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

Teleconference Meeting
Webinar: https://us06web.zoom.us/j/86525417483
Telephone (Audio Only):
US: + 1 669 219 2599
Webinar ID: 865 2541 7483

This meeting will be conducted in accordance with California Government Code Section 54953(e), 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.

AGENDA

Call to Order

Roll Call

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).
Public Comment on Matters Not Listed on the Agenda

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

Consent Calendar (Action)

1a) Approve Minutes of the November 10, 2021, Board of Directors Meeting

1b) Receive November 2021 Treasurer Report

1c) Adopt resolution making California Government Code Section 54953(e) Findings

1d) Executive Committee Report

1e) Finance and Administration Committee Report

1f) Audit Committee Report

1g) California Community Power Report

Regular Calendar

2) CEO Report (Discussion)

3) Clean Energy Procurement Informational Update

4) SVCE Information Update on 2022 SVCE Board Elections

Board Member Announcements and Direction on Future Agenda Items

Adjourn
SVCE GLOSSARY OF TERMS

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

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

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

**CEC – California Energy Commission**

**CPUC – California Public Utility Commission**

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

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

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

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

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

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

**DAC – Disadvantaged Community**

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

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

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

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

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

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

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

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

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

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

**EV – Electric Vehicle**

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

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

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

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

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

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

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

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

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

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

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

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

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

NRDC – Natural Resources Defense Council

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

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

MWH – Megawatt-hour – measure of energy

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

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

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

PCC3 – RPS Portfolio Content Category 3 – Unbundled REC

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

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

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

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

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

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

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

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

**SCE** – Southern California Edison

**SDG&E** – San Diego Gas & Electric

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

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

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

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

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

**VPP – Virtual Power Plant** – A cloud-based network that leverages an aggregation of distributed energy resources (DERs) to shift energy demand or provide services to the grid. For example, thousands of EV chargers could charge at a slower speed and hundreds of home batteries could discharge to the grid during a demand peak to significantly reduce the procurement of traditional supply resources.
Pursuant to State of California Government Code 54953 (e) the meeting was conducted via teleconference.

**Call to Order:**
All present Board members participated via teleconference.

**Call to Order:**
Chair Abe-Koga called the Regular Meeting to order at 7:00 p.m.

**Roll Call:**
Present:
Margaret Abe-Koga (Chair), Mountain View
Liz Gibbons (Vice Chair), Campbell
Jon Robert Willey, Cupertino
Zach Hilton, City of Gilroy
George Tyson, Los Altos Hills
Rob Rennie, Los Gatos
Evelyn Chua, Milpitas
Javed Ellahie, Monte Sereno
Tina Walia, Saratoga
Gustav Larsson, City of Sunnyvale
Susan Ellenberg, County of Santa Clara

Absent/Delayed:
Neysa Fligor, Los Altos
Yvonne Martinez Beltran, Morgan Hill

*Directors Fligor and Martinez Beltran joined the meeting shortly after Roll Call.*

All Present Board Members participated via teleconference.

**Public Comment on Matters Not Listed on the Agenda**

There were no public comments.

**Consent Calendar (Action)**

There were no requests from the public to speak on Consent items.

Under discussion, Director Willie asked for an update on Item 1g).

*Note: Director Martinez Beltran arrived during this discussion.*
CEO Balachandran reported that last year the Board approved the acceptance of carbon free attributes from the Diablo Canyon Nuclear Plant and the Hydro and PGE Hydroelectric facilities. Over $600,000 has been allocated; more would be forthcoming as allocations occur. He explained the Executive Board previously approved the use of $400,000 for multi-unit charging stations and this action would use the remaining $200,000 for a program to provide 50 free portable batteries to qualified customers.

Director Willie commented on the need to increase renewable energy in the portfolio.

CEO Balachandran stated staff is exploring the investment in other emerging technologies.

Vice Chair Gibbons stated Item 3 on the Agenda would provide more information on evolving opportunities to consider.

**MOTION: Director Rennie moved; Director Chua seconded the motion to approve the Consent Calendar.**

The motion carried unanimously by a verbal Roll Call vote with Director Fligor absent.

1a) Approve Minutes of the October 13, 2021, Board of Directors
1b) Receive September 2021 Treasurer Report
1c) Authorize the Chief Executive Officer to Execute Agreement with Ascend Analytics for Consulting around Portfolio Management and terminate the existing Master Consulting Agreement with Ascend Analytics
1d) Adopt Resolution 2021-24, Moving Reinstatement of SVCE’s Delinquent Payment Policy to March 2022
1e) Adopt Resolution 2021-25 Amending the Authority’s Energy Risk Management Policy
1f) Authorize the Chief Executive Officer to Execute a Coordinated Operations Agreement Between Central Coast Community Energy and Silicon Valley Clean Energy Authority to Provide for the Scheduling and Operational Coordination for the Jointly Procured Renewable Resources, in Substantial Form and Any Necessary Ancillary Agreements and Documents
1g) Approve Program Funding Recommendations from 2020 PG&E Carbon-Free Allocation Savings
1h) Authorize the Chief Executive Officer to Extend the Contract Terms and Spending Under Innovation Onramp Participant Agreement with UtilityAPI, Inc. for Data Hive
1i) Adopt Resolution 2021-26 Authorizing Public Meetings to Continue to Be Held Via Teleconferencing Pursuant to Government Code Section 54953(e) and Making Findings
1j) Approve Scholarship Funds for 2022 Empower SV Short-Film Competition
1k) Executive Committee Report
1l) Finance and Administration Committee Report
1m) Audit Committee Report
1n) California Community Power Report
Regular Calendar

Note: Director Fligor arrived at 7:15 p.m.

2) CEO Report

New employees were introduced to the Board: Hannah Gustafson, Senior Energy Services Specialist, and Matt Lundy, Community Outreach Fellow through the Climate Corps.

CEO Balachandran stated SVCE would also be hiring a Senior Risk Manager, Senior Financial Analyst and an HR Generalist. He then briefed the Board on California Community Power recommendations and future items for Board consideration.

Chair Abe-Koga thanked CEO Balachandran and welcomed new team members.

There were no further comments on the CEO Report or questions from the public.

3) “Doubling Down” on Decarbonization Programs

Justin Zagunis, Manager of Decarbonization and Grid Innovation Programs, stated staff needed Board input on future SVCE program approaches in order to “double-down” on specific programs. He explained that staff has identified multi-family tenant EV access and natural gas phase-out as the two focus areas. He illustrated the order of magnitude to reach desired targets, and detailed five focus areas that could be used as strategies to target the focus areas.

Chair Abe-Koga called for public comment.

Mr. Bruce Karney spoke regarding permitting simplification. He suggested a focus on newer buildings.

There were no further public comments.

Board Member comments ensued. Director Rennie suggested an emphasis on replacing new equipment rather than changing out the old at this time. Vice Chair Gibbons stated the importance of focusing strategies that would be effective immediately and added that Reach Codes could be a long-term benefit to jurisdictions. She stressed the importance of educating the local Councils and communities and utilizing common ordinances and approval processes. Director Larsson stated it would be helpful for customers to get the best use from existing appliances, then change out as the appliances are no longer operative. Director Martinez-Beltran stated jurisdictions were now updating their Housing Elements, and EV charging access should be a part of that discussion. She suggested a phone number could be provided to residents to call when an appliance needs to be replaced. She emphasized the importance of continued advocacy for Caltrain electrification, multi-family EV access and financing. Director Ellahie stated it was vital to continue to work with cities in order to educate residents. Director Chua stated it was vital to help decision-makers understand the issues and noted the need for grants and events to educate residents.

Director Tyson stated he endorsed the direction and strategy, and any information from other organizations’ learning would be beneficial. Director Rennie also commented on the benefit of electrifying Caltrain. He mentioned electric self-driving cars that were also an interesting concept, and it would be beneficial for cities explore those options. Director Fligor stated many cities were updating their Climate Action Plans and suggested SVCE put together a tool-kit to help cities reduce emissions.

Chair Abe-Koga thanked staff for the information and stated some local jurisdictions had had minimal resources and staffing to focus on clean energy, and it would be helpful for SVCE to have an overall view of where each jurisdiction stands in order to be supportive and assure a collective effort. She commented on opportunities and challenges regarding Fleet electrification and questioned if that could be an issue SVCE could assist with in the future.

Further discussion ensued.
CEO Balachandran thanked members for their input and stated that staff would be back with a report next year.

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

No Board Member announcements or comments

Adjourned at 8:26 p.m.

**ATTEST:**

Dorothy Roberts, Interim Board Clerk
TREASURER REPORT
Fiscal Year to Date
As of October 31, 2021
(Preliminary & Unaudited)
Issue Date: December 8, 2021

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## Financial Highlights for the month of October 2021:

> SVCE operations resulted in a change in net position for the month of $1.5 million and fiscal-year-to-date (FYTD) change in net position of $1.5 million.

> Retail GWh sales for the month landed 3% below budget.

> FYTD operating margin of $2.9 million or 16.8% is above budget expectations of a negative 24.3% operating margin for the fiscal year to date.

> FYTD Power Supply costs are 28% below budget.

> SVCE is investing ~93% of available funds generating year-to-date investment income of $0.02 million.

### Change in Net Position

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### Power Supply Costs

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### Load Statistics - GWh

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* The financial results in this report are preliminary and subject to change pending closing of the books for the fiscal year. Any potential changes are not expected to be significant.
### Other Statistics and Ratios

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<td>Expense Coverage Days</td>
<td>193</td>
</tr>
<tr>
<td>Long-Term Debt</td>
<td>$0</td>
</tr>
<tr>
<td>Total Accounts</td>
<td>274,618</td>
</tr>
<tr>
<td>Opt-Out Accounts (Month)</td>
<td>44</td>
</tr>
<tr>
<td>Opt-Out Accounts (FYTD)</td>
<td>44</td>
</tr>
<tr>
<td>Opt-Up Accounts (Month)</td>
<td>-</td>
</tr>
<tr>
<td>Opt-Up Accounts (FYTD)</td>
<td>-</td>
</tr>
</tbody>
</table>

### Pie Chart: YTD EXPENSES
- Power Supply 91.2%
- Contract Services 4.6%
- Personnel 2.6%
- Depreciation 0.5%

### Bar Charts:
- **Retail Sales - Month**
  - Actual: 17.4
  - Budget: 16.2
  - FY20/21: 28.2
- **Retail Sales - YTD**
  - Actual: 17.4
  - Budget: 16.2
  - FY20/21: 28.2
- **Controllable O&M - Month**
  - Actual: 15.9
  - Budget: 22.0
  - FY20/21: 18.5
- **Controllable O&M - YTD**
  - Actual: 15.9
  - Budget: 22.0
  - FY20/21: 18.5
SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION
As of October 31, 2021

<table>
<thead>
<tr>
<th>ASSETS</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current Assets</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash &amp; Cash Equivalents</td>
<td>$ 162,056,910</td>
<td></td>
</tr>
<tr>
<td>Accounts Receivable, net of allowance</td>
<td>24,370,356</td>
<td></td>
</tr>
<tr>
<td>Market Settlements Receivable</td>
<td>432,712</td>
<td></td>
</tr>
<tr>
<td>Accrued Revenue</td>
<td>10,730,960</td>
<td></td>
</tr>
<tr>
<td>Other Receivables</td>
<td>200,500</td>
<td></td>
</tr>
<tr>
<td>Prepaid Expenses</td>
<td>2,442,461</td>
<td></td>
</tr>
<tr>
<td>Deposits</td>
<td>727,092</td>
<td></td>
</tr>
<tr>
<td>Restricted cash</td>
<td>4,000,662</td>
<td></td>
</tr>
<tr>
<td><strong>Total Current Assets</strong></td>
<td><strong>204,961,653</strong></td>
<td></td>
</tr>
</tbody>
</table>

| **Noncurrent assets** | | |
| Capital assets, net of depreciation | 313,492 | |
| Deposits | 45,330 | |
| **Total Noncurrent Assets** | **358,822** | |
| **Total Assets** | **205,320,475** | |

<table>
<thead>
<tr>
<th>LIABILITIES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current Liabilities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>1,074,458</td>
<td></td>
</tr>
<tr>
<td>Accrued Cost of Electricity</td>
<td>26,078,494</td>
<td></td>
</tr>
<tr>
<td>Other accrued liabilities</td>
<td>631,113</td>
<td></td>
</tr>
<tr>
<td>User Taxes and Energy Surcharges due to other gov'ts</td>
<td>790,281</td>
<td></td>
</tr>
<tr>
<td><strong>Total Current Liabilities</strong></td>
<td><strong>28,574,346</strong></td>
<td></td>
</tr>
</tbody>
</table>

| **Noncurrent Liabilities** | | |
| Supplier security deposits | 9,131,250 | |
| **Total noncurrent liabilities** | **9,131,250** | |
| **Total Liabilities** | **37,705,596** | |

