any generation unit provided by Seller pursuant to Section 2.2 and any Alternate Unit or Shown Unit.

"Unit EFC" means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

"Unit NQC" means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

Showing Month and Year	Path (North, South)	RAR Quantity (MW)	Capacity Area*	FCR Quantity, if any (MW)	Flexible Capacity Category (1,2,3)	Contract Price ($/kW-month)	SCID of Benefitting LSE
[redacted]							

* Please specify: System, Bay Area, Humboldt, Sierra, Stockton, Fresno, Kern, North Coast/North Bay, LA Basin, Big Creek/Ventura, or PG&E Other. PG&E Other means capacity coming from any combination of resources in the Humboldt, Sierra, Stockton, Fresno, Kern, and/or North Coast/North Bay Local Areas.

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APPENDIX C
SUBSEQUENT SALE INFORMATION

Contract Key ID:	
Benefitting LSE SCID:	
Generic Volume (in MW):	
Local Volume (in MW and by local area):	
Flexible Volume (in MW):	
Term:	

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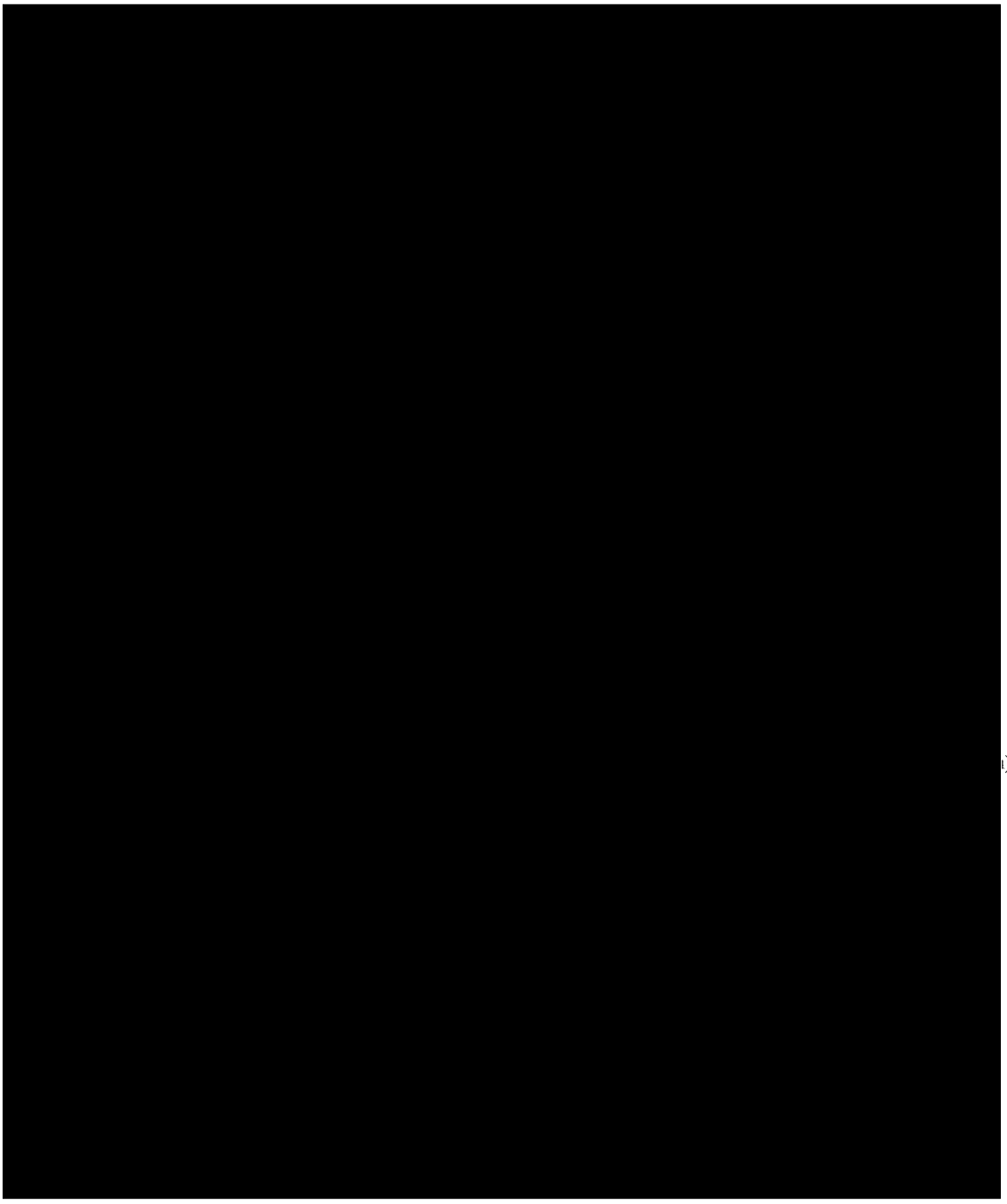
APPENDIX D
NOTICE INFORMATION

Name: Silicon Valley Clean Energy Authority, a California joint powers authority	**Name:** Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions
("Party A") All Notices:	("Party B") All Notices:



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Supply Plan Contact: Mark Thomas
(mthomas@acespower.com)
Phone: (317) 344-7136

Supply Plan and Hold-Back Request:
EPP-RAFilingsMailbox@pge.com

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APPENDIX E
FORM OF LETTER OF CREDIT
Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [Insert issue date]

Beneficiary:	[Insert Beneficiary name] [Insert Beneficiary address]	**Applicant:**	[Insert Applicant name] [Insert Applicant address]

Letter of Credit Amount: [Insert amount]

Expiry Date: [Insert date that is one (1) year from offer date]

Ladies and Gentlemen:

By order of **[Insert name of Applicant]** ("Applicant"), we hereby issue in favor of **[Insert name of Beneficiary]** (the "Beneficiary") our irrevocable standby letter of credit No. **[Insert number of letter of credit]** ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ **[Insert amount in figures followed by (amount in words)]** ("Letter of Credit Amount"). This Letter of Credit is available with **[Insert name of issuing or paying bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on **[Insert expiry date]** (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents (which may be presented by physical delivery or by facsimile, e-mail or other electronic transmission):

1. Beneficiary's signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[Insert number]** and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

> A. "The amount of the accompanying sight draft under Letter of Credit **[Insert number of letter of credit]** (the "Draft Amount") is owed to **[Insert name of Beneficiary]** by **[Insert name of Beneficiary's counterparty under the RA Confirmation]** ("Counterparty") under Confirmation for Resource Adequacy Capacity Product for CAISO Resources dated **[insert date of the Confirmation]** between **[Insert name of Beneficiary]** and Counterparty, which entitles **[Insert name of Beneficiary]** to draw the Draft Amount under Letter of Credit No. **[Insert number]**;" or

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B. "Letter of Credit No. **[Insert number]** will expire in thirty (30) days or less and **[Insert name of Beneficiary's counterparty under the RA Confirmation]** has not provided replacement security acceptable to **[Insert name of Beneficiary]**."

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable;
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount; and
5. The Expiry Date of this Letter of Credit shall be automatically extended without amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to renew this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at **[Insert bank's address for drawings]**.

All demands for payment shall be made by presentation of copies or original documents, or by facsimile, e-mail, or other electronic transmission of documents to [Insert fax number, email or other electronic transmission], Attention: [Insert name of bank's receiving department] or [Insert e-mail or other electronic transmission address]. If a demand is made by facsimile, e-mail or other electronic transmission, the originals or copies of documents must follow by overnight mail, and you may contact us at [Insert phone number(s)] to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the third (3rd) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision,* International Chamber of Commerce (ICC) Publication No. 600 (the "UCP 600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The electronic copy of this Letter of Credit shall be the operative instrument until such time as the original is received. This Letter of credit can be amended or terminated by facsimile, e-mail or other electronic transmission.

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The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[Insert number and any other necessary details]**.