<table>
<thead>
<tr>
<th>NET POSITION</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Net investment in capital assets</td>
<td>313,492</td>
<td></td>
</tr>
<tr>
<td>Restricted for security collateral</td>
<td>4,000,662</td>
<td></td>
</tr>
<tr>
<td>Unrestricted (deficit)</td>
<td>163,300,725</td>
<td></td>
</tr>
<tr>
<td><strong>Total Net Position</strong></td>
<td><strong>$ 167,614,879</strong></td>
<td></td>
</tr>
</tbody>
</table>
SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2021 through September 30, 2022

OPERATING REVENUES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Sales, Net</td>
<td>$17,365,080</td>
</tr>
<tr>
<td>GreenPrime electricity premium</td>
<td>80,961</td>
</tr>
<tr>
<td>Other income</td>
<td>1,000</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING REVENUES</strong></td>
<td><strong>17,447,041</strong></td>
</tr>
</tbody>
</table>

OPERATING EXPENSES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Electricity</td>
<td>14,524,607</td>
</tr>
<tr>
<td>Contract services</td>
<td>731,426</td>
</tr>
<tr>
<td>Staff compensation and benefits</td>
<td>448,844</td>
</tr>
<tr>
<td>General &amp; Administrative</td>
<td>209,985</td>
</tr>
<tr>
<td>Depreciation</td>
<td>7,289</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING EXPENSES</strong></td>
<td><strong>15,922,151</strong></td>
</tr>
</tbody>
</table>

OPERATING INCOME(LOSS)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TOTAL OPERATING INCOME(LOSS)</strong></td>
<td><strong>1,524,890</strong></td>
</tr>
</tbody>
</table>

NONOPERATING REVENUES (EXPENSES)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest Income</td>
<td>18,545</td>
</tr>
<tr>
<td>Financing costs</td>
<td>(11,042)</td>
</tr>
<tr>
<td><strong>TOTAL NONOPERATING REVENUES (EXPENSES)</strong></td>
<td><strong>7,503</strong></td>
</tr>
</tbody>
</table>

CHANGE IN NET POSITION

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Position at beginning of period</td>
<td>166,082,486</td>
</tr>
<tr>
<td>Net Position at end of period</td>
<td>$167,614,879</td>
</tr>
</tbody>
</table>


SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2021 through September 30, 2022

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers $ 23,139,139
Other operating receipts 2,969,100
Payments to suppliers for electricity (20,228,855)
Payments for other goods and services (1,504,701)
Payments for staff compensation and benefits (470,802)
Tax and surcharge payments to other governments (658,361)
Net cash provided (used) by operating activities 3,245,520

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Finance costs paid (11,042)

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Acquisition of capital assets (4,015)

CASH FLOWS FROM INVESTING ACTIVITIES

Interest income received 18,545

Net change in cash and cash equivalents 3,249,008
Cash and cash equivalents at beginning of year 162,808,564
Cash and cash equivalents at end of period $166,057,572

Reconciliation to the Statement of Net Position

Cash and cash equivalents (unrestricted) $162,056,910
Restricted cash 4,000,662
Cash and cash equivalents $166,057,572
SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)
October 1, 2021 through September 30, 2022

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Income (loss)</td>
<td>$1,524,890</td>
</tr>
<tr>
<td>Adjustments to reconcile operating income to net cash provided (used) by operating activities</td>
<td></td>
</tr>
<tr>
<td>Depreciation expense</td>
<td>7,289</td>
</tr>
<tr>
<td>(Increase) decrease in net accounts receivable</td>
<td>1,619,829</td>
</tr>
<tr>
<td>(Increase) decrease in energy settlements receivable</td>
<td>(163,700)</td>
</tr>
<tr>
<td>(Increase) decrease in other receivables</td>
<td>29,985</td>
</tr>
<tr>
<td>(Increase) decrease in accrued revenue</td>
<td>3,679,660</td>
</tr>
<tr>
<td>(Increase) decrease in prepaid expenses</td>
<td>(64,225)</td>
</tr>
<tr>
<td>(Increase) decrease in current deposits</td>
<td>(1,009)</td>
</tr>
<tr>
<td>Increase (decrease) in accounts payable</td>
<td>(462,918)</td>
</tr>
<tr>
<td>Increase (decrease) in accrued payroll &amp; benefits</td>
<td>-</td>
</tr>
<tr>
<td>Increase (decrease) in accrued cost of electricity</td>
<td>(4,748,597)</td>
</tr>
<tr>
<td>Increase (decrease) in accrued liabilities</td>
<td>(10,930)</td>
</tr>
<tr>
<td>Increase (decrease) in taxes and surcharges due to other governments</td>
<td>(264,754)</td>
</tr>
<tr>
<td>Increase (decrease) in supplier security deposits</td>
<td>2,100,000</td>
</tr>
<tr>
<td><strong>Net cash provided (used) by operating activities</strong></td>
<td><strong>$3,245,520</strong></td>
</tr>
</tbody>
</table>
# SILICON VALLEY CLEAN ENERGY AUTHORITY
## BUDGETARY COMPARISON SCHEDULE
### October 1, 2021 through September 30, 2022

<table>
<thead>
<tr>
<th>OPERATING REVENUES</th>
<th>FYTD Actual</th>
<th>FYTD Adopted Budget</th>
<th>Variance $</th>
<th>FY 2020-21 Adopted Budget</th>
<th>FY 2020-21 Remaining Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Sales</td>
<td>$17,365,080</td>
<td>$16,188,125</td>
<td>$1,176,955</td>
<td>7%</td>
<td>$338,603,000</td>
</tr>
<tr>
<td>Green Prime Premium</td>
<td>80,961</td>
<td>37,209</td>
<td>43,752</td>
<td>118%</td>
<td>470,000</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING REVENUES</strong></td>
<td><strong>17,446,041</strong></td>
<td><strong>16,225,334</strong></td>
<td><strong>1,220,707</strong></td>
<td><strong>8%</strong></td>
<td><strong>339,073,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ENERGY EXPENSES</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Power Supply</td>
<td>14,524,607</td>
<td>20,166,482</td>
<td>(5,641,875)</td>
<td>-28.0%</td>
<td>273,561,000</td>
</tr>
<tr>
<td>Operating Margin</td>
<td><strong>2,921,434</strong></td>
<td><strong>(3,941,148)</strong></td>
<td><strong>6,862,582</strong></td>
<td><strong>-174%</strong></td>
<td><strong>65,512,000</strong></td>
</tr>
<tr>
<td><strong>TOTAL ENERGY EXPENSES</strong></td>
<td><strong>1,319,799</strong></td>
<td><strong>1,840,632</strong></td>
<td><strong>(520,833)</strong></td>
<td><strong>-28%</strong></td>
<td><strong>22,406,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPERATING EXPENSES</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Data Management</td>
<td>263,759</td>
<td>270,784</td>
<td>(7,025)</td>
<td>-3%</td>
<td>3,249,000</td>
</tr>
<tr>
<td>PG&amp;E Fees</td>
<td>97,254</td>
<td>120,829</td>
<td>(23,575)</td>
<td>-20%</td>
<td>1,450,000</td>
</tr>
<tr>
<td>Salaries &amp; Benefits</td>
<td>448,844</td>
<td>772,593</td>
<td>(323,749)</td>
<td>-42%</td>
<td>9,271,000</td>
</tr>
<tr>
<td>Professional Services</td>
<td>213,285</td>
<td>477,774</td>
<td>(264,489)</td>
<td>-55%</td>
<td>5,648,000</td>
</tr>
<tr>
<td>Marketing &amp; Promotions</td>
<td>67,095</td>
<td>84,875</td>
<td>(17,780)</td>
<td>-21%</td>
<td>919,000</td>
</tr>
<tr>
<td>Notifications</td>
<td>41,835</td>
<td>10,938</td>
<td>30,897</td>
<td>282%</td>
<td>131,000</td>
</tr>
<tr>
<td>Lease</td>
<td>39,215</td>
<td>43,750</td>
<td>(4,535)</td>
<td>-10%</td>
<td>525,000</td>
</tr>
<tr>
<td>General &amp; Administrative</td>
<td>148,512</td>
<td>59,089</td>
<td>89,423</td>
<td>151%</td>
<td>1,213,000</td>
</tr>
<tr>
<td><strong>TOTAL OPERATING EXPENSES</strong></td>
<td><strong>1,319,799</strong></td>
<td><strong>1,840,632</strong></td>
<td><strong>(520,833)</strong></td>
<td><strong>-28%</strong></td>
<td><strong>22,406,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OPERATING INCOME/(LOSS)</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Income</td>
<td>1,000</td>
<td>4,167</td>
<td>(3,167)</td>
<td>-76%</td>
<td>50,000</td>
</tr>
<tr>
<td>Investment Income</td>
<td>18,545</td>
<td>25,000</td>
<td>(6,455)</td>
<td>-26%</td>
<td>300,000</td>
</tr>
<tr>
<td><strong>TOTAL NON-OPERATING REVENUES</strong></td>
<td><strong>19,545</strong></td>
<td><strong>29,167</strong></td>
<td><strong>(9,622)</strong></td>
<td><strong>-33%</strong></td>
<td><strong>350,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NON-OPERATING EXPENSES</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Finishing</td>
<td>11,042</td>
<td>3,333</td>
<td>7,709</td>
<td>231%</td>
<td>40,000</td>
</tr>
</tbody>
</table>

## CAPITAL EXPENDITURES, TRANSFERS, OTHER
### OTHER

| Capital Outlay        | 4,015       | 37,500              | (33,485)   | -99%                      | 150,000                   | 145,985                   |
| Transfer to Programs Fund | 324,507    | 324,507             | 0%         | 6,781,000                 | 6,456,493                 |
| **TOTAL OTHER USES**  | **328,522** | **362,007**         | **(33,485)** | **-9%**                  | **6,931,000**            | **6,602,478**            |

<table>
<thead>
<tr>
<th>NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,281,616</td>
<td>-$6,117,953</td>
<td>$7,399,569</td>
<td>-121%</td>
<td>$36,485,000</td>
<td></td>
</tr>
</tbody>
</table>
**SILICON VALLEY CLEAN ENERGY AUTHORITY**  
**PROGRAM FUND**  
**BUDGETARY COMPARISON SCHEDULE**  
October 1, 2021 through September 30, 2022

**REVENUE & OTHER SOURCES:**

<table>
<thead>
<tr>
<th></th>
<th>ADOPTED BUDGET</th>
<th>ACTUAL</th>
<th>REMAINING BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer from Operating Fund</td>
<td>$6,781,000</td>
<td>$324,507</td>
<td>$6,456,493</td>
</tr>
</tbody>
</table>

**EXPENDITURES & OTHER USES:**

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Program expenditures</td>
<td>$7,333,950</td>
<td>$67,758</td>
<td>$7,266,192</td>
</tr>
</tbody>
</table>

**Net increase (decrease) in fund balance**

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund balance at beginning of period</td>
<td>$ (552,950)</td>
<td>$256,749</td>
<td>$5,837,711</td>
</tr>
<tr>
<td>Fund balance at end of period</td>
<td></td>
<td></td>
<td>$6,094,460</td>
</tr>
</tbody>
</table>

**CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND**  
**PROGRAM FUND**  
**BUDGETARY COMPARISON SCHEDULE**  
October 1, 2021 through September 30, 2022

**REVENUE & OTHER SOURCES:**

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer from Operating Fund *</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

**EXPENDITURES & OTHER USES:**

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Program expenditures *</td>
<td>$3,000,000</td>
<td>$2,698</td>
<td>$2,997,302</td>
</tr>
</tbody>
</table>

**Net increase (decrease) in fund balance**

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund balance at beginning of period</td>
<td>$ (3,000,000)</td>
<td>(2,698)</td>
<td>7,990,315</td>
</tr>
<tr>
<td>Fund balance at end of period</td>
<td></td>
<td></td>
<td>$7,987,617</td>
</tr>
</tbody>
</table>
SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING FUND
BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2021 through September 30, 2022

Net Increase (decrease) in available fund balance per budgetary comparison schedule $ 1,281,616

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

Subtract depreciation expense (7,289)
Subtract program expense not in operating budget (67,758)
Subtract CRCR expense not in operating budget (2,698)
Add back transfer to Program fund 324,507
Add back capital asset acquisition 4,015