Very truly yours,

[INSERT NAME OF ISSUING BANK]

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**

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EXHIBIT A
SIGHT DRAFT

TO:
[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: $_____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF PACIFIC GAS AND ELECTRIC COMPANY THE AMOUNT OF U.S. $_____(_____ U.S. DOLLARS)

DRAWN UNDER [**INSERT NAME OF ISSUING BANK**] LETTER OF CREDIT NO. [XXXXXX].

REMIT FUNDS AS FOLLOWS:

[**INSERT PAYMENT INSTRUCTIONS**]

DRAWER:

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**

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MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY ("PARTY A")
AND
PACIFIC GAS AND ELECTRIC COMPANY ("PARTY B")

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

ARTICLE 1
TRANSACTION TERMS

Buyer: Party A

Seller: Party B

Product: The Product is the Capacity Attributes of the Unit(s) as defined in Appendix B; provided that if Buyer does not specify the Local Capacity Area in Appendix B, when applicable, then Seller may provide Local RAR from any Local Capacity Area in the Seller's local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: [redacted]

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

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

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2.2 Seller To Identify Shown Unit

(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information no later than:

(i) Fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month, if the Confirmation Effective Date is at least fifteen (15) calendar days before such Compliance Showing deadline; or

(ii) One (1) business day from the Confirmation Effective Date if the Confirmation Effective Date is less than fifteen (15) calendar days from the Compliance Showing. Section 2.3 of this Confirmation does not apply when the Confirmation Effective Date is within fifteen (15) calendar days of the Compliance Showing.

(b) The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC.

(c) Seller's notice under this Section 2.2 shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) Business Days of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days. Provided such Shown Unit meets the requirements of this Confirmation, this second Shown Unit shall be deemed acceptable to and approved by Buyer upon receipt. This section does not apply if the Confirmation Effective Date is within fifteen (15) calendar days of the relevant Compliance Showing deadline.

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

2.3 Seller To Provide Alternate Capacity

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer, provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is equal to the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics

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specified in Appendix B no later than five (5) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller's notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within two (2) Business Days. Provided such Alternate Unit meets the requirements of a Shown Unit under this Confirmation, this second Alternate Unit is deemed acceptable to and approved by Buyer upon receipt.

(c) Once the Alternate Unit is approved or deemed approved in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed the Unit from which Product is delivered for purposes of this Confirmation for the affected Showing Month.

2.4 Delivery of Product

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:

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

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

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered, unless utilized under Article 7 as Substitute Capacity, then Contract Quantity is delivered according to the timeline requirements therein.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 7, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix B to be included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix B, the Parties agree to communicate such changes to each other promptly.

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2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller is liable for damages pursuant to Section 4.1 of the Master Agreement, and provided that Buyer has prepaid for the Contract of Quantity in accordance with Section 3.1, Seller shall pay to Buyer the following:

For each applicable day during the Showing Month included in the Delivery Period in which the Buyer's Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW per MW.

2.6 Indemnities for Failure to Deliver Contract Quantity

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

(i) Seller's failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer; or

(ii) A Unit's Scheduling Coordinator's failure to timely or accurately submit Supply Plans in accordance with the applicable Tariff that identify Buyer's right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

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

2.7 Buyer's Re-Sale of Product

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the Competitive Solicitation Process. If Buyer re-sells Product, Seller agrees, and agrees to cause the Unit's Scheduling Coordinator, to follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit's Scheduling Coordinator, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer's rights

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under this Confirmation. If Buyer incurs any liability to any subsequent purchaser of such Resold Product due to the failure of Seller or the Unit's Scheduling Coordinator to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Product, Buyer shall notify Seller in writing that such sale has occurred by providing to Seller the information described in Appendix C ("Re-sale Plan"). The Re-sale Plan shall be provided no later than three (3) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month, except where Buyer exercises its rights under Article 7, then Buyer shall notify Seller in accordance with deadlines described in Article 7. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix C in accordance with the deadlines described in this Section 2.7(b).

ARTICLE 3
PAYMENT

3.1 Monthly Payment

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

$$Monthly\ Payment = Q \times P \times CF$$

where:

Q = The Contract Quantity of Product to be delivered by Seller to Buyer pursuant to Appendix B and consistent with Section 2.4 for the Showing Month

P = The Contract Price for the Showing Month, expressed in dollars per kW-month, as stated in Appendix B

CF = The conversion factor equal to 1,000 kW per MW

The Monthly Payment calculation shall be rounded to two decimal places.

If the Confirmation Effective Date is more than fifteen (15) calendar days prior to the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, payment shall be paid by Buyer and received by Seller no later than fifteen (15) calendar days prior to the deadlines for the corresponding Compliance Showings applicable to the Showing Month. If the Confirmation Effective Date is fifteen (15) calendar days or less from the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, the Monthly Payment shall be made by Buyer and received by Seller no later than five (5) Business days following the Confirmation Effective Date.

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3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a subsequent purchaser of Resold Product fails to remit those revenues to Seller.

If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer.

Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys' fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit's Scheduling Coordinator to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive all revenues from such re-sale.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.

ARTICLE 4
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit's Scheduling Coordinator to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the

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Unit's Scheduling Coordinator (unless Seller is the Scheduling Coordinator), owner, or operator for such noncompliance.

ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take commercially reasonable actions (including the execution of documents or instruments) reasonably necessary to ensure Buyer's right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall make commercially reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit's Scheduling Coordinator, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the Scheduling Coordinator of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer, or, if applicable, to a subsequent purchaser.

(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall not offer, and shall ensure that the Unit's Scheduling

Coordinator does not offer, any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall promptly notify Buyer, or shall cause the Unit's Scheduling Coordinator to promptly notify Buyer within one (1) Business Day of the time Seller receives notification from CAISO. If CAISO makes such a designation, Seller shall not accept, and shall ensure that the Unit's Scheduling Coordinator does not accept, any such designation by CAISO unless and until Buyer has agreed to accept such designation; and

(ii) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c)(i) is true and correct

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

5.3 Counterparts

This Confirmation 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. Counterparts may be delivered by electronic mail (including pdf or any electronic signature complying with the federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civ. Code Section 1633.1, et seq.) or other applicable law) or other transmission method and any other counterpart so delivered shall have the same legal effect as an original.

ARTICLE 6
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties may disclose all terms and conditions of this Transaction to any Governmental Body, the CPUC, CAISO and the Procurement Review Group, and Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the Scheduling Coordinator of the Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans. Each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or Scheduling Coordinator to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

ARTICLE 7
HOLD-BACK AND SUBSTITUTE CAPACITY

No later than three (3) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit's 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

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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 only for Planned Outages within the respective Showing Month. Such request shall be received by Seller no later than eight (8) Business Days prior to the first day of the Planned Outage for which Buyer seeks to use such Substitute Capacity as required by the CAISO. The amount of Contract Quantity that is the subject of Buyer's request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5 or 2.6. Seller shall, or shall cause the Unit's Scheduling Coordinator to, comply with Buyer's request under this Article 7.

Notwithstanding anything to the contrary in Sections 2.6, Seller shall not be liable for any costs, penalties, or fines assessed against Buyer by the CAISO as a result of Seller's failure to make Substitute Capacity available to Buyer if Buyer did not timely comply with the notification requirements of this Article 7.

ARTICLE 8
COLLATERAL REQUIREMENTS

8.1 Party A Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Party A shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Party B a Fixed Independent Amount as long as Party A or its Guarantor, if any, does not maintain Credit Ratings of at least BBB- from S&P and Baa3 from Moody's. The "Fixed Independent Amount" shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period. For the purposes of calculating the Collateral Requirement pursuant to Section 8.2 of the Master Agreement, entitled "Party B Credit Protection", and all corresponding provisions to Section 8.2 of the Master Agreement, such Fixed Independent Amount for Party A shall be added to the Exposure Amount for Party B and subtracted from the Exposure Amount for Party A.

(b) If the conditions in subsections (i) and (ii) of this Section 8.1(b) are satisfied throughout the Delivery Period, then this Confirmation's Fixed Independent Amount shall not apply for that time period during which all such conditions are satisfied:

(i) Party A's customers are PG&E's distribution or transmission customers and PG&E is the billing agent for those customers; and

(ii) PG&E is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Party A's retail electric customers.

(c) If at any time during the Delivery Period, one or more of the conditions in subsections (i) and (ii) of Section 8.1(b) is no longer satisfied, and Party B has

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provided Party A with written notice of such failure to satisfy (Condition Notice), then Party A shall comply with the credit requirements of Section 8.1(a), above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

8.2 Party B Collateral Requirements

Section 8.1 of the Master Agreement, entitled "Party A Credit Protection", and all corresponding provisions to Section 8.1 of the Master Agreement do not apply to this Confirmation.

8.3 Current Mark-to-Market Value

For the purposes of calculating Exposure pursuant to the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction, consequently affecting each Party's Exposure.

ARTICLE 9
ADDITIONAL MASTER AGREEMENT AMENDMENTS

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the Master Agreement:

"If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller's Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer's estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

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ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

Silicon Valley Clean Energy Authority, a California joint powers authority	**Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions**
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: Beverly Chan
Name: Girish Balachandran	Name: Beverly Chan
Title: Chief Executive Officer	Title: Sr. Portfolio Management Analyst, Energy Transactions
Date: 8/10/2021	Date: 8/12/2021

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APPENDIX A
DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

"Advice Letter" means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

"Alternate Unit" means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

"CAISO" means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

"Capacity Attributes" means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

"Compliance Obligations" means the RAR and Local RAR, and if applicable FCR.

"Compliance Showings" means the monthly, annual, or multi-year (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

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"Confirmation" is defined in the introductory paragraph of this Confirmation.

"Confirmation Effective Date" is defined in the introductory paragraph of this Confirmation.

"Contract Price" means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

"Contract Quantity" means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

"CPUC" means the California Public Utilities Commission.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

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

"Delivery Period" is defined in Article 1 of this Confirmation.

"Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

"FERC" means the Federal Energy Regulatory Commission.

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"FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

"FCR Attributes" means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE's FCR.

"FCR Contract Quantity" means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include "market participants" as defined in the CAISO's Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

"Hold-Back Capacity" is defined in Article 7 of this Confirmation.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"LSE" means "Load Serving Entity" as such term is defined in the Tariff.

"Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

"Master Agreement" is defined in the introductory paragraph of this Confirmation.

"Monthly Payment" is defined in Section 3.1 of this Confirmation.

"MW" means megawatt.

"Path" refers to the Path 26 transmission constraint which is surrounded by two zones; North of Path 26 (PG&E's TAC) and South of Path 26 (SCE and SDG&E's TACs), as identified by the Commission in D.07-06-029.

"Planned Outage" means any outage that was submitted to the CAISO for approval at least eight (8) calendar days prior to the outage start date.

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"Procurement Review Group" has the meaning set forth in CPUC Decision D. 02-08-071.

"Product" is defined in Article 1 of this Confirmation.

"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.

"Re-sale Plan" is defined in Section 2.7(b) of this Confirmation.

"Resold Product" is defined in Section 2.7 of this Confirmation.

"SCID of Benefitting LSE" means the Scheduling Coordinator ID Code (SCID) of the Load Serving Entity (LSE) that will be using the Product toward meeting their RAR in the given Showing Month.

"Showing Month" means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Shown Unit" means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

"Substitute Capacity" means "RA Substitute Capacity" as defined in the Tariff.

"System RAR" means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

"Tariff" means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means any generation unit provided by Seller pursuant to Section 2.2 and any Alternate Unit or Shown Unit.

"Unit EFC" means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

"Unit NQC" means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

Showing Month and Year	Path (North, South)	RAR Quantity (MW)	Capacity Area*	FCR Quantity, if any (MW)	Flexible Capacity Category (1,2,3)	Contract Price ($/kW-month)	SCID of Benefitting LSE
[redacted]							

* Please specify: System, Bay Area, Humboldt, Sierra, Stockton, Fresno, Kern, North Coast/North Bay, LA Basin, Big Creek/Ventura, or PG&E Other. PG&E Other means capacity coming from any combination of resources in the Humboldt, Sierra, Stockton, Fresno, Kern, and/or North Coast/North Bay Local Areas.

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APPENDIX C
SUBSEQUENT SALE INFORMATION

Contract Key ID:	
Benefitting LSE SCID:	
Generic Volume (in MW):	
Local Volume (in MW and by local area):	
Flexible Volume (in MW):	
Term:	

APPENDIX D
NOTICE INFORMATION

Name: Silicon Valley Clean Energy Authority, a California joint powers authority	**Name:** Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions
("Party A")	("Party B")
All Notices:	All Notices:

[redacted]

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Supply Plan Contact: Mark Thomas
(mthomas@acespower.com)
Phone: (317) 344-7136

Supply Plan and Hold-Back Request:
EPP-RAFilingsMailbox@pge.com

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APPENDIX E
FORM OF LETTER OF CREDIT
Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [Insert issue date]

Beneficiary:	[Insert Beneficiary name] [Insert Beneficiary address]	**Applicant:**	[Insert Applicant name] [Insert Applicant address]

Letter of Credit Amount: [Insert amount]

Expiry Date: [Insert date that is one (1) year from offer date]

Ladies and Gentlemen:

By order of **[Insert name of Applicant]** ("Applicant"), we hereby issue in favor of **[Insert name of Beneficiary]** (the "Beneficiary") our irrevocable standby letter of credit No. **[Insert number of letter of credit]** ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ **[Insert amount in figures followed by (amount in words)]** ("Letter of Credit Amount"). This Letter of Credit is available with **[Insert name of issuing or paying bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on **[Insert expiry date]** (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents (which may be presented by physical delivery or by facsimile, e-mail or other electronic transmission):

1. Beneficiary's signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[Insert number]** and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

> A. "The amount of the accompanying sight draft under Letter of Credit **[Insert number of letter of credit]** (the "Draft Amount") is owed to **[Insert name of Beneficiary]** by **[Insert name of Beneficiary's counterparty under the RA Confirmation]** ("Counterparty") under Confirmation for Resource Adequacy Capacity Product for CAISO Resources dated **[insert date of the Confirmation]** between **[Insert name of Beneficiary]** and Counterparty, which entitles **[Insert name of Beneficiary]** to draw the Draft Amount under Letter of Credit No. **[Insert number]**;" or

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B. "Letter of Credit No. **[Insert number]** will expire in thirty (30) days or less and **[Insert name of Beneficiary's counterparty under the RA Confirmation]** has not provided replacement security acceptable to **[Insert name of Beneficiary]**."

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable;
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount; and
5. The Expiry Date of this Letter of Credit shall be automatically extended without amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to renew this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at **[Insert bank's address for drawings]**.

All demands for payment shall be made by presentation of copies or original documents, or by facsimile, e-mail, or other electronic transmission of documents to [Insert fax number, email or other electronic transmission], Attention: [Insert name of bank's receiving department] or [Insert e-mail or other electronic transmission address]. If a demand is made by facsimile, e-mail or other electronic transmission, the originals or copies of documents must follow by overnight mail, and you may contact us at [Insert phone number(s)] to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the third (3rd) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision,* International Chamber of Commerce (ICC) Publication No. 600 (the "UCP 600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The electronic copy of this Letter of Credit shall be the operative instrument until such time as the original is received. This Letter of credit can be amended or terminated by facsimile, e-mail or other electronic transmission.

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The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[Insert number and any other necessary details]**.

Very truly yours,

[INSERT NAME OF ISSUING BANK]

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**

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EXHIBIT A
SIGHT DRAFT

TO:
[**INSERT NAME AND ADDRESS OF PAYING BANK**]

AMOUNT: $_____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF PACIFIC GAS AND ELECTRIC COMPANY THE AMOUNT OF U.S. $_____(_____ U.S. DOLLARS)

DRAWN UNDER [**INSERT NAME OF ISSUING BANK**] LETTER OF CREDIT NO. [XXXXXX].