Change in Net Position 1,532,393
## SILICON VALLEY CLEAN ENERGY AUTHORITY
### STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION
#### October 1, 2021 through September 30, 2022

<table>
<thead>
<tr>
<th>Item</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>YTD</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OPERATING REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electricity sales, net</td>
<td>$17,365,080</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Green electricity premium</td>
<td>80,961</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Other Income</td>
<td>1,000</td>
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<tr>
<td>Total operating revenues</td>
<td>17,447,041</td>
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<tr>
<td><strong>OPERATING EXPENSES</strong></td>
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<tr>
<td>Cost of electricity</td>
<td>14,524,607</td>
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<tr>
<td>Staff compensation and benefits</td>
<td>448,844</td>
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<tr>
<td>Data manager</td>
<td>263,759</td>
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<tr>
<td>Service fees - PG&amp;E</td>
<td>97,254</td>
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<tr>
<td>Consultants and other professional fees</td>
<td>370,413</td>
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<tr>
<td>General and administration</td>
<td>209,985</td>
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<tr>
<td>Depreciation</td>
<td>7,289</td>
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<tr>
<td>Total operating expenses</td>
<td>15,922,151</td>
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<tr>
<td>Operating income (loss)</td>
<td>1,524,890</td>
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<td><strong>NONOPERATING REVENUES (EXPENSES)</strong></td>
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<tr>
<td>Interest income</td>
<td>18,545</td>
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<tr>
<td>Financing costs</td>
<td>(11,042)</td>
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<tr>
<td>Total nonoperating revenues (expenses)</td>
<td>7,503</td>
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<tr>
<td><strong>CHANGE IN NET POSITION</strong></td>
<td>$1,532,393</td>
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</table>
# SILICON VALLEY CLEAN ENERGY AUTHORITY
## INVESTMENTS SUMMARY
### October 1, 2021 through September 30, 2022

### Return on Investments

<table>
<thead>
<tr>
<th></th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
<th>Total</th>
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<tbody>
<tr>
<td></td>
<td>$18,545</td>
<td>$0</td>
<td>$0</td>
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<td>$0</td>
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<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$18,545</td>
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</tbody>
</table>

## Portfolio Invested

- **Average daily portfolio available to invest**: $152,976,979
- **Average daily portfolio invested**: $141,994,910
- **% of average daily portfolio invested**: 92.8%

## Detail of Portfolio

<table>
<thead>
<tr>
<th>Portfolio</th>
<th>Opening Rate</th>
<th>October Rate</th>
<th>Carrying Value</th>
<th>Interest Earned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money Market - River City Bank</td>
<td>1.26%</td>
<td>0.15%</td>
<td>$137,722,095</td>
<td>$18,091</td>
</tr>
</tbody>
</table>

*Note: Balance available to invest does not include lockbox or debt service reserve funds.*
SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT

<table>
<thead>
<tr>
<th></th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 30 days</td>
<td>74.6%</td>
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<tr>
<td>31 to 60 days</td>
<td>8.3%</td>
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<td>61 to 90 days</td>
<td>3.1%</td>
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<tr>
<td>91 to 120 days</td>
<td>2.0%</td>
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<tr>
<td>Over 120 days</td>
<td>12.0%</td>
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</tbody>
</table>

**Accounts Receivable Days**

- **29 Days**

**Total Due**

- **$27,116,832**

**Bad Debt % (Budget)**

- **1%**

**Age Summary**

- **$20,238,343**
- **$2,247,178**
- **$828,472**
- **$539,415**
- **$3,263,424**

- 0 to 30 days
- 31 to 60 days
- 61 to 90 days
- 91 to 120 days
- Over 120 days
**Staff Report – Item 1c**

**Item 1c:** Adopt Resolution 2021-27 Authorizing Public Meetings to Continue to Be Held Via Teleconferencing Pursuant to Government Code Section 54953(e) and Making Findings

From: Trisha Ortiz, Assistant General Counsel

Prepared by: Trisha Ortiz, Assistant General Counsel

Date: 12/8/2021

---

**RECOMMENDATION**

To continue meetings to be held via teleconferencing pursuant to Government Code Section 54953(e), adopt the attached Resolution 2021-27 making the findings required by Section 54953(e)(3).

**COMMITTEE RECOMMENDATION**

There is no Committee recommendation.

**BACKGROUND**

Pursuant to Government Code Section 54953(b)(3) legislative bodies may meet by “teleconference” only if the agenda lists each location a member remotely accesses a meeting from, the agenda is posted at all remote locations, and the public may access any of the remote locations. Additionally, a quorum of the legislative body must be within the legislative body’s jurisdiction.

Due to the COVID-19 pandemic, the Governor issued Executive Order N-29-20, suspending certain sections of the Brown Act. Pursuant to the Executive Order, legislative bodies no longer needed to list the location of each remote attendee, post agendas at each remote location, or allow the public to access each location. Further, a quorum of the legislative body does not need to be within the legislative body’s jurisdiction. After several extensions, Executive Order N-29-20 expired on September 30, 2021.

On September 16, 2021 Governor Newsom signed AB 361, new legislation that amends the Brown Act to allow local agencies to meet remotely during Governor declared emergencies under certain conditions. AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act’s standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Due to the rise in COVID-19 cases caused by the Delta Variant, on September 21, 2021, the Santa Clara County Health Officer issued a recommendation that public bodies meet remotely due to the increased protection provided by social distancing. The Health Officer cited “unique characteristics” of government meetings that lead to increased risk of transmission, including the gathering of people from across communities, the need for everybody to participate (including those who are immunocompromised or unvaccinated), and difficulty ensuring compliance with vaccination and safety recommendations.
On October 13, 2021, the Board adopted its Resolution 2021-23 to authorize public meetings to be held via teleconferencing pursuant to Government Code section 54953(e).

Within thirty days after the first teleconferenced meeting held under AB 361, and every thirty days thereafter, in order to continue meeting by teleconference, the local agency’s legislative body must find that it has reconsidered the circumstances of the state of emergency and that either: (1) The state of emergency continues to directly impact the ability of the members to meet safely in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing.

On November 10, 2021, the Board adopted Resolution 2021-26 authorizing public meetings to continue to be held via teleconferencing pursuant to Government Code Section 54953(e) and directing staff to return with a resolution to make the findings necessary to continue meeting pursuant to Government Code section 54953(e).

**STRATEGIC PLAN**
SVCE’s Board-adopted Strategic Plan identifies engaging the public as a goal of SVCE and remote meetings will better engage the public as long as COVID-19 is a threat to public health.

**FISCAL IMPACT**
Continuing to conduct remote public Board of Directors and Standing Committee meetings will not increase the cost of meetings.

**ANALYSIS & DISCUSSION**
The attached Resolution makes the periodic findings necessary to continue holding meetings under Government Code Section 54953(3). Specifically, the attached Resolution makes findings that the Board has reconsidered the circumstances of the COVID-19 state of emergency and that local officials continue to recommend measures to promote social distancing. The resolution applies to both the Board of Directors and its Committees.

Staff will continue to monitor the situation and will return to the Board every 30 days or as needed with additional recommendations related to the conduct of public meetings.

**ATTACHMENTS**
1. Resolution 2021-27 Reconsidering Circumstances Of The COVID-19 State Of Emergency And Making Findings In Connection Therewith To Authorize Public Meetings To Be Held Via Teleconferencing Pursuant To Government Code Section 54953(e)
SILICON VALLEY CLEAN ENERGY AUTHORITY
RESOLUTION NO. 2021-27

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY RECONSIDERING CIRCUMSTANCES OF THE COVID-19 STATE OF EMERGENCY AND MAKING FINDINGS IN CONNECTION THERewith TO AUTHORIZE PUBLIC MEETINGS TO BE HELD VIA TELECONFERENCING PURSUANT TO GOVERNMENT CODE SECTION 54953(e)

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 Board of Directors (“the Board”) of Silicon Valley Clean Energy (“SVCE”) is committed to public access and participation in its meetings while balancing the need to conduct public meetings in a manner that reduces the likelihood of exposure to COVID-19; and

WHEREAS, all meetings of the Board of Directors and the other legislative bodies of SVCE are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the Board and other legislative bodies conduct their business; and

WHEREAS, pursuant to Assembly Bill 361 legislative bodies of local agencies may hold public meetings via teleconferencing pursuant to Government Code Section 54953(e), without complying with the requirements of Government Code Section 54953(b)(3), if the legislative body complies with certain enumerated requirements in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency.
of Emergency in response to the COVID-19 pandemic (the “Emergency”) which remains in effect; and

WHEREAS, the Santa Clara Public Health Officer recommends that public bodies meet remotely to the extent possible, specifically including use of newly enacted AB 361.

WHEREAS, due to the ongoing COVID-19 pandemic and the need to promote social distancing to reduce the likelihood of exposure to COVID-19, the Board determined that meetings of the SVCE legislative bodies may be held via teleconferencing pursuant to Government Code Section 54953(e).

WHEREAS, to continue meeting pursuant to Government Code Section 54953(e), an agency must make periodic findings that: (1) the body has reconsidered the circumstances of the declared emergency; and (2) that any of the following circumstances exist: (a) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (b) state or local officials continue to impose or recommend measures to promote social distancing.

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

Section 1. The Recitals provided above are true and correct and are hereby incorporated by reference.

Section 2. The Board has reconsidered the circumstances of the COVID-19 state of emergency and local officials continue to recommend measures to promote social distancing.

Section 3. The Board and other legislative bodies of SVCE may continue to conduct their meetings pursuant to Government Code section 54953(e).

Section 4. Staff is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution. Such action includes returning to the Board within 30 days and every 30 days thereafter to make the findings required by Section 54953(e)(3).

Section 5. This Resolution shall take effect immediately upon its adoption.

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

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<tr>
<th>JURISDICTION</th>
<th>NAME</th>
<th>AYE</th>
<th>NO</th>
<th>ABSTAIN</th>
<th>ABSENT</th>
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<tr>
<td>City of Campbell</td>
<td>Director Gibbons</td>
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<td>City of Cupertino</td>
<td>Director Sinks</td>
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<td>City of Gilroy</td>
<td>Alternate Director Armendariz</td>
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<tr>
<td>City of Los Altos</td>
<td>Alternate Director Meadows</td>
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RESOLUTION 2021-27
<table>
<thead>
<tr>
<th>Town of Los Altos Hills</th>
<th>Director Tyson</th>
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<tbody>
<tr>
<td>Town of Los Gatos</td>
<td>Director Rennie</td>
</tr>
<tr>
<td>City of Milpitas</td>
<td>Director Chua</td>
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<tr>
<td>City of Monte Sereno</td>
<td>Director Ellahie</td>
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<td>City of Morgan Hill</td>
<td>Director Martinez Beltran</td>
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<td>City of Mountain View</td>
<td>Director Abe-Koga</td>
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<tr>
<td>County of Santa Clara</td>
<td>Director Ellenberg</td>
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<tr>
<td>City of Saratoga</td>
<td>Director Walia</td>
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<tr>
<td>City of Sunnyvale</td>
<td>Director Larsson</td>
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______________________________
Chair

ATTEST:

______________________________
Dorothy Roberts, Interim Board Clerk
Item 1d: Executive Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Liz Gibbons, Chair of the Executive Committee

Date: 12/8/2021

At the November 17, 2021 Executive Committee meeting, CEO Balachandran recommended discussions to assure that SVCE has the optimal investment in place to achieve its decarbonization mission. These discussions will take place in the first quarter of 2022.

The timeline for the Election of the 2022 SVCE Chair, Vice Chair and Committee assignments were reviewed.

Director of Power Resources Monica Padilla gave the background and terms of agreement of the proposed CC Power and LS Power Tumbleweed Storage Service Agreement. The Committee unanimously recommended that Board of Directors direct the CEO to Approve the California Community Power and LS Power Tumbleweed Energy Storage Service Agreement and Ancillary Agreements for Long Duration Energy Storage.

Chief Financial Officer and Director of Administrative Services Amrit Singh gave a PCIA, PG&E Gen Rate, and Corresponding SVCE Margin Update. The consensus from the Executive Committee was to target a substantial allocation of funds to programs to augment the “Double Down” strategy and leave the discussion on rate discount to the Board meeting.

Materials from the November 17, 2021 meeting can be found here: SVCE Executive Committee Meeting Materials, 11/17/21

The next meeting of the Executive Committee will be January 28, 2022 at 2:45 p.m.; materials will be posted no later than 72 hours in advance of the meeting.
A Special Finance and Administration Committee meeting was held on November 29, 2021 to consider and possibly recommend to the SVCE Board changes to SVCE Rates and the Revised Fiscal Year 2021-2022 (FY 22) Budget.