REMIT FUNDS AS FOLLOWS:

[**INSERT PAYMENT INSTRUCTIONS**]

DRAWER:

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**

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MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY ("PARTY A")
AND
PACIFIC GAS AND ELECTRIC COMPANY ("PARTY B")

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

ARTICLE 1
TRANSACTION TERMS

Buyer: Party B

Seller: Party A

Product: The Product is the Capacity Attributes of the Unit(s) as defined in Appendix B; provided that if Buyer does not specify the Local Capacity Area in Appendix B, when applicable, then Seller may provide Local RAR from any Local Capacity Area in the Seller's local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: [redacted]

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

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

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2.2 Seller To Identify Shown Unit

(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information no later than:

(i) Fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month, if the Confirmation Effective Date is at least fifteen (15) calendar days before such Compliance Showing deadline; or

(ii) One (1) business day from the Confirmation Effective Date if the Confirmation Effective Date is less than fifteen (15) calendar days from the Compliance Showing. Section 2.3 of this Confirmation does not apply when the Confirmation Effective Date is within fifteen (15) calendar days of the Compliance Showing.

(b) The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC.

(c) Seller's notice under this Section 2.2 shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) Business Days of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days. Provided such Shown Unit meets the requirements of this Confirmation, this second Shown Unit shall be deemed acceptable to and approved by Buyer upon receipt. This section does not apply if the Confirmation Effective Date is within fifteen (15) calendar days of the relevant Compliance Showing deadline.

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

2.3 Seller To Provide Alternate Capacity

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer, provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is equal to the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics

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specified in Appendix B no later than five (5) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller's notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within two (2) Business Days. Provided such Alternate Unit meets the requirements of a Shown Unit under this Confirmation, this second Alternate Unit is deemed acceptable to and approved by Buyer upon receipt.

(c) Once the Alternate Unit is approved or deemed approved in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed the Unit from which Product is delivered for purposes of this Confirmation for the affected Showing Month.

2.4 Delivery of Product

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:

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

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

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered, unless utilized under Article 7 as Substitute Capacity, then Contract Quantity is delivered according to the timeline requirements therein.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 7, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix B to be included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix B, the Parties agree to communicate such changes to each other promptly.

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2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller is liable for damages pursuant to Section 4.1 of the Master Agreement, and provided that Buyer has prepaid for the Contract of Quantity in accordance with Section 3.1, Seller shall pay to Buyer the following:

For each applicable day during the Showing Month included in the Delivery Period in which the Buyer's Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW per MW.

2.6 Indemnities for Failure to Deliver Contract Quantity

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

(i) Seller's failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer; or

(ii) A Unit's Scheduling Coordinator's failure to timely or accurately submit Supply Plans in accordance with the applicable Tariff that identify Buyer's right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

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

2.7 Buyer's Re-Sale of Product

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the Competitive Solicitation Process. If Buyer re-sells Product, Seller agrees, and agrees to cause the Unit's Scheduling Coordinator, to follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit's Scheduling Coordinator, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer's rights

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under this Confirmation. If Buyer incurs any liability to any subsequent purchaser of such Resold Product due to the failure of Seller or the Unit's Scheduling Coordinator to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Product, Buyer shall notify Seller in writing that such sale has occurred by providing to Seller the information described in Appendix C ("Re-sale Plan"). The Re-sale Plan shall be provided no later than three (3) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month, except where Buyer exercises its rights under Article 7, then Buyer shall notify Seller in accordance with deadlines described in Article 7. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix C in accordance with the deadlines described in this Section 2.7(b).

ARTICLE 3
PAYMENT

3.1 Monthly Payment

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

$$Monthly\ Payment = Q \times P \times CF$$

where:

Q = The Contract Quantity of Product to be delivered by Seller to Buyer pursuant to Appendix B and consistent with Section 2.4 for the Showing Month

P = The Contract Price for the Showing Month, expressed in dollars per kW-month, as stated in Appendix B

CF = The conversion factor equal to 1,000 kW per MW

The Monthly Payment calculation shall be rounded to two decimal places.

If the Confirmation Effective Date is more than fifteen (15) calendar days prior to the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, payment shall be paid by Buyer and received by Seller no later than fifteen (15) calendar days prior to the deadlines for the corresponding Compliance Showings applicable to the Showing Month. If the Confirmation Effective Date is fifteen (15) calendar days or less from the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, the Monthly Payment shall be made by Buyer and received by Seller no later than five (5) Business days following the Confirmation Effective Date.

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3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a subsequent purchaser of Resold Product fails to remit those revenues to Seller.

If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer.

Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys' fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit's Scheduling Coordinator to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive all revenues from such re-sale.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.

ARTICLE 4
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit's Scheduling Coordinator to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the

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Unit's Scheduling Coordinator (unless Seller is the Scheduling Coordinator), owner, or operator for such noncompliance.

ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take commercially reasonable actions (including the execution of documents or instruments) reasonably necessary to ensure Buyer's right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall make commercially reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit's Scheduling Coordinator, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the Scheduling Coordinator of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer, or, if applicable, to a subsequent purchaser.

(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall not offer, and shall ensure that the Unit's Scheduling

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Coordinator does not offer, any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall promptly notify Buyer, or shall cause the Unit's Scheduling Coordinator to promptly notify Buyer within one (1) Business Day of the time Seller receives notification from CAISO. If CAISO makes such a designation, Seller shall not accept, and shall ensure that the Unit's Scheduling Coordinator does not accept, any such designation by CAISO unless and until Buyer has agreed to accept such designation; and

(ii) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c)(i) is true and correct

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

5.3 Counterparts

This Confirmation 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. Counterparts may be delivered by electronic mail (including pdf or any electronic signature complying with the federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civ. Code Section 1633.1, et seq.) or other applicable law) or other transmission method and any other counterpart so delivered shall have the same legal effect as an original.

ARTICLE 6
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties may disclose all terms and conditions of this Transaction to any Governmental Body, the CPUC, CAISO and the Procurement Review Group, and Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the Scheduling Coordinator of the Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans. Each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or Scheduling Coordinator to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

ARTICLE 7
HOLD-BACK AND SUBSTITUTE CAPACITY

No later than three (3) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit's 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

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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 only for Planned Outages within the respective Showing Month. Such request shall be received by Seller no later than eight (8) Business Days prior to the first day of the Planned Outage for which Buyer seeks to use such Substitute Capacity as required by the CAISO. The amount of Contract Quantity that is the subject of Buyer's request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5 or 2.6. Seller shall, or shall cause the Unit's Scheduling Coordinator to, comply with Buyer's request under this Article 7.

Notwithstanding anything to the contrary in Sections 2.6, Seller shall not be liable for any costs, penalties, or fines assessed against Buyer by the CAISO as a result of Seller's failure to make Substitute Capacity available to Buyer if Buyer did not timely comply with the notification requirements of this Article 7.

ARTICLE 8
COLLATERAL REQUIREMENTS

8.1 Party A Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Party A shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Party B a Fixed Independent Amount as long as Party A or its Guarantor, if any, does not maintain Credit Ratings of at least BBB- from S&P and Baa3 from Moody's. The "Fixed Independent Amount" shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period. For the purposes of calculating the Collateral Requirement pursuant to Section 8.2 of the Master Agreement, entitled "Party B Credit Protection", and all corresponding provisions to Section 8.2 of the Master Agreement, such Fixed Independent Amount for Party A shall be added to the Exposure Amount for Party B and subtracted from the Exposure Amount for Party A.

(b) If the conditions in subsections (i) and (ii) of this Section 8.1(b) are satisfied throughout the Delivery Period, then this Confirmation's Fixed Independent Amount shall not apply for that time period during which all such conditions are satisfied:

(i) Party A's customers are PG&E's distribution or transmission customers and PG&E is the billing agent for those customers; and

(ii) PG&E is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Party A's retail electric customers.

(c) If at any time during the Delivery Period, one or more of the conditions in subsections (i) and (ii) of Section 8.1(b) is no longer satisfied, and Party B has

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provided Party A with written notice of such failure to satisfy (Condition Notice), then Party A shall comply with the credit requirements of Section 8.1(a), above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

8.2 Party B Collateral Requirements

Section 8.1 of the Master Agreement, entitled "Party A Credit Protection", and all corresponding provisions to Section 8.1 of the Master Agreement do not apply to this Confirmation.

8.3 Current Mark-to-Market Value

For the purposes of calculating Exposure pursuant to the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction, consequently affecting each Party's Exposure.

ARTICLE 9
ADDITIONAL MASTER AGREEMENT AMENDMENTS

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the Master Agreement:

"If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller's Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer's estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

Silicon Valley Clean Energy Authority, a California joint powers authority	**Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions**
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: Beverly Chan
Name: Girish Balachandran	Name: Beverly Chan
Title: Chief Executive Officer	Title: Sr. Portfolio Management Analyst, Energy Transactions
Date: 8/10/2021	Date: 8/12/2021

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APPENDIX A
DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

"Advice Letter" means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

"Alternate Unit" means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

"CAISO" means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

"Capacity Attributes" means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

"Compliance Obligations" means the RAR and Local RAR, and if applicable FCR.

"Compliance Showings" means the monthly, annual, or multi-year (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

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"Confirmation" is defined in the introductory paragraph of this Confirmation.

"Confirmation Effective Date" is defined in the introductory paragraph of this Confirmation.

"Contract Price" means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

"Contract Quantity" means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

"CPUC" means the California Public Utilities Commission.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

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

"Delivery Period" is defined in Article 1 of this Confirmation.

"Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

"FERC" means the Federal Energy Regulatory Commission.

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"FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

"FCR Attributes" means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE's FCR.

"FCR Contract Quantity" means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include "market participants" as defined in the CAISO's Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

"Hold-Back Capacity" is defined in Article 7 of this Confirmation.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"LSE" means "Load Serving Entity" as such term is defined in the Tariff.

"Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

"Master Agreement" is defined in the introductory paragraph of this Confirmation.

"Monthly Payment" is defined in Section 3.1 of this Confirmation.

"MW" means megawatt.

"Path" refers to the Path 26 transmission constraint which is surrounded by two zones; North of Path 26 (PG&E's TAC) and South of Path 26 (SCE and SDG&E's TACs), as identified by the Commission in D.07-06-029.

"Planned Outage" means any outage that was submitted to the CAISO for approval at least eight (8) calendar days prior to the outage start date.

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"Procurement Review Group" has the meaning set forth in CPUC Decision D. 02-08-071.

"Product" is defined in Article 1 of this Confirmation.

"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.

"Re-sale Plan" is defined in Section 2.7(b) of this Confirmation.

"Resold Product" is defined in Section 2.7 of this Confirmation.

"SCID of Benefitting LSE" means the Scheduling Coordinator ID Code (SCID) of the Load Serving Entity (LSE) that will be using the Product toward meeting their RAR in the given Showing Month.

"Showing Month" means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Shown Unit" means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

"Substitute Capacity" means "RA Substitute Capacity" as defined in the Tariff.

"System RAR" means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

"Tariff" means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means any generation unit provided by Seller pursuant to Section 2.2 and any Alternate Unit or Shown Unit.

"Unit EFC" means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

"Unit NQC" means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

Showing Month and Year	Path (North, South)	RAR Quantity (MW)	Capacity Area*	FCR Quantity, if any (MW)	Flexible Capacity Category (1,2,3)	Contract Price ($/kW-month)	SCID of Benefitting LSE

* Please specify: System, Bay Area, Humboldt, Sierra, Stockton, Fresno, Kern, North Coast/North Bay, LA Basin, Big Creek/Ventura, or PG&E Other. PG&E Other means capacity coming from any combination of resources in the Humboldt, Sierra, Stockton, Fresno, Kern, and/or North Coast/North Bay Local Areas.

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APPENDIX C
SUBSEQUENT SALE INFORMATION

Contract Key ID:	
Benefitting LSE SCID:	
Generic Volume (in MW):	
Local Volume (in MW and by local area):	
Flexible Volume (in MW):	
Term:	

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APPENDIX D
NOTICE INFORMATION

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

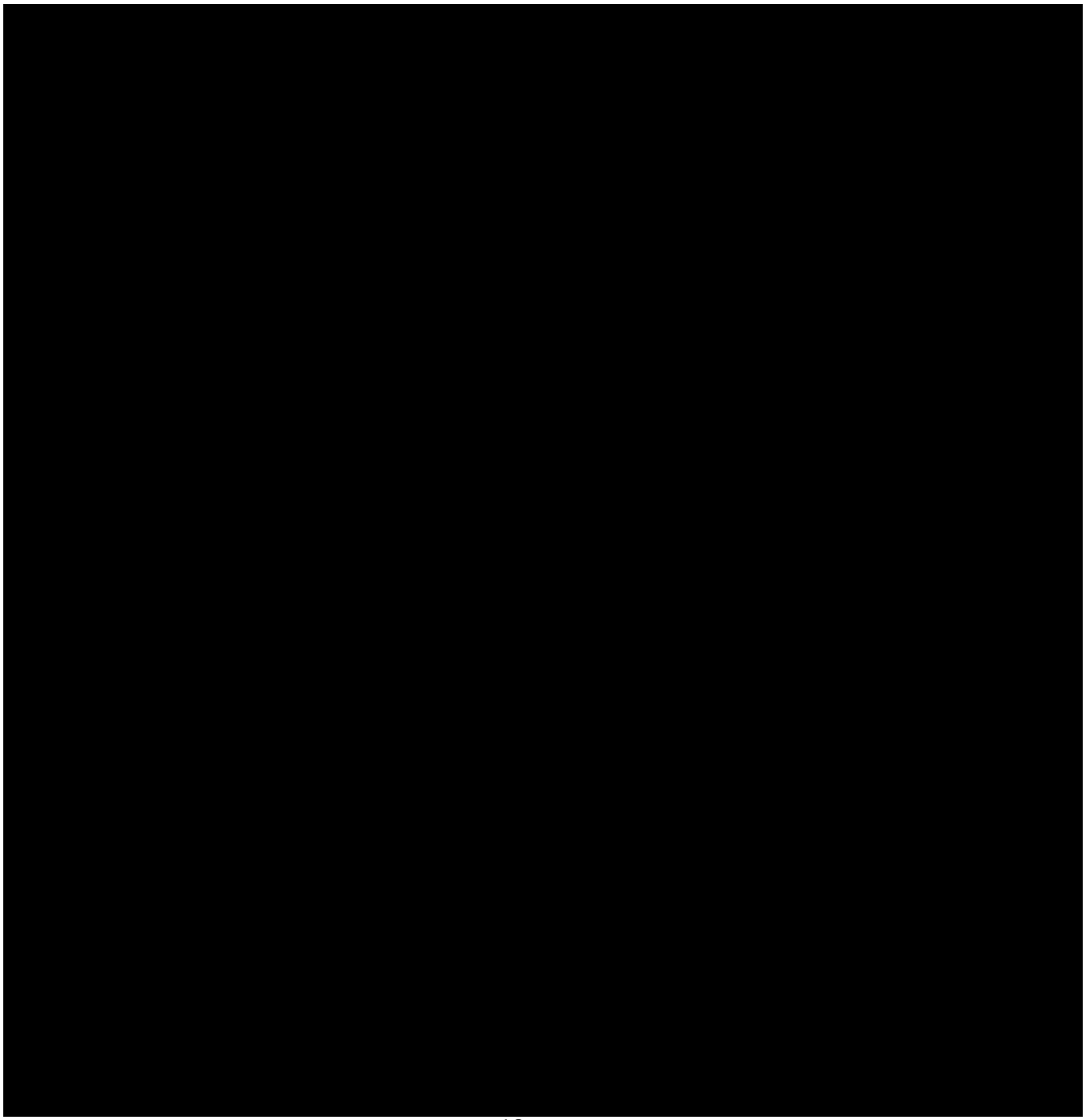
("Party A")
All Notices:

Delivery Address:
333 W. El Camino Real Suite 330
Sunnyvale, CA 94087

Name: Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions

("Party B")
All Notices:

Delivery Address:
77 Beale Street, Mail Code N12E
San Francisco, CA 94105-1702



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Supply Plan Contact: Mark Thomas
(mthomas@acespower.com)
Phone: (317) 344-7136

Supply Plan and Hold-Back Request:
EPP-RAFilingsMailbox@pge.com

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APPENDIX E
FORM OF LETTER OF CREDIT
Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [Insert issue date]

Beneficiary:	[Insert Beneficiary name] [Insert Beneficiary address]	**Applicant:**	[Insert Applicant name] [Insert Applicant address]

Letter of Credit Amount: [Insert amount]

Expiry Date: [Insert date that is one (1) year from offer date]

Ladies and Gentlemen:

By order of **[Insert name of Applicant]** ("Applicant"), we hereby issue in favor of **[Insert name of Beneficiary]** (the "Beneficiary") our irrevocable standby letter of credit No. **[Insert number of letter of credit]** ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ **[Insert amount in figures followed by (amount in words)]** ("Letter of Credit Amount"). This Letter of Credit is available with **[Insert name of issuing or paying bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on **[Insert expiry date]** (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents (which may be presented by physical delivery or by facsimile, e-mail or other electronic transmission):

1. Beneficiary's signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[Insert number]** and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

> A. "The amount of the accompanying sight draft under Letter of Credit **[Insert number of letter of credit]** (the "Draft Amount") is owed to **[Insert name of Beneficiary]** by **[Insert name of Beneficiary's counterparty under the RA Confirmation]** ("Counterparty") under Confirmation for Resource Adequacy Capacity Product for CAISO Resources dated **[insert date of the Confirmation]** between **[Insert name of Beneficiary]** and Counterparty, which entitles **[Insert name of Beneficiary]** to draw the Draft Amount under Letter of Credit No. **[Insert number]**;" or

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B. "Letter of Credit No. **[Insert number]** will expire in thirty (30) days or less and **[Insert name of Beneficiary's counterparty under the RA Confirmation]** has not provided replacement security acceptable to **[Insert name of Beneficiary]**."

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable;
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount; and
5. The Expiry Date of this Letter of Credit shall be automatically extended without amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to renew this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at **[Insert bank's address for drawings]**.

All demands for payment shall be made by presentation of copies or original documents, or by facsimile, e-mail, or other electronic transmission of documents to [Insert fax number, email or other electronic transmission], Attention: [Insert name of bank's receiving department] or [Insert e-mail or other electronic transmission address]. If a demand is made by facsimile, e-mail or other electronic transmission, the originals or copies of documents must follow by overnight mail, and you may contact us at [Insert phone number(s)] to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the third (3rd) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision,* International Chamber of Commerce (ICC) Publication No. 600 (the "UCP 600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The electronic copy of this Letter of Credit shall be the operative instrument until such time as the original is received. This Letter of credit can be amended or terminated by facsimile, e-mail or other electronic transmission.

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The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[Insert number and any other necessary details]**.

Very truly yours,

[INSERT NAME OF ISSUING BANK]

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**

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EXHIBIT A
SIGHT DRAFT

TO:
[**INSERT NAME AND ADDRESS OF PAYING BANK**]

AMOUNT: $_____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF PACIFIC GAS AND ELECTRIC COMPANY THE AMOUNT OF U.S. $_____(_____ U.S. DOLLARS)

DRAWN UNDER [**INSERT NAME OF ISSUING BANK**] LETTER OF CREDIT NO. [XXXXXX].

REMIT FUNDS AS FOLLOWS:

[**INSERT PAYMENT INSTRUCTIONS**]

DRAWER:

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**

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MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY ("PARTY A")
AND
PACIFIC GAS AND ELECTRIC COMPANY ("PARTY B")

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

ARTICLE 1
TRANSACTION TERMS

Buyer: Party A

Seller: Party B

Product: The Product is the Capacity Attributes of the Unit(s) as defined in Appendix B; provided that if Buyer does not specify the Local Capacity Area in Appendix B, when applicable, then Seller may provide Local RAR from any Local Capacity Area in the Seller's local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: [redacted]

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

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

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2.2 Seller To Identify Shown Unit

(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information no later than:

(i) Fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month, if the Confirmation Effective Date is at least fifteen (15) calendar days before such Compliance Showing deadline; or

(ii) One (1) business day from the Confirmation Effective Date if the Confirmation Effective Date is less than fifteen (15) calendar days from the Compliance Showing. Section 2.3 of this Confirmation does not apply when the Confirmation Effective Date is within fifteen (15) calendar days of the Compliance Showing.

(b) The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC.

(c) Seller's notice under this Section 2.2 shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) Business Days of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days. Provided such Shown Unit meets the requirements of this Confirmation, this second Shown Unit shall be deemed acceptable to and approved by Buyer upon receipt. This section does not apply if the Confirmation Effective Date is within fifteen (15) calendar days of the relevant Compliance Showing deadline.

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

2.3 Seller To Provide Alternate Capacity

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer, provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is equal to the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics

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specified in Appendix B no later than five (5) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller's notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within two (2) Business Days. Provided such Alternate Unit meets the requirements of a Shown Unit under this Confirmation, this second Alternate Unit is deemed acceptable to and approved by Buyer upon receipt.

(c) Once the Alternate Unit is approved or deemed approved in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed the Unit from which Product is delivered for purposes of this Confirmation for the affected Showing Month.

2.4 Delivery of Product

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:

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

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

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered, unless utilized under Article 7 as Substitute Capacity, then Contract Quantity is delivered according to the timeline requirements therein.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 7, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix B to be included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix B, the Parties agree to communicate such changes to each other promptly.

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2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller is liable for damages pursuant to Section 4.1 of the Master Agreement, and provided that Buyer has prepaid for the Contract of Quantity in accordance with Section 3.1, Seller shall pay to Buyer the following:

For each applicable day during the Showing Month included in the Delivery Period in which the Buyer's Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW per MW.

2.6 Indemnities for Failure to Deliver Contract Quantity

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

(i) Seller's failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer; or

(ii) A Unit's Scheduling Coordinator's failure to timely or accurately submit Supply Plans in accordance with the applicable Tariff that identify Buyer's right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

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

2.7 Buyer's Re-Sale of Product

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the Competitive Solicitation Process. If Buyer re-sells Product, Seller agrees, and agrees to cause the Unit's Scheduling Coordinator, to follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit's Scheduling Coordinator, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer's rights

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under this Confirmation. If Buyer incurs any liability to any subsequent purchaser of such Resold Product due to the failure of Seller or the Unit's Scheduling Coordinator to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Product, Buyer shall notify Seller in writing that such sale has occurred by providing to Seller the information described in Appendix C ("Re-sale Plan"). The Re-sale Plan shall be provided no later than three (3) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month, except where Buyer exercises its rights under Article 7, then Buyer shall notify Seller in accordance with deadlines described in Article 7. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix C in accordance with the deadlines described in this Section 2.7(b).

ARTICLE 3
PAYMENT

3.1 Monthly Payment

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

$$Monthly\ Payment = Q \times P \times CF$$

where:

Q = The Contract Quantity of Product to be delivered by Seller to Buyer pursuant to Appendix B and consistent with Section 2.4 for the Showing Month

P = The Contract Price for the Showing Month, expressed in dollars per kW-month, as stated in Appendix B

CF = The conversion factor equal to 1,000 kW per MW

The Monthly Payment calculation shall be rounded to two decimal places.