The following motion was voted on and unanimously approved:

1. Authorize SVCE to change rates effective January 1, 2022, that reflects a 1% discount to PG&E generation rates based on PG&E’s November AET Filing, provided that the CPUC does not delay the AET rate increase at its December 2021 meeting.
2. Adjust rates effective February 1, 2022, to maintain a 1% customer discount based on the actual CPUC adopted AET rates.
3. Readjust rates to maintain a 1% customer discount within 3 weeks of January 1, 2022, if the CPUC approves PG&E’s generation rates and PCIA that would have otherwise resulted in SVCE rates that on average would have been 10% lower than the rate based on PG&E’s November AET filed rates. True-up any “overcollection” within first few weeks of January as a result charging rates based on PG&E’s November AET Filing.
4. Adopt a revised budget to account for increase in power supply expense of about $20 million.
5. Target to transfer $20 million to the Programs Fund at the March 2022 Mid-Year Budget Update.

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.
Staff Report – Item 1f

Item 1f: Audit Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Bryan Mekechuk, Chair of the Audit Committee

Date: 12/8/2021

No report as the Audit Committee has not met since August 18, 2021.

The next meeting of the Audit Committee will be for a yet to be determined date in early 2022; materials will be posted no later than 72 hours in advance of the meeting.
Staff Report – Item 1g

Item 1g: California Community Power Report

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Date: 12/8/2021

Per direction from the SVCE Board on December 9, 2020 for the CEO to provide a report of the ongoing activities of California Community Power (CC Power) after each of its meetings, this is to report CC Power held its regular board meeting on Wednesday, November 10, 2021.

Attached is a summary report from Interim General Manager Timothy Haines; materials from the regular board meeting can be found here on the CC Power website: [CC Power Meeting, 11/10/21](#)

The next meeting of the board will be December 15, 2021 at 1:00 p.m.; meeting materials can be found on the CC Power website: [https://cacommunitypower.org/meetings/](https://cacommunitypower.org/meetings/)

**ATTACHMENTS:**

CA Community Power Board Meeting Summary from Interim General Manager Timothy Haines, November 10, 2021
TO: CC Power Board of Directors
FROM: Tim Haines – Interim General Manager
SUBJECT: Report on CC Power Board of Directors Meeting – November 10, 2021

The CC Power Board of Directors held its normally scheduled meeting on Wednesday, November 10, 2021, 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:

- **Matters subsequent to posting the Agenda.** No matters were brought up.

- **Public Comment.** No comments on non-agenda items.

- **Consent Calendar** - The Board unanimously approved the following items:
  - Minutes of the October 20, 2021 Regular Board Meeting
  - Resolution 21-10-13 Reconsideration of the Determination that Meeting in Person Would Present Imminent Risks to the Health or Safety of Attendees as a Result of the Proclaimed State of Emergency


  The Chair informed the Board that the action being requested is it adopt the policy approach for CC Power project requirements. The requirements are included in the Ad hoc Committee memo. The Chair invited Board Member Syphers, a Member of the Ad hoc Committee, to review the memo.

  Mr. Syphers explained that the Ad Hoc Committee recommendation is the result of a ten-month effort in response to concerns from representatives of labor groups that CC Power procurement practices align with the policies of Member CCA governed by local elected officials. He described the approach that was taken and noted that during the period CC Power adopted policies for two solicitations. Ultimately the Ad Hoc Committee concluded that CC Power cannot set policies that override the policies of its member CCA governing boards and CC Power should ensure that procurement requirements for any project be established by considering the policies of participating members. The Ad Hoc Committee policy approach states in part:

  “CC Power will seek to award contracts and negotiate contract terms consistent with the local values and goals of each participating Member. These values include but are not limited to competitiveness, fair labor standards, environmental justice, environmental protection, community outreach, and transparency. No CC Power member will participate in a
project that contravenes the adopted policies of its local governing body unless they obtain formal approval from their governing board. When projects are being considered, each participating Member will communicate their relevant and current local Board approved policies or applicable procedures. Participating members will need to agree on how their individual policies will be applied in the joint procurement documents. Underlying the formation of CC Power is the recognition that collective procurement is beneficial; generally, the more members participating in a project, the better.”

The memo encourages all members to consider a list of categories in the development of their local policies. This will ensure that when procurement request documents are issued by CC Power, current local board policies related to these areas are as current as possible.

Several CC Power Board members commented on discussions with their own CCA Board members regarding the policymaking role of CC Power. Numerous representatives of labor, environmental and environmental justice groups encouraged the Board to seek further input from their groups and adopt more proscriptive policies.

Individual Board members expressed appreciation for the public input and encouraged continued engagement. The Board voted to approve the resolution by a vote of 8 to 2. The Chair acknowledged this action is a first step and asked the ad hoc committee to return with a schedule to obtain the current local CCA policies.

- **General Manager's Report.** *Long Duration Storage and Budget* – Interim GM Haines informed the Board that the project oversight committee and the legal counsel of participating members are working to finalize agreements to recommend final contacts at the December 8th or 15th Board meeting. Mr. Haines also alerted the Board that he may seek its approval at the December Board meeting to reallocate funds within the 2021 budget to finalize the LDS agreements. The Interim General Manager presented the draft 2022 Budget and areas that are subject to change. The budget will be presented for Board approval at the December 15th Board meeting.

- **Discussion of Any Individual Member Items** – Board Member Habashi informed the Board of 3CE authorization for procurement of local storage projects.
**Over 600 EV Chargers with First Year of Funding**

The EV charging incentive program CALeVIP was opened one year ago. The first year’s worth of projects, estimated to be 542 L2 and 85 DCFC chargers, are currently under construction. Additional funds will be released in December 2022 and 2023 to total ~$12M in combined local incentives.

**EV Charging Incentives When the Grid Is Cleanest**

From December 2021 to May 2022, SVCE GridShift app users can participate in Low-Carbon events, which are designed to shift EV charging toward off-peak daytime hours when there is abundant renewable energy available on the grid. Users can earn a monthly $5 bill credit by participating in at least five events per month and can earn up to $30 in bill credits during the 6-month event season. The GridShift app is free to all SVCE customers and helps EV drivers get the cheapest and cleanest charge at home.

**A Year of Digital Engagement with eHub**

Through email marketing, advertising, sweepstakes and promotions, SVCE reached over 74,000 unique website visitors across eHub webpages and tools in its inaugural year. SVCE also ran promotions to help customers electrify and add home energy resiliency. Moving forward, SVCE will evaluate how eHub has helped increase customer awareness and education on electrification and will continue to engage customers with emails, promotions and additional engagement tools.
Heat Pump Water Heater
Provide incentives for electric heat pump water heaters and service panel upgrades to residents using gas or electric resistance heaters

Lights On Silicon Valley
Provide incentives for enrolling solar and battery systems in the SVCE grid services program
**CALeVIP**

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

<table>
<thead>
<tr>
<th>Level 2</th>
<th>DCFC</th>
</tr>
</thead>
<tbody>
<tr>
<td>$6M</td>
<td>$6M</td>
</tr>
<tr>
<td>$4M</td>
<td>$3M</td>
</tr>
<tr>
<td>$2M</td>
<td>$2.58M</td>
</tr>
<tr>
<td>$0M</td>
<td>$0M</td>
</tr>
</tbody>
</table>

- **Reserved**
- **Waitlisted**
- **Installed**

**FutureFit Fundamentals**

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

---

**Funding:** $11.58M  
**Goal:** 1K Level 2 + 85 DC Fast Chargers by 2023

- **= 25 Level 2 Installations**
- **= 5 DCFC Installations**

**Funding:** $1.5M  
**Goal:** 150 Participants (Phase 1)

- **= 5 Participants Complete Course**
<table>
<thead>
<tr>
<th>POWER SUPPLY</th>
<th>BUILT ENVIRONMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>C&amp;I Clean Power Offerings</td>
<td>Building Decarb Joint Action Plan</td>
</tr>
<tr>
<td>Reach Codes</td>
<td>Resilience at Community Facilities</td>
</tr>
<tr>
<td>All-Electric Showcase Grants</td>
<td>FutureFit Fundamentals</td>
</tr>
<tr>
<td>FutureFit Heat Pump Water Heater</td>
<td>Streamlining Community-Wide Electrification</td>
</tr>
<tr>
<td></td>
<td>CRCR Bill Relief</td>
</tr>
<tr>
<td></td>
<td>FutureFit Homes &amp; Buildings</td>
</tr>
<tr>
<td></td>
<td>Regional Coordination</td>
</tr>
<tr>
<td></td>
<td>Accessible Financing</td>
</tr>
<tr>
<td></td>
<td>Local Policy to Decarbonize Existing Buildings</td>
</tr>
<tr>
<td></td>
<td>Feasibility Assessment - Natural Gas Phase Out By 2045</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MOBILITY</th>
<th>GRID INTEGRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>EV Infrastructure Strategy &amp; Plan</td>
<td>GridShift EV Charging</td>
</tr>
<tr>
<td>CA Electric Vehicle Infrastructure Project (CALeVIP)</td>
<td>Other Virtual Power Plant Offerings</td>
</tr>
<tr>
<td>Priority Zone DCFC</td>
<td></td>
</tr>
<tr>
<td>MUD Technical Assistance</td>
<td></td>
</tr>
<tr>
<td>Fleet Electrification Grants</td>
<td></td>
</tr>
<tr>
<td>SV Transportation Electrification Clearinghouse (SVTEC)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Regional Recognition</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EDUCATION OUTREACH</th>
<th>INNOVATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Resource Center (eHub)</td>
<td>Innovation Partners</td>
</tr>
<tr>
<td>Community Engagement Grants</td>
<td>Innovation Onramp</td>
</tr>
<tr>
<td></td>
<td>UtilityAPI</td>
</tr>
<tr>
<td></td>
<td>ev.energy</td>
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<tr>
<td></td>
<td>ev.energy</td>
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<td></td>
<td>Span.IO</td>
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<td></td>
<td>Outthink</td>
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<tr>
<td></td>
<td>Electron</td>
</tr>
<tr>
<td></td>
<td>Stanford</td>
</tr>
<tr>
<td></td>
<td>NeoCharge</td>
</tr>
<tr>
<td></td>
<td>NeoCharge</td>
</tr>
<tr>
<td></td>
<td>XeroHome</td>
</tr>
</tbody>
</table>
SVCE is supporting and engaging in events, meetings and conferences allowing us to continue sharing information and resources with the community and broader industry stakeholders.

1. Outreach Events & Sponsorships

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Description</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 11</td>
<td>4 – 5 PM</td>
<td>League of Women Voters – presentation</td>
<td>Regional</td>
</tr>
<tr>
<td>December 4</td>
<td>4:30 – 6:30 PM</td>
<td>Ice Rink Tree Lighting – sponsoring &amp; tabling</td>
<td>Downtown Sunnyvale</td>
</tr>
<tr>
<td>December 6</td>
<td>5 – 8:30 PM</td>
<td>Mountain View Tree Lighting Celebration – sponsoring &amp; tabling</td>
<td>Downtown Mountain View</td>
</tr>
<tr>
<td>December 10</td>
<td>6 – 8:00 PM</td>
<td>Ice Rink iHeart DJ Night – sponsoring &amp; tabling</td>
<td>Downtown Sunnyvale</td>
</tr>
<tr>
<td>December 16</td>
<td>4 – 7:00 PM</td>
<td>Holiday Magic on Main Street Carol- oke Night – sponsoring &amp; tabling</td>
<td>Downtown Milpitas</td>
</tr>
</tbody>
</table>
# 2. Customer Participation

<table>
<thead>
<tr>
<th></th>
<th>Participation Rate</th>
<th>Overall Participation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>96.34%</td>
<td>96.34%</td>
</tr>
<tr>
<td>Commercial</td>
<td>96.28%</td>
<td></td>
</tr>
</tbody>
</table>
The following agenda items were presented and discussed:

- SoalrApp+ presented by National Renewable Energy Laboratory (NREL)
- Equity Framework Update
- “Doubling Down” on Decarbonization
- Annual Community Summaries
- EV/EVI Baseline Study
5. Latest SVCE News


**Press Release, 11-02-21**

Community Energy

SLICON VALLEY CLEAN ENERGY

02 NOV. 2021  |  WRITE COMMENT

Leeward Renewable Energy Begins Construction on 100-megawatt Rabbitbrush Solar Project

Project will provide 20 MW, 50 MWh energy storage system bolstering grid reliability
- California Community Choice Aggregators Seek Firm Clean Energy Resources
- Construction starts on 100-MW California solar + storage project,
- Leeward Renewable Energy Begins Construction on 100-megawatt Rabbitbrush Solar Project, Energy Central
- Leeward turns sod on 100MW California solar
- Construction begins on 100 MW/50 MWh solar + storage project in California
- Construction begins on 100-MW Rabbitbrush Solar Project in Kern County
- Quick Bites: Energy News Roundup
- Four New-Construction Energy Storage Projects Planned for Central Coast
SVCE Legislative and Regulatory Update

December 8, 2021
## PCIA: 2022 Rate Implementation

<table>
<thead>
<tr>
<th>2022 Rates PG&amp;E Nov. Update</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
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<td></td>
</tr>
</tbody>
</table>
PCIA: Implementation of the WG3 decision is underway
Electricity Planning and Procurement: New rules imposed, and more changes expected

Procurement obligations continue to evolve throughout 2021 and 2022

**Newsom’s Emergency Proclamation**
- Orders energy agencies to ensure energy supply meets demand in extreme events

**New Procurement Mandates**
- LSEs must procure 11,500 MW of new electricity by [ ]
- SVCE responsible for 237 [ ]
- CPUC is proposing procuring 2000 – 3000 MW statewide to meet reliability needs 2022 and [ ]

**New Reliability Development**
- Resource Adequacy program
IRP: CPUC considering additional measures to enhance summer reliability during 2022-

Integrate Resource Planning (IRP) is a two-____ process to ensure that the electricity sector is on track to meet its portion of the State’s GHG reduction and reliability goals.
Resource Adequacy (RA) Program: RA Program reform is underway

RA is a program developed to ensure that there will be sufficient resources available to serve electric demand under most conditions.
Legislative Update
Bipartisan Infrastructure Framework passed by

The Infrastructure Investment and Jobs Act invests in clean energy initiatives to meet Biden’s goal of net-zero emissions by 2030.