If the Confirmation Effective Date is more than fifteen (15) calendar days prior to the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, payment shall be paid by Buyer and received by Seller no later than fifteen (15) calendar days prior to the deadlines for the corresponding Compliance Showings applicable to the Showing Month. If the Confirmation Effective Date is fifteen (15) calendar days or less from the deadline for the corresponding Compliance Showing applicable to the relevant Showing Month, the Monthly Payment shall be made by Buyer and received by Seller no later than five (5) Business days following the Confirmation Effective Date.

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3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a subsequent purchaser of Resold Product fails to remit those revenues to Seller.

If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer.

Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys' fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit's Scheduling Coordinator to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive all revenues from such re-sale.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.

ARTICLE 4
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit's Scheduling Coordinator to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the

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Unit's Scheduling Coordinator (unless Seller is the Scheduling Coordinator), owner, or operator for such noncompliance.

ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take commercially reasonable actions (including the execution of documents or instruments) reasonably necessary to ensure Buyer's right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall make commercially reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit's Scheduling Coordinator, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the Scheduling Coordinator of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer, or, if applicable, to a subsequent purchaser.

(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall not offer, and shall ensure that the Unit's Scheduling

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Coordinator does not offer, any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall promptly notify Buyer, or shall cause the Unit's Scheduling Coordinator to promptly notify Buyer within one (1) Business Day of the time Seller receives notification from CAISO. If CAISO makes such a designation, Seller shall not accept, and shall ensure that the Unit's Scheduling Coordinator does not accept, any such designation by CAISO unless and until Buyer has agreed to accept such designation; and

(ii) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c)(i) is true and correct

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

5.3 Counterparts

This Confirmation 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. Counterparts may be delivered by electronic mail (including pdf or any electronic signature complying with the federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civ. Code Section 1633.1, et seq.) or other applicable law) or other transmission method and any other counterpart so delivered shall have the same legal effect as an original.

ARTICLE 6
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties may disclose all terms and conditions of this Transaction to any Governmental Body, the CPUC, CAISO and the Procurement Review Group, and Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the Scheduling Coordinator of the Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans. Each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or Scheduling Coordinator to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

ARTICLE 7
HOLD-BACK AND SUBSTITUTE CAPACITY

No later than three (3) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit's 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

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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 only for Planned Outages within the respective Showing Month. Such request shall be received by Seller no later than eight (8) Business Days prior to the first day of the Planned Outage for which Buyer seeks to use such Substitute Capacity as required by the CAISO. The amount of Contract Quantity that is the subject of Buyer's request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5 or 2.6. Seller shall, or shall cause the Unit's Scheduling Coordinator to, comply with Buyer's request under this Article 7.

Notwithstanding anything to the contrary in Sections 2.6, Seller shall not be liable for any costs, penalties, or fines assessed against Buyer by the CAISO as a result of Seller's failure to make Substitute Capacity available to Buyer if Buyer did not timely comply with the notification requirements of this Article 7.

ARTICLE 8
COLLATERAL REQUIREMENTS

8.1 Party A Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Party A shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Party B a Fixed Independent Amount as long as Party A or its Guarantor, if any, does not maintain Credit Ratings of at least BBB- from S&P and Baa3 from Moody's. The "Fixed Independent Amount" shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period. For the purposes of calculating the Collateral Requirement pursuant to Section 8.2 of the Master Agreement, entitled "Party B Credit Protection", and all corresponding provisions to Section 8.2 of the Master Agreement, such Fixed Independent Amount for Party A shall be added to the Exposure Amount for Party B and subtracted from the Exposure Amount for Party A.

(b) If the conditions in subsections (i) and (ii) of this Section 8.1(b) are satisfied throughout the Delivery Period, then this Confirmation's Fixed Independent Amount shall not apply for that time period during which all such conditions are satisfied:

(i) Party A's customers are PG&E's distribution or transmission customers and PG&E is the billing agent for those customers; and

(ii) PG&E is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Party A's retail electric customers.

(c) If at any time during the Delivery Period, one or more of the conditions in subsections (i) and (ii) of Section 8.1(b) is no longer satisfied, and Party B has

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provided Party A with written notice of such failure to satisfy (Condition Notice), then Party A shall comply with the credit requirements of Section 8.1(a), above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

8.2 Party B Collateral Requirements

Section 8.1 of the Master Agreement, entitled "Party A Credit Protection", and all corresponding provisions to Section 8.1 of the Master Agreement do not apply to this Confirmation.

8.3 Current Mark-to-Market Value

For the purposes of calculating Exposure pursuant to the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction, consequently affecting each Party's Exposure.

ARTICLE 9
ADDITIONAL MASTER AGREEMENT AMENDMENTS

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the Master Agreement:

"If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller's Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer's estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

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ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

Silicon Valley Clean Energy Authority, a California joint powers authority	**Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions**
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: Beverly Chan
Name: Girish Balachandran	Name: Beverly Chan
Title: Chief Executive Officer	Title: Sr. Portfolio Management Analyst, Energy Transactions
Date: 8/10/2021	Date: 8/12/2021

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APPENDIX A
DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

"Advice Letter" means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

"Alternate Unit" means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

"CAISO" means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

"Capacity Attributes" means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

"Compliance Obligations" means the RAR and Local RAR, and if applicable FCR.

"Compliance Showings" means the monthly, annual, or multi-year (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

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"Confirmation" is defined in the introductory paragraph of this Confirmation.

"Confirmation Effective Date" is defined in the introductory paragraph of this Confirmation.

"Contract Price" means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

"Contract Quantity" means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

"CPUC" means the California Public Utilities Commission.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

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

"Delivery Period" is defined in Article 1 of this Confirmation.

"Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

"FERC" means the Federal Energy Regulatory Commission.

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"FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

"FCR Attributes" means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE's FCR.

"FCR Contract Quantity" means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include "market participants" as defined in the CAISO's Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

"Hold-Back Capacity" is defined in Article 7 of this Confirmation.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"LSE" means "Load Serving Entity" as such term is defined in the Tariff.

"Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

"Master Agreement" is defined in the introductory paragraph of this Confirmation.

"Monthly Payment" is defined in Section 3.1 of this Confirmation.

"MW" means megawatt.

"Path" refers to the Path 26 transmission constraint which is surrounded by two zones; North of Path 26 (PG&E's TAC) and South of Path 26 (SCE and SDG&E's TACs), as identified by the Commission in D.07-06-029.

"Planned Outage" means any outage that was submitted to the CAISO for approval at least eight (8) calendar days prior to the outage start date.

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"Procurement Review Group" has the meaning set forth in CPUC Decision D. 02-08-071.

"Product" is defined in Article 1 of this Confirmation.

"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.

"Re-sale Plan" is defined in Section 2.7(b) of this Confirmation.

"Resold Product" is defined in Section 2.7 of this Confirmation.

"SCID of Benefitting LSE" means the Scheduling Coordinator ID Code (SCID) of the Load Serving Entity (LSE) that will be using the Product toward meeting their RAR in the given Showing Month.

"Showing Month" means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Shown Unit" means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

"Substitute Capacity" means "RA Substitute Capacity" as defined in the Tariff.

"System RAR" means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

"Tariff" means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means any generation unit provided by Seller pursuant to Section 2.2 and any Alternate Unit or Shown Unit.

"Unit EFC" means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

"Unit NQC" means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

Showing Month and Year	Path (North, South)	RAR Quantity (MW)	Capacity Area*	FCR Quantity, if any (MW)	Flexible Capacity Category (1,2,3)	Contract Price ($/kW-month)	SCID of Benefitting LSE

* Please specify: System, Bay Area, Humboldt, Sierra, Stockton, Fresno, Kern, North Coast/North Bay, LA Basin, Big Creek/Ventura, or PG&E Other. PG&E Other means capacity coming from any combination of resources in the Humboldt, Sierra, Stockton, Fresno, Kern, and/or North Coast/North Bay Local Areas.