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clean Energy Transmission: creates a new Grid Deployment Authority to oversee transmission upgrades, invests in R&amp;D for advanced T&amp;D technologies and promotes smart grid technologies</td>
<td>$65 billion</td>
</tr>
<tr>
<td>Climate Resilience: protects against extreme weather events and invest in home weatherization</td>
<td>$7.5 billion</td>
</tr>
<tr>
<td>EV Infrastructure: develops a national network of EV chargers</td>
<td>$7.5 billion</td>
</tr>
<tr>
<td>Clean Buses: deployment of low and no-emission buses, including school buses</td>
<td>$21 billion</td>
</tr>
<tr>
<td>Port Infrastructure: addresses backlogs, reduces congestion and emissions near ports, drives electrification and other low-carbon technologies</td>
<td>$21 billion</td>
</tr>
<tr>
<td>Legacy Pollution: cleans up Superfund and brownfield sites, reclaims abandoned mines, caps orphaned oil and gas wells</td>
<td>$21 billion</td>
</tr>
</tbody>
</table>
REPORT

SVCE Staff Update
Oren Weiner joined SVCE November 29, 2021, as a Power Resources Manager. Oren has over 14 years of experience in the energy industry serving in various energy procurement roles of increasing responsibility. Oren is joining SVCE from the City of Pasadena where he worked on procuring zero carbon resources, Integrated Resource Planning efforts, CAISO Market Initiatives, and various regulatory support activities. Oren holds a Bachelor’s degree in Finance from the University of Central Florida. For leisure, Oren enjoys traveling the world, cycling, and hiking.

2021 Green Power Leadership Award
Earlier this fall, CalCCA was awarded the 2021 Green Power Leadership Award from the Center for Resource Solutions in recognition of the outstanding leadership role California’s community choice aggregators (CCAs) are playing to build and grow the voluntary market for renewable energy. CalCCA was one of five recipients in the award’s Market Development category, which honors industry leaders that are innovators and champions of renewable energy and whose actions are supporting the accelerated development of green power markets. The recognition highlighted that CCAs purchased more than twice as much renewable energy than required under state mandates, and upwards of 80 California cities and counties are working with their local community choice providers to receive 100% renewable or 100% carbon-free energy as their default supply.

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

1) Buro Happold, Amendment, Consulting Services, redistribute money amongst tasks
2) Claremont Partners, Inc., Agreement, Human Resources Services, NTE $31,332, Expiration 9/30/2022
3) SMUD, Task Order, FutureFit Homes & Buildings Program Support, NTE $9,000
4) Aaron, Read & Associates, Agreement, Lobbyist Services, NTE 96,000, Expiration 11/30/2022
5) Strategic Energy Innovations, Amendment, Climate Corps Fellow Hosting Services, Expiration 6/30/2022
6) Keyes & Fox, Amendment, Legislative Support & Legal Representation, rate changes
7) Ascend Analytics, Agreement, General Consulting, Software Tools and Support Services, NTE $1,311,754, Expiration 9/31/2024
8) Utility API, Amendment, Energy Data Exchange Platform Pilot, NTE $379,500, Extends expiration to 2/15/2022
CEO Power Supply Agreements Executed

<table>
<thead>
<tr>
<th>Transaction</th>
<th>Counterparty Name</th>
<th>Execution/Effective Date</th>
<th>Transaction Type</th>
<th>Product</th>
<th>Start Date</th>
<th>End Date</th>
<th>Notional Value</th>
<th>Link</th>
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</thead>
<tbody>
<tr>
<td>Transaction 1</td>
<td>Calpine</td>
<td>10/27/2021</td>
<td>Purchase</td>
<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$3,341,400</td>
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<tr>
<td>Transaction 2</td>
<td>Calpine</td>
<td>10/27/2021</td>
<td>Sale</td>
<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$2,889,600</td>
<td>Linked to Trans. 1</td>
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<tr>
<td>Transaction 3</td>
<td>Resi Station</td>
<td>10/25/2021</td>
<td>Purchase</td>
<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$648,220</td>
<td>None</td>
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<tr>
<td>Transaction 4</td>
<td>Peninsula Clean Energy</td>
<td>10/28/2021</td>
<td>Sale</td>
<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$623,000</td>
<td>None</td>
</tr>
<tr>
<td>Transaction 5</td>
<td>Clean Power Alliance</td>
<td>10/13/2021</td>
<td>Purchase</td>
<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$6,300,000</td>
<td>Linked to Trans. 6</td>
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<tr>
<td>Transaction 6</td>
<td>Clean Power Alliance</td>
<td>10/13/2021</td>
<td>Sale</td>
<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$4,680,000</td>
<td>Linked to Trans. 5</td>
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<tr>
<td>Transaction 7</td>
<td>East Bay Community Energy</td>
<td>10/27/2021</td>
<td>Purchase</td>
<td>Resource Adequacy</td>
<td>6/1/2022</td>
<td>6/30/2022</td>
<td>$22,500</td>
<td>Linked to Trans. 8</td>
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<tr>
<td>Transaction 8</td>
<td>East Bay Community Energy</td>
<td>10/27/2021</td>
<td>Sale</td>
<td>Resource Adequacy</td>
<td>6/1/2022</td>
<td>6/30/2022</td>
<td>$30,937.50</td>
<td>Linked to Trans. 7</td>
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<td>Transaction 9</td>
<td>East Bay Community Energy</td>
<td>10/27/2021</td>
<td>Purchase</td>
<td>Resource Adequacy</td>
<td>9/1/2022</td>
<td>9/30/2022</td>
<td>$8,250</td>
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<td>Transaction 10</td>
<td>East Bay Community Energy</td>
<td>10/27/2021</td>
<td>Sale</td>
<td>Resource Adequacy</td>
<td>9/1/2022</td>
<td>9/30/2022</td>
<td>$6,000</td>
<td>Linked to Trans. 9</td>
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<td>Transaction 12</td>
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<td>3/1/2022</td>
<td>5/31/2022</td>
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<td>Transaction 13</td>
<td>Calpine</td>
<td>10/27/2021</td>
<td>Purchase</td>
<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$1,854,500</td>
<td>Linked to Trans. 14</td>
</tr>
<tr>
<td>Transaction 14</td>
<td>Calpine</td>
<td>10/27/2021</td>
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<td>Resource Adequacy</td>
<td>1/1/2022</td>
<td>9/30/2022</td>
<td>$1,483,600</td>
<td>Linked to Trans. 13</td>
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<tr>
<td>Transaction 15</td>
<td>TransAlta</td>
<td>11/5/2021</td>
<td>Purchase</td>
<td>Hedge Energy</td>
<td>1/1/2022</td>
<td>12/31/2022</td>
<td>$9,033,750</td>
<td>None</td>
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<tr>
<td>Transaction 16</td>
<td>Sonoma Clean Power</td>
<td>10/10/2021</td>
<td>Sale</td>
<td>Renewable Energy PCC-1</td>
<td>11/10/2021</td>
<td>12/31/2021</td>
<td>$135,000</td>
<td>None</td>
</tr>
</tbody>
</table>

These agreements are included in the Board packet as Appendix A.
Presentations & Relevant Meetings Attended by CEO
- Participated in CalCCA Monthly board, executive, and legislative meetings;
- Long-Duration Storage Super-JPA and RFO: Updates to various CCAs, CPUC, CAISO and legislative staff
- CC Power Board Meeting, November 10th, report included on the Consent Calendar
- CalCCA Annual Meeting, Dec 1st, participated in panel discussion entitled, “Decarbonize Everything”

ATTACHMENTS
1. Decarb & Grid Innovation Programs Update, December 2021
2. Account Services & Community Relations Update, December 2021
3. Regulatory and Legislative Update, December 2021
Staff Report – Item 3

**Item 3:** Clean Energy Procurement Informational Update

*From:*  Girish Balachandran, CEO

*Prepared by:* Monica Padilla, Director of Power Resources

*Date:* 12/8/2021

SVCE staff will provide an update on the state of SVCE’s clean energy portfolio and upcoming procurement needs and efforts. No action requested of the Board.

**ATTACHMENTS**
The presentation for this item is posted to the SVCE website.
Staff Report – Item 4

Item 4: SVCE Information Update on 2022 SVCE Board Elections

From: Girish Balachandran, CEO
Prepared by: Melody Vega, Interim Executive Assistant
Date: 12/8/2021

RECOMMENDATION
Staff recommends that the Board review the selection process and timeline for SVCE’s Chair, Vice Chair, and Committee members.

EXECUTIVE COMMITTEE RECOMMENDATION
The Executive Committee heard this item at the November 17, 2021 Executive Committee meeting and was supportive of the process and timeline.

BACKGROUND
At the October 24, 2018 meeting, the Board approved a timeline to appoint SVCE’s Chair, Vice Chair and Executive Committee members in January, with remaining committees assigned at the February Board of Directors meeting. SVCE’s Operating Rules and Regulations were then amended in November 2018 to reflect the timing of selections.

SVCE has been using a selection process for the positions of Chair, Vice Chair, and committees which includes the Board Clerk requesting letters of interest for the positions of Chair and Vice Chair prior to the board meeting to be included in the agenda packet, and requesting board members complete a committee matrix which indicates interest in either continuing their membership in a committee, dropping their membership in a committee, or joining a committee.

The roles of Chair, Vice Chair, and the Executive Committee are scheduled to be selected at the January 12, 2022 meeting, with remaining committee assignments made at the February 9, 2022 meeting.

ANALYSIS & DISCUSSION
Using a similar process followed in previous years, the Board Clerk will send information to the Board of Directors following the December 2020 board meeting with a call for letters of interest for the positions of Chair and Vice Chair; letters of interest received for these positions will be included in the January Board of Directors meeting agenda packet. Directors interested in serving on the Executive Committee will also be asked to notify the Board Clerk during this time and names will be included in the staff report for the January board meeting. Nominations will also be accepted from the floor for Chair, Vice Chair and Executive Committee membership.

Following the January board meeting, the Board Clerk will distribute a matrix to board members to indicate interest in SVCE’s other committees (Finance and Administration Committee, Audit Committee, and any additional committees formed by the Board between now and January). These spreadsheets will be collected prior to the February board meeting, and staff will include the names of interested directors for each
committee in the February board meeting staff report. Requests to join committees will be accepted from the floor.

**STRATEGIC PLAN**
Appointing SVCE’s representatives supports our mission and goals of the Strategic Plan.

**ALTERNATIVE**
Staff is open to suggestions from the committee on the process for Chair/Vice Chair and committee selections.

**FISCAL IMPACT**
There would be no fiscal impact as a result of making appointments.

**ATTACHMENTS**
1. 2022 Deadline Spreadsheet
2. Committee Matrix for 2022
2022 SVCE Board Elections Timeline

**December 8, 2021:** Staff presents item at the Board meeting outlining process for 2022 elections based on Executive Committee feedback

**December 10, 2021:** Board Secretary will send a request for letters/indications of interest for the Chair/Vice Chair positions as well as interest from members looking to serve on the Executive Committee for 2022

**January 3, 2022:** Letters of interest for Chair/Vice Chair and expression of interest for Executive Committee membership responses due to Board Clerk

**January 12, 2022:** Chair, Vice Chair, and Executive Committee selections made at the Board of Directors meeting

**January 14, 2022:** Board Secretary will distribute Committee Matrix worksheet to Directors to indicate interest in serving/continuing to serve on remaining committees

**January 28, 2022:** Committee Matrix worksheets due to Board Clerk

**February 9, 2022:** SVCE Committee assignments made at the Board of Directors meeting
### Executive Committee

The Executive Committee is a subset of the Board of Directors; they provide input and support to SVCE on operational and policy matters. The Executive Committee is made up of five Directors of the Board.

| Time: | 2:45 PM - 5 PM |
| Frequency: | Monthly, 4th Friday |
| Location: | Virtual |

<table>
<thead>
<tr>
<th>Current Roster</th>
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</thead>
<tbody>
<tr>
<td>Liz Gibbons (Chair)</td>
</tr>
<tr>
<td>George Tyson (Vice Chair)</td>
</tr>
<tr>
<td>Margaret Abe-Koga</td>
</tr>
<tr>
<td>Neysa Fligor</td>
</tr>
<tr>
<td>Javad Ellahie</td>
</tr>
</tbody>
</table>

Interest in serving for 2022

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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</table>

### Finance & Administration Committee

The Finance & Administration Committee consists of no fewer than three members and no greater than six members, and can be Board members, Alternate Board members, or a Board appointed Agency staff member. The Finance and Administration Committee works with SVCE staff on items related to financial and administrative issues that impact the agency.

| Time: | TBD |
| Frequency: | Quarterly & as needed |
| Location: | Virtual |

<table>
<thead>
<tr>
<th>Current Roster</th>
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<tbody>
<tr>
<td>Rob Rennie (Chair)</td>
</tr>
<tr>
<td>Bryan Mekechuk (Vice Chair)</td>
</tr>
<tr>
<td>Yvonne Martinez Beltran</td>
</tr>
<tr>
<td>Liz Gibbons</td>
</tr>
<tr>
<td>Larry Klein</td>
</tr>
</tbody>
</table>

Interest in serving for 2022

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

### Audit Committee

The Audit Committee consists of no fewer than three members and no greater than six members, and can be Board members, Alternate Board members, or a Board appointed Agency staff member. The Audit Committee works with SVCE staff on the initiation and receiving of the annual audit.

| Time: | TBD |
| Frequency: | Twice yearly & as needed |
| Location: | Virtual |

<table>
<thead>
<tr>
<th>Current Roster</th>
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</thead>
<tbody>
<tr>
<td>Hung Wei</td>
</tr>
<tr>
<td>Evelyn Chua</td>
</tr>
<tr>
<td>Bryan Mekechuk</td>
</tr>
<tr>
<td>Yvonne Martinez Beltran</td>
</tr>
</tbody>
</table>

Interest in serving for 2022

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>
Silicon Valley Clean Energy Board of Directors Meeting

December 8, 2021

Appendix A

Power Resource Contracts Executed by CEO
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware limited partnership ("Seller"), and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 27, 2021 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of June 20, 2017, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Agreement" has the meaning specified in the introductory paragraph hereof.

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

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

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

1.5 "Availability Standards" shall mean Availability Standards as defined in Section 40.9 of the Tariff or otherwise applicable to CAISO.

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

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

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

1.9 "CIRA Tool" means the CAISO Customer Interface for Resource Adequacy application, or its successor platform.

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

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

1.12 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.
1.13 “Contract Price” means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.

1.14 “Contract Quantity” means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in the table in Section 4.3 (as such amount may be adjusted pursuant to Section 4.4).

1.15 “Control Area” has the meaning set forth in the Tariff.

1.16 “CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022 and 19-06-026, 20-06-002, 20-06-028 and any other existing or subsequent decisions related to resource adequacy issued from time to time by the CPUC, as amended from time to time.

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

1.18 “Delivery Period” has the meaning specified in Section 4.1 hereof.

1.19 “Delivery Point” has the meaning specified in Section 4.2 hereof.

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

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

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

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

1.24 “Firm RA Product” has the meaning specified in the Section 3.3 hereof.

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

1.26 “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.

1.27 “Flexible RA Product” has the meaning specified in the Section 3.2 hereof.
1.28 "GADS" means the Generating Availability Data System or its successor.

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

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

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

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

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

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

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

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

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

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

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

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

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

1.42 "Non-Availability Charges" has the meaning set forth in the Tariff.
1.43 “Notification Deadline” means fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings for the applicable Showing Month.

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

1.45 “Parallel Contract” means that certain Master Power Purchase and Sale Agreement Confirmation Letter between Calpine Energy Services, L.P., as “Seller” and Silicon Valley Clean Energy Authority as “Buyer” dated as of the Confirmation Effective Date.

1.46 “Parallel Contract Quantity” means the amount of “Contract Quantity” specified in the Parallel Contract.

1.47 “Parallel Contract Reduction” has the meaning specified in Section 3.4 hereof.

1.48 “Party” and “Parties” have the meanings specified in the introductory paragraph hereof.

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

1.50 “Product” has the meaning specified in Article 3 hereof.

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

1.52 “RA Capacity Price” means the price specified in the RA Capacity Price Table in Section 4.9 hereof.

1.53 “RAR” or “Resource Adequacy Requirements” means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, by the CAISO under the Tariff, or by an LRA or other Governmental Body having jurisdiction.

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

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

1.56 “Replacement Capacity” has the meaning specified in Section 4.7 hereof.

1.57 “Replacement Unit” means a generating unit having the same capacity attributes as the Unit(s) originally identified in Article 2 hereof, including the same Resource Category, RAR Attributes, and, as applicable, LAR Attributes, FCR Attributes, and Flexible Capacity Category, and otherwise meeting the requirements specified in Section 4.5.
“Resource Category” shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Scheduling Coordinator” or “SC” has the meaning set forth in the Tariff.

“Seller” has the meaning specified in the introductory paragraph hereof.

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

“Subsequent Buyer” means the purchaser of Product from Buyer in a re-sale of Product by Buyer.

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

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

“Transaction” has the meaning specified in the introductory paragraph hereof.

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

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

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

Name: Riverview Energy Center (GP Antioch)
Location: Antioch, California
CAISO Resource ID: RVRVEW_1_UNITA1
Resource Type: Natural Gas
Resource Category (1, 2, 3 or 4): 4
Point of interconnection with the CAISO Controlled Grid ("Substation"): Fibreboard Substation
Path 26 (North, South or None): North
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: No
Run Hour Restrictions: No
LAR Attributes (Yes/No): Yes
   If yes: Local Capacity Area (as of Confirmation Effective Date): Greater Bay Area
Product Type (Flexible/Generic): Flexible
   If Generic: Unit NQC (as of the Confirmation Effective Date): N/A
   If Flexible: Unit EFC (as of the Confirmation Effective Date): 47.6
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): Base

3. RESOURCE ADEQUACY CAPACITY PRODUCT

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

3.1 RAR and LAR Attributes

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

3.2 Flexible RA Product

Seller shall provide Buyer with FCR Attributes from the Units in the amount of the applicable Contract Quantity.
3.3 ■ Firm RA Product

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

3.4 □ Contingent Firm RA Product

Seller shall provide Buyer with Product from the Units in the amount of the applicable Contract Quantity; provided, however, that if, and to the extent that, (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure or any reduction in Contract Quantity in accordance with Section 4.4, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Product from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity (x) for a reason other than a Force Majeure, Planned Outage in accordance with Section 4.4(a), or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof. Additionally, if there is a reduction in or any failure to deliver any portion of the Parallel Contract Quantity for any reason (the quantity so reduced or not delivered is the “Parallel Contract Reduction”), then Seller may elect to reduce the Contract Quantity for the same Showing Month in an amount equal to the Parallel Contract Reduction by providing notice to Buyer no later than three (3) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable.

4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be ___________________________ inclusive. For the avoidance of doubt, nothing in this Agreement shall obligate Seller to provide any RA Capacity to Buyer for any period after the end of the Delivery Period.

4.2 Delivery Point

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

4.3 Contract Quantity

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

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

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

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

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

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

(d) **UCAP:** If during the Delivery Period the CAISO or the CPUC either replaces Unit NQC as the value utilized to measure the qualifying capacity of a Unit with a successor value such as unforced capacity (UCAP) or utilizes such successor value as a supplemental means of measuring the qualifying capacity of a Unit together with Unit NQC, then the Parties shall negotiate an amendment to this Confirmation so that from and after such replacement, Seller shall convey to Buyer an amount of qualifying capacity of such Unit, to be determined by Seller, of (i) no less than the amount obtained by calculating the Buyer’s share of such qualifying capacity on a pro rata basis but (ii) no more than the Contract Quantity. Seller’s pro-rata delivery obligation pursuant to clause (i) above will be obtained by calculating the product of (A) the Contract Quantity divided by the Unit NQC, multiplied by (B) the Unit’s overall qualifying capacity (in MW) as measured by such new method of measuring a Unit’s qualifying capacity).

(e) **Parallel Contract Reduction.** If there is a reduction in or any failure to deliver any portion of the Parallel Contract Quantity for any reason, then Seller may elect to reduce the Contract Quantity in an amount equal to the Parallel Contract Reduction by providing notice to Buyer no later than three (3) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable.

## 4.5 Alternate Capacity and Replacement Units

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

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if (i) the failure to deliver the full Contract Quantity is due to a reduction in Contract Quantity in accordance with Section 4.4, Force Majeure or any Parallel Contract Reduction and (ii) Seller has notified Buyer of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month, (A) with respect to a reduction in Contract Quantity in accordance with Section 4.4 or Force Majeure, no later than the Notification Deadline, or (B) with respect to any Parallel Contract Reduction, no later than three (3) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable.

## 4.6 Delivery of Product

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

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

Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than the Notification Deadline, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Unit by CAISO or Seller complies with Buyer’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Buyer has elected to submit the Product from the Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool due solely to a Seller error, and are rejected by CAISO, or (ii) Seller fails to submit the volume of Designated RA Capacity for any Showing Month pursuant to this Confirmation. Notwithstanding anything to the contrary in this Section 4.6(c), Buyer will have received the Contract Quantity if (x) Seller’s Supply Plan is accepted by the CAISO for the applicable Showing Month, (y) Seller correctly submits the Supply Plan and the Supply Plan and/or Resource Adequacy Plan are not matched in the CIRA Tool due solely to a Buyer error or (z) Seller complies with Buyer’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Contract Quantity if Buyer fails or chooses not to submit the Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

4.7 Damages for Failure to Provide Designated RA Capacity

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

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

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

4.8 Indemnities for Failure to Deliver Contract Quantity

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

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

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

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

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

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

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000; provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places). Notwithstanding anything to the contrary in the Master Agreement, the Monthly RA Capacity Payment due hereunder shall be netted and offset against the “Monthly RA Capacity Payment” due under the Parallel Contract, and the Party owing the resulting positive amount shall pay that amount to the other Party in accordance with the Master Agreement.

RA CAPACITY PRICE TABLE

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<thead>
<tr>
<th>Contract Year/Month</th>
<th>RA Capacity Price ($/kW-month)</th>
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4.10 Allocation of Other Payments and Costs

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

5. CAISO OFFER REQUIREMENTS

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

7. OTHER BUYER AND SELLER COVENANTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose information regarding this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction as necessary to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose information regarding this Transaction to the SC of each Unit as necessary for such SC to timely submit accurate Supply Plans. Buyer may disclose information related to this Transaction to a Subsequent Buyer.

9. BUYER’S RE-SALE OF PRODUCT

(a) Buyer may re-sell all or a portion of the Contract Quantity of Product hereunder. Seller will, or will cause the Unit’s SC, to follow Buyer’s instructions with respect to providing such resold Product to Subsequent Buyers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Buyers to use such resold Product in a manner consistent with Buyer’s rights under this Confirmation. If Buyer incurs any liability to a Subsequent Buyer due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Buyer for the same amounts Seller would have owed Buyer under this Confirmation if Buyer had not resold the Product.

(b) Buyer will notify Seller in writing of any resale of Product and the Subsequent Buyer no later than two Business Days before the Notification Deadline for the Showing Month.
Buyer will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights 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. Seller agrees to take all commercially reasonable actions to assist Buyer with such re-sale, provided that Seller’s obligation to assist shall not require modification of any of the commercial terms of this Confirmation.