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APPENDIX C
SUBSEQUENT SALE INFORMATION

Contract Key ID:	
Benefitting LSE SCID:	
Generic Volume (in MW):	
Local Volume (in MW and by local area):	
Flexible Volume (in MW):	
Term:	

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APPENDIX D
NOTICE INFORMATION

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

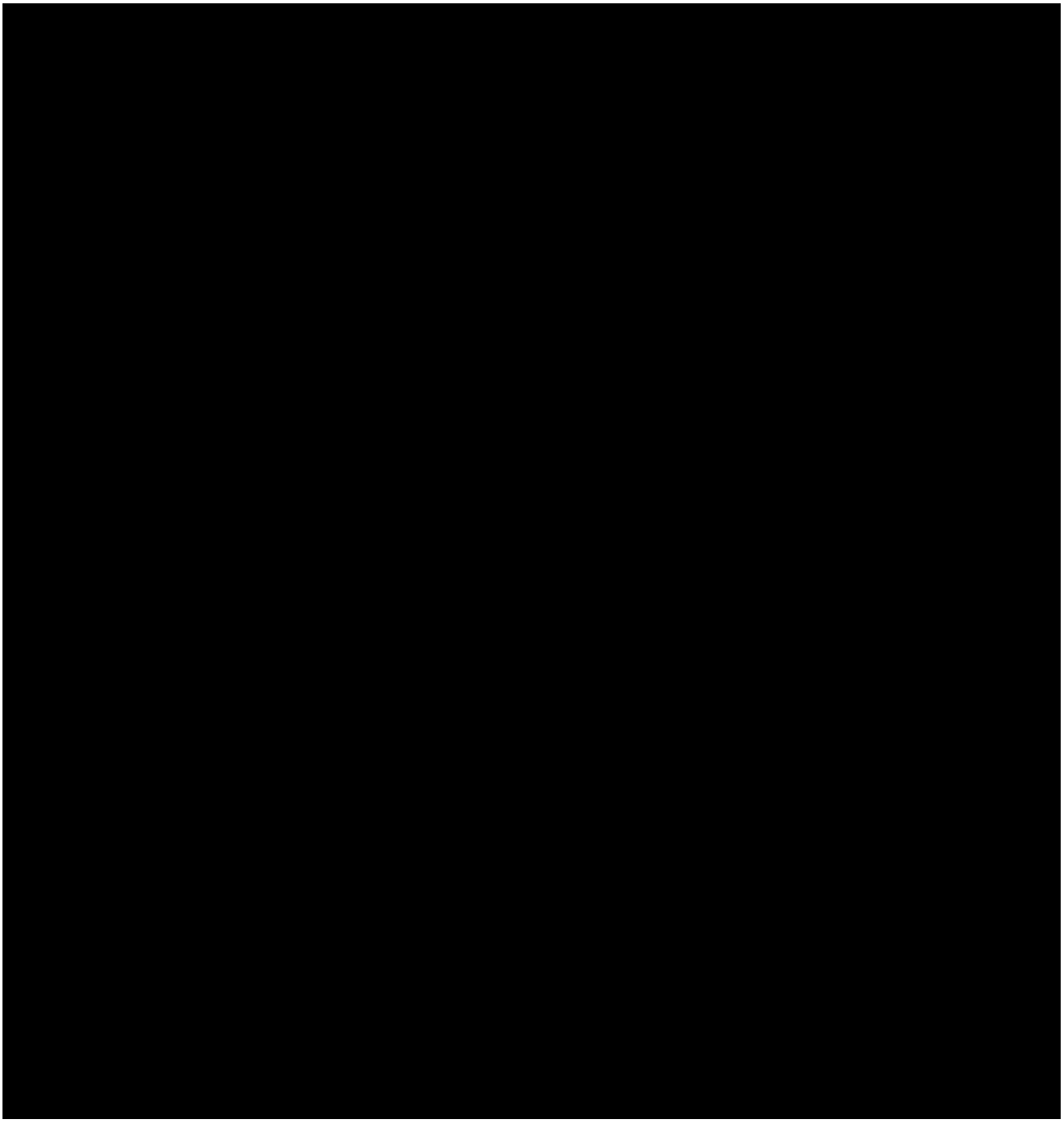
("Party A")
All Notices:

Delivery Address:
333 W. El Camino Real Suite 330
Sunnyvale, CA 94087

Name: Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions

("Party B")
All Notices:

Delivery Address:
77 Beale Street, Mail Code N12E
San Francisco, CA 94105-1702



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Supply Plan Contact: Mark Thomas
(mthomas@acespower.com)
Phone: (317) 344-7136

Supply Plan and Hold-Back Request:
EPP-RAFilingsMailbox@pge.com

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APPENDIX E
FORM OF LETTER OF CREDIT
Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [Insert issue date]

Beneficiary:	[Insert Beneficiary name] [Insert Beneficiary address]	**Applicant:**	[Insert Applicant name] [Insert Applicant address]

Letter of Credit Amount: [Insert amount]

Expiry Date: [Insert date that is one (1) year from offer date]

Ladies and Gentlemen:

By order of **[Insert name of Applicant]** ("Applicant"), we hereby issue in favor of **[Insert name of Beneficiary]** (the "Beneficiary") our irrevocable standby letter of credit No. **[Insert number of letter of credit]** ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ **[Insert amount in figures followed by (amount in words)]** ("Letter of Credit Amount"). This Letter of Credit is available with **[Insert name of issuing or paying bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on **[Insert expiry date]** (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents (which may be presented by physical delivery or by facsimile, e-mail or other electronic transmission):

1. Beneficiary's signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[Insert number]** and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

> A. "The amount of the accompanying sight draft under Letter of Credit **[Insert number of letter of credit]** (the "Draft Amount") is owed to **[Insert name of Beneficiary]** by **[Insert name of Beneficiary's counterparty under the RA Confirmation]** ("Counterparty") under Confirmation for Resource Adequacy Capacity Product for CAISO Resources dated **[insert date of the Confirmation]** between **[Insert name of Beneficiary]** and Counterparty, which entitles **[Insert name of Beneficiary]** to draw the Draft Amount under Letter of Credit No. **[Insert number]**;" or

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B. "Letter of Credit No. **[Insert number]** will expire in thirty (30) days or less and **[Insert name of Beneficiary's counterparty under the RA Confirmation]** has not provided replacement security acceptable to **[Insert name of Beneficiary]**."

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable;
4. A drawing for an amount greater than the Letter of Credit Amount is allowed, however, payment shall not exceed the Letter of Credit Amount; and
5. The Expiry Date of this Letter of Credit shall be automatically extended without amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to renew this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at **[Insert bank's address for drawings]**.

All demands for payment shall be made by presentation of copies or original documents, or by facsimile, e-mail, or other electronic transmission of documents to [Insert fax number, email or other electronic transmission], Attention: [Insert name of bank's receiving department] or [Insert e-mail or other electronic transmission address]. If a demand is made by facsimile, e-mail or other electronic transmission, the originals or copies of documents must follow by overnight mail, and you may contact us at [Insert phone number(s)] to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the third (3rd) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision,* International Chamber of Commerce (ICC) Publication No. 600 (the "UCP 600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The electronic copy of this Letter of Credit shall be the operative instrument until such time as the original is received. This Letter of credit can be amended or terminated by facsimile, e-mail or other electronic transmission.

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The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[Insert number and any other necessary details]**.

Very truly yours,

[INSERT NAME OF ISSUING BANK]

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**

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EXHIBIT A
SIGHT DRAFT

TO:
[**INSERT NAME AND ADDRESS OF PAYING BANK**]

AMOUNT: $_____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF PACIFIC GAS AND ELECTRIC COMPANY THE AMOUNT OF U.S. $_____(_____ U.S. DOLLARS)

DRAWN UNDER [**INSERT NAME OF ISSUING BANK**] LETTER OF CREDIT NO. [XXXXXX].

REMIT FUNDS AS FOLLOWS:

[**INSERT PAYMENT INSTRUCTIONS**]

DRAWER:

By: _____
Name: **[Print or type name]**
Title: **[Print or type title]**