10. MARKET BASED RATE AUTHORITY

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

11. COLLATERAL REQUIREMENTS

Notwithstanding anything herein or in the Master Agreement to the contrary, Performance Assurance shall not be required from either Party in connection with this Transaction.

[SIGNATURE PAGE FOLLOWS]
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: ____________________________
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: Giri Balachandran
Name: ____________________________
Title: CEO
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware limited partnership ("Buyer"), and Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller"), each individually a "Party" and together the "Parties", dated as of October 27, 2021 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of June 20, 2017, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Agreement" has the meaning specified in the introductory paragraph hereof.

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

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

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

1.5 "Availability Standards" shall mean Availability Standards as defined in Section 40.9 of the Tariff or otherwise applicable to CAISO.

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

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

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

1.9 "CIRA Tool" means the CAISO Customer Interface for Resource Adequacy application, or its successor platform.

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

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

1.12 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.
“Contract Price” means, for any Monthly Delivery Period, the price specified under the RA Capacity
Price Table in Section 4.9.

“Contract Quantity” means, with respect to any particular Showing Month of the Delivery Period,
the amount of Product (in MWs) set forth in the table in Section 4.3 (as such amount may be
adjusted pursuant to Section 4.4).

“Control Area” has the meaning set forth in the Tariff.

“CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-
031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050,
15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022 and 19-06-026, 20-06-002,
20-06-028 and any other existing or subsequent decisions related to resource adequacy issued
from time to time by the CPUC, as amended from time to time.

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

“Delivery Period” has the meaning specified in Section 4.1 hereof.

“Delivery Point” has the meaning specified in Section 4.2 hereof.

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

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

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

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

“Firm RA Product” has the meaning specified in the Section 3.3 hereof.

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

“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.

“Flexible RA Product” has the meaning specified in the Section 3.2 hereof.
1.28 “GADS” means the Generating Availability Data System or its successor.

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

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

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

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

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

1.34 “LRA” has the meaning set forth in the Tariff.

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

1.36 “Master Agreement” has the meaning specified in the introductory paragraph hereof.

1.37 “Monthly Delivery Period” means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.38 “Monthly RA Capacity Payment“ has the meaning specified in Section 4.9 hereof.

1.39 “NERC” means the North American Electric Reliability Council, or its successor.

1.40 “NERC/GADS Protocols” means the GADS protocols established by NERC, as may be updated from time to time.

1.41 “Net Qualifying Capacity” has the meaning set forth in the Tariff.

1.42 “Non-Availability Charges” has the meaning set forth in the Tariff.
1.43 "Notification Deadline" means fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings for the applicable Showing Month.

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

1.45 "Parallel Contract" means that certain Master Power Purchase and Sale Agreement Confirmation Letter between Calpine Energy Services, L.P., as "Seller" and Silicon Valley Clean Energy Authority as "Buyer" dated as of the Confirmation Effective Date.

1.46 "Parallel Contract Quantity" means the amount of "Contract Quantity" specified in the Parallel Contract.

1.47 "Parallel Contract Reduction" has the meaning specified in Section 3.4 hereof.

1.48 "Party" and "Parties" have the meanings specified in the introductory paragraph hereof.

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

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

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

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

1.53 "RAR" or "Resource Adequacy Requirements" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, by the CAISO under the Tariff, or by an LRA or other Governmental Body having jurisdiction.

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

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

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

1.57 "Replacement Unit" means a generating unit having the same capacity attributes as the Unit(s) originally identified in Article 2 hereof, including the same Resource Category, RAR Attributes, and, as applicable, LAR Attributes, FCR Attributes, and Flexible Capacity Category, and otherwise meeting the requirements specified in Section 4.5.
“Resource Category” shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Scheduling Coordinator” or “SC” has the meaning set forth in the Tariff.

“Seller” has the meaning specified in the introductory paragraph hereof.

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

“Subsequent Buyer” means the purchaser of Product from Buyer in a re-sale of Product by Buyer.

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

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

“Transaction” has the meaning specified in the introductory paragraph hereof.

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

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

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

Name: REDONDO GEN STA. UNIT 8
Location: Redondo Beach, CA
CAISO Resource ID: REDONDO_7_UNIT 8
Resource Type: Natural Gas Steam
Resource Category (1, 2, 3 or 4): 4
Path 26 (North, South or None): South
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: N/A
Run Hour Restrictions: N/A
LAR Attributes (Yes/No): No
   If yes: Local Capacity Area (as of Confirmation Effective Date): N/A
Product Type (Flexible/Generic): Generic w/ Flex
   If Generic: Unit NQC (as of the Confirmation Effective Date): 480
   If Flexible: Unit EFC (as of the Confirmation Effective Date): 350
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): Base

3. RESOURCE ADEQUACY CAPACITY PRODUCT

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

3.1 RAR and LAR Attributes

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

3.2 Flexible RA Product

Seller shall provide Buyer with FCR Attributes from the Units in the amount of the applicable Contract Quantity.
3.3 **Firm RA Product**

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

3.4 **Contingent Firm RA Product**

Seller shall provide Buyer with Product from the Units in the amount of the applicable Contract Quantity; provided, however, that if, and to the extent that, (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure or any reduction in Contract Quantity in accordance with Section 4.4, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Product from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for a reason other than a Force Majeure, Planned Outage in accordance with Section 4.4(a), or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof. Additionally, if there is a reduction in or any failure to deliver any portion of the Parallel Contract Quantity for any reason (the quantity so reduced or not delivered is the “Parallel Contract Reduction”), then Seller may elect to reduce the Contract Quantity for the same Showing Month in an amount equal to the Parallel Contract Reduction by providing notice to Buyer no later than three (3) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable.

4. DELIVERY AND PAYMENT

4.1 **Delivery Period**

The Delivery Period shall be [omitted] inclusive. For the avoidance of doubt, nothing in this Agreement shall obligate Seller to provide any RA Capacity to Buyer for any period after the end of the Delivery Period.

4.2 **Delivery Point**

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

4.3 **Contract Quantity**

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

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

O:\Confirms\RA & LAR Deals\Silicon Valley Clean Energy Authority\3030384_SWAP_Phys Capacity_SVCE_10.27.2021.docx
4.4 Adjustments to Contract Quantity

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

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

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

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

(d) UCAP: If during the Delivery Period the CAISO or the CPUC either replaces Unit NQC as the value utilized to measure the qualifying capacity of a Unit with a successor value such as unforced capacity (UCAP) or utilizes such successor value as a supplemental means of measuring the qualifying capacity of a Unit together with Unit NQC, then the Parties shall negotiate an amendment to this Confirmation so that from and after such replacement, Seller shall convey to Buyer an amount of qualifying capacity of such Unit, to be determined by Seller, of (i) no less than the amount obtained by calculating the Buyer’s share of such qualifying capacity on a pro rata basis but (ii) no more than the Contract Quantity. Seller’s pro-rata delivery obligation pursuant to clause (i) above will be obtained by calculating the product of (A) the Contract Quantity divided by the Unit NQC, multiplied by (B) the Unit’s overall qualifying capacity (in MW) as measured by such new method of measuring a Unit’s qualifying capacity).

(e) Parallel Contract Reduction. If there is a reduction in or any failure to deliver any portion of the Parallel Contract Quantity for any reason, then Seller may elect to reduce the Contract Quantity in an amount equal to the Parallel Contract Reduction by providing notice to Buyer no later than three (3) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable.

4.5 Alternate Capacity and Replacement Units

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

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if (i) the failure to deliver the full Contract Quantity is due to a reduction in Contract Quantity in accordance with Section 4.4, Force Majeure or any Parallel Contract Reduction and (ii) Seller has notified Buyer of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month, (A) with respect to a reduction in Contract Quantity in accordance with Section 4.4 or Force Majeure, no later than the Notification Deadline, or (B) with respect to any Parallel Contract Reduction, no later than three (3) Business Days before that Showing Month’s relevant deadlines for Buyer’s RAR Showings, LAR Showings, and/or FCR Showings, as applicable.

4.6 Delivery of Product

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

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

Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than the Notification Deadline, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Unit by CAISO or Seller complies with Buyer’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Buyer has elected to submit the Product from the Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool due solely to a Seller error, and are rejected by CAISO, or (ii) Seller fails to submit the volume of Designated RA Capacity for any Showing Month pursuant to this Confirmation. Notwithstanding anything to the contrary in this Section 4.6(c), Buyer will have received the Contract Quantity if (x) Seller’s Supply Plan is accepted by the CAISO for the applicable Showing Month, (y) Seller correctly submits the Supply Plan and the Supply Plan and/or Resource Adequacy Plan are not matched in the CIRA Tool due solely to a Buyer error or (z) Seller complies with Buyer’s instruction to withhold all or part of the Contract Quantity from Seller’s Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Contract Quantity if Buyer fails or chooses not to submit the Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

4.7 Damages for Failure to Provide Designated RA Capacity

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

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

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

4.8 **Indemnities for Failure to Deliver Contract Quantity**

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

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

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

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

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

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

4.9 **Monthly RA Capacity Payment**

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000; provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places). Notwithstanding anything to the contrary in the Master Agreement, the Monthly RA Capacity Payment due hereunder shall be netted and offset against the “Monthly RA Capacity Payment” due under the Parallel Contract, and the Party owing the resulting positive amount shall pay that amount to the other Party in accordance with the Master Agreement.
4.10 Allocation of Other Payments and Costs

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

5. CAISO OFFER REQUIREMENTS

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

7. OTHER BUYER AND SELLER COVENANTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose information regarding this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction as necessary to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose information regarding this Transaction to the SC of each Unit as necessary for such SC to timely submit accurate Supply Plans. Buyer may disclose information related to this Transaction to a Subsequent Buyer.

9. BUYER’S RE-SALE OF PRODUCT

(a) Buyer may re-sell all or a portion of the Contract Quantity of Product hereunder. Seller will, or will cause the Unit’s SC, to follow Buyer’s instructions with respect to providing such resold Product to Subsequent Buyers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Buyers to use such resold Product in a manner consistent with Buyer’s rights under this Confirmation. If Buyer incurs any liability to a Subsequent Buyer due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Buyer for the same amounts Seller would have owed Buyer under this Confirmation if Buyer had not resold the Product.

(b) Buyer will notify Seller in writing of any resale of Product and the Subsequent Buyer no later than two Business Days before the Notification Deadline for the Showing Month.
Buyer will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights 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. Seller agrees to take all commercially reasonable actions to assist Buyer with such re-sale, provided that Seller’s obligation to assist shall not require modification of any of the commercial terms of this Confirmation.

10. MARKET BASED RATE AUTHORITY

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

11. COLLATERAL REQUIREMENTS

Notwithstanding anything herein or in the Master Agreement to the contrary, Performance Assurance shall not be required from either Party in connection with this Transaction.

[SIGNATURE PAGE FOLLOWS]
ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: __________________________
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: __________________________
Name: Girish Balachandran
Title: CEO

Calpine Deal: 3030384
SVCE Sale to CES
FIRST AMENDMENT TO
WSPP RESOURCE ADEQUACY CONFIRMATION

THIS FIRST AMENDMENT TO WSPP RESOURCE ADEQUACY CONFIRMATION (“Amendment”) is executed and delivered this 25th day of October, 2021 (“Effective Date”), by and between Resi Station, LLC, a Delaware limited liability company (“Seller”), and Silicon Valley Clean Energy, a California joint powers authority (“Purchaser”). The Seller and Purchaser may be referred to hereinafter individually as “Party” or collectively as “Parties.” This Amendment is being provided pursuant to and in accordance with the terms and provisions of the WSPP Agreement dated January 25, 2020 (the “WSPP Agreement”).

RECITALS

WHEREAS, OhmConnect, Inc. and Purchaser entered into that certain WSPP Resource Adequacy Confirmation dated October 28, 2020 (the “Agreement”);

WHEREAS, OhmConnect, Inc., Seller and Purchaser mutually agreed to the assignment of the Agreement from OhmConnect, Inc. to Seller by way of that certain Assignment and Assumption Agreement dated February 1, 2021 (the “Assignment and Assumption Agreement”);

WHEREAS, the Parties now intend to amend the Agreement by updating the Capacity Area in Appendix B-2-1 to the Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

AGREEMENT

1. Amendments

   (a) Appendix B-2-1 and Appendix B-1-2 to the Agreement are deleted in their entirety and replaced with the attached Appendix B to this Amendment.

2. General

   (a) Defined Terms. Capitalized terms used and not defined in this Amendment shall have the same meanings ascribed to them in the Agreement.

   (b) Reservation of Rights. Each of the Parties expressly reserves all of its respective rights and remedies under the Agreement.

   (c) Effect of Amendment. Except as expressly set forth in this Amendment, all terms and conditions of the Agreement remain unchanged, are in full force and effect, and remain binding upon the Parties. If there is a conflict between the terms and conditions set forth in this Amendment and the terms and conditions set forth in the Agreement, the terms set forth in this Amendment shall control.
(d) **Governing Law.** Notwithstanding Section 24 of the WSPP Agreement, this Amendment 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.

(e) **Successors and Assigns.** This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

(f) **Authorized Signatures; Notices.** Each Party represents and warrants that the person who signs below on behalf of that Party has authority to execute this Amendment on behalf of such Party and to bind such Party to this Amendment. Any written notice required to be given under the terms of this Amendment shall be given in accordance with the terms of the Agreement.

(g) **Counterparts.** This Amendment may be signed in any number of counterparts with the same effect as if the signatures were upon a single instrument. The Parties may rely on electronic or scanned signatures as originals under this Amendment. Delivery of an executed signature page of this Amendment by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

(h) **Entire Agreement.** This Amendment constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communication or prior writings related thereto.

(i) **No Other Modification.** Except as modified and amended herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

[Signature Page Follows]
IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by its respective duly authorized officers or authorized representatives as of the day and year first above written.

Resi Station, LLC

By: [Signature]
Name: Matt Duesterberg
Title: Authorized Signatory

Silicon Valley Clean Energy

By: [Signature]
Name: Girish Balachandran
Title: CEO
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: Greater Bay Area
Resource Category (MCC Bucket): DR
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

Delivery period: ____________________________ inclusive

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

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<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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<th>Portfolio Specific Information</th>
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<td>Minimum Portfolio NQC by month</td>
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<td>Portfolio EFC by month</td>
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<td>Resource Type (e.g., gas, hydro, solar, etc.)</td>
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<tr>
<td>Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)</td>
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<tr>
<td>TAC Area (e.g., PG&amp;E, SCE)</td>
</tr>
<tr>
<td>Prorated Percentage of Unit Factor</td>
</tr>
<tr>
<td>Prorated Percentage of Unit Flexible Factor</td>
</tr>
<tr>
<td>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</td>
</tr>
<tr>
<td>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)</td>
</tr>
</tbody>
</table>

*(Repeat for additional Units)*

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]
Joint CCA WSPP Standard RA Confirmation

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and Peninsula Clean Energy Authority, a California joint powers authority ("Purchaser"), and each individually a “Party” and together the “Parties”, dated as of October 28, 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, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity, including a request for Hold-Back Capacity pursuant to Article Five of this Confirmation.

(d) Seller shall 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. 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 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
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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) Hold-Back Capacity, if any, is deemed Contract Quantity delivered, unless utilized under Article Five as Substitute Capacity, then Contract Quantity is delivered according to the timeline requirements therein.

(h) 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 380.1

2.2 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

2.3 Seller’s Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a 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

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
one or more replacement units having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including 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 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 proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month;

(b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;

(c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser’s Compliance Showings;

(d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and

(e) 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.
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2.5 Purchaser’s Remedies for Seller’s Failure to Deliver Expected Contract Quantity

(a) If Seller fails to deliver any part of the Expected Contract Quantity as required herein for any Showing Month, Seller shall be liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word “hourly” therein.

(b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, including Environmental Costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser’s Re-Sale of Product

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.
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(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-sell 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-sell.

(d) Purchaser shall have the exclusive right to direct the Seller or the Unit’s SC to offer, bid, or otherwise submit the Expected Contract Quantity into the CAISO Competitive Solicitation Process (CSP) for CPM Capacity. Seller and the Unit’s SC shall comply with the Purchaser’s direction and, to the extent that the CAISO designates the Expected Contract Quantity as CPM Capacity, Purchaser shall be entitled to retain and receive the CPM Capacity Payment. Unless otherwise instructed by Purchaser, (i) Seller shall not, and shall cause the Unit’s SC to not, offer any portion of the Expected Contract Quantity to CAISO as CPM Capacity and (ii) if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall, and shall cause the Unit’s SC to, promptly (and in any event within one (1) Business Day of the time Seller receives notification from CAISO) notify Purchaser of such designation, and if CAISO makes such a designation, Seller shall not, and shall cause the Unit’s SC to not, accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller
may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to
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demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

4.4 Market Based Rate Authority

Upon Purchaser’s written request, Seller shall, in accordance with FERC Order No. 697, submit a letter of concurrence in support of any affirmative statement by Purchaser that this contractual arrangement does not transfer “ownership or control of generation capacity” from Seller to Purchaser as the term “ownership or control of generation capacity” is used in 18 CFR Section 35.42. Seller shall not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Purchaser.
ARTICLE 5
HOLD-BACK 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 Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”

6.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement:

(a) (i) Purchaser may disclose information as necessary in order to support its
Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose as necessary to a Shown Unit’s SC or as necessary for Supply Plans; (iii) each Party may disclose information as necessary to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information as necessary to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser.

(b) Seller acknowledges that Purchaser is a public agency subject to the requirements of the California Public Records Act (Cal. Gov. Code section 6250 et seq.) and that Purchaser may be required to make public this Confirmation (which may be partially redacted by Purchaser) in connection with the process of seeking approval from its board of directors for the execution of this Confirmation. Seller may submit information to Purchaser that Seller considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Seller acknowledges that Purchaser may submit to Seller information that Purchaser considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Confirmation (“Requestor”) pursuant to the California Public Records Act for production, inspection and/or copying of this Confirmation or any information designated by a disclosing Party as confidential, the receiving Party as soon as practical shall notify the disclosing Party that such request has been made, by telephone call, letter sent via electronic mail, and/or by overnight carrier to the address, or email address listed at the end of this Confirmation. The disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be confidential information and to prevent release of information to the Requestor by the receiving Party. If the disclosing Party takes no such action within ten (10) days, after receiving the foregoing notice from the receiving Party, the receiving Party shall be permitted to comply with the Requestor’s demand and is not required to defend against it. Notwithstanding the foregoing, Purchaser may release confidential information without notice to or over the objection of Seller if Purchaser’s legal counsel advises Purchaser that Purchaser is required by law to release such confidential information.

6.3 **Dodd-Frank Act**

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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.

6.7 No Recourse to Members of Seller or Purchaser

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

6.8 Other WSPP Agreement Changes

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be

2 For EBCE, 3CE, PCE, and SVCE only.
required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

(b) 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.”

(c) 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.

(d) 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.”

(e) In Section 22.3(e), delete the entire provision (including subsections) and replace it with the following: “[Intentionally omitted]”

(f) 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.”
Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

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”.

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.”

The phrase “arbitration or” is deleted from the first line of Section 34.4.

The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN
ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(l) Section 37 is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.

(m) 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.”
6.9 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, 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.

6.10 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

Peninsula Clean Energy Authority

By: Janis Pepper 
Name: Janis Pepper 
Title: CEO 

Silicon Valley Clean Energy Authority

By: Girish Balachandran 
Name: Girish Balachandran 
Title: CEO 

16
APPENDIX A
DEFINED TERMS

“Alternate Capacity” means replacement Product which Seller has elected to provide to Purchaser in accordance with the terms of Section 2.3.

“CAISO” means the California ISO or the successor organization to the functions thereof.

“Capacity Attributes” means attributes of the Shown Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Shown Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Shown Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Contingent Firm RA Product” has the meaning set forth in Article 1 herein.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“CPUC Filing Guide” is the document issued annually by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the CPUC’s resource adequacy program.

“Effective Flexible Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Environmental Costs” means (i) costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, (ii) the Product’s compliance with all applicable environmental laws, rules, and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, (iii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iv) costs of permit maintenance fees and emission fees as applicable, (v) the costs of all emission reductions that have been authorized by a local air pollution control district or emissions trading credits or units pursuant to the California Health & Safety Code, market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, authorizations to emit sulfur dioxide and oxides of nitrogen by the Environmental Protection Agency, and any costs related to greenhouse gas emissions required by any applicable
environmental laws, rules, regulations, or permits to operate, and (vi) costs associated with the disposal, clean-up, decontamination or remediation, on or off site, of hazardous substances.

“Expected Contract Quantity” means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“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.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.
“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

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

“Product” means RAR Attributes, Local RAR Attributes and FCR Attributes, each for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric power industry during the relevant time period in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the electric power industry in the Western United States.

“RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s RAR.

“Replacement Unit” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

“Resource Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.
“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan. “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. A Unit or Shown Unit may not be a coal-fired generating facility.

“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.
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): 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): 1

Delivery period: ______ inclusive.

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

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<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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Flexible Capacity, if applicable

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<th>Contract Quantity (MW)</th>
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## Unit 1

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<tr>
<td><strong>Resource Name</strong></td>
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<tr>
<td>Physical Location</td>
<td>Moss Landing, CA</td>
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<tr>
<td>CAISO Resource ID</td>
<td>MOSSLD_2_PSP1</td>
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<tr>
<td>SCID of Resource</td>
<td>DYN1</td>
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<tr>
<td>Unit NQC by month (e.g., Jan=50,Feb=65):</td>
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<td>Unit EFC by month (e.g., Jan=30, Feb=50)</td>
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<tr>
<td>Prorated Percentage of Unit Flexible Factor</td>
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<td>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</td>
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<td>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)</td>
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*(Repeat for additional Units)*

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]
## APPENDIX C

### NOTICE INFORMATION

<table>
<thead>
<tr>
<th>Seller: Peninsula Clean Energy Authority</th>
<th>Purchaser: Silicon Valley Clean Energy Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>All Notices:</strong></td>
<td><strong>All Notices:</strong></td>
</tr>
<tr>
<td>Attn: Director of Power Resources</td>
<td>Attn: Girish Balachandran, CEO</td>
</tr>
<tr>
<td>Phone: 650-260-0005</td>
<td>Phone: 408 721-5301</td>
</tr>
<tr>
<td>Email: <a href="mailto:contracts@peninsulacleanenergy.com">contracts@peninsulacleanenergy.com</a></td>
<td>Facsimile: N/A</td>
</tr>
<tr>
<td>Duns: 080262114</td>
<td>Duns: 08-046-2990</td>
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<tr>
<td>Attn: Director of Finance</td>
<td>Attn: SVCE Power Settlements</td>
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<td>Phone: 408 721-5301</td>
</tr>
<tr>
<td>Phone: (650) 260-0005</td>
<td>Facsimile:</td>
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<tr>
<td>Attn: Power Resource Manager</td>
<td>E-mail: <a href="mailto:invoices@svcleanenergy.org">invoices@svcleanenergy.org</a></td>
</tr>
<tr>
<td>Email: <a href="mailto:schen@peninsulacleanenergy.com">schen@peninsulacleanenergy.com</a></td>
<td></td>
</tr>
<tr>
<td>Phone: (650) 474-5139</td>
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<tr>
<td>Attn: Director of Power Resources</td>
<td>Attn: Z-Global Jamil Labban &amp; Nicole Ramos</td>
</tr>
<tr>
<td>Email: <a href="mailto:contracts@peninsulacleanenergy.com">contracts@peninsulacleanenergy.com</a></td>
<td>Phone: (916) 221-4064 &amp; (916) 235-9193</td>
</tr>
<tr>
<td>Phone: (650) 260-0005</td>
<td>E-mail: <a href="mailto:jlabban@zglobal.biz">jlabban@zglobal.biz</a>; <a href="mailto:nramos@zglobal.biz">nramos@zglobal.biz</a></td>
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<tr>
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</tr>
<tr>
<td>Email: <a href="mailto:schen@peninsulacleanenergy.com">schen@peninsulacleanenergy.com</a></td>
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<tr>
<td>Phone: (650) 474-5139</td>
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<th>Credit and Collections:</th>
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<td>Attn: SVCE Power Settlements</td>
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<td>Phone: 408 721-5301</td>
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<tr>
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<td>Facsimile: N/A</td>
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<tr>
<td>E-mail: <a href="mailto:invoices@svcleanenergy.org">invoices@svcleanenergy.org</a></td>
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<table>
<thead>
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<tbody>
<tr>
<td>Attn: Janis Pepper, CEO</td>
<td>Attn: Girish Balachandran, CEO</td>
</tr>
<tr>
<td>Phone: (650) 260-0100</td>
<td>Phone: 408 721-5301</td>
</tr>
<tr>
<td>Email: <a href="mailto:jpepper@peninsulacleanenergy.com">jpepper@peninsulacleanenergy.com</a></td>
<td>Facsimile: N/A</td>
</tr>
<tr>
<td>Address: 2075 Woodside Road, Redwood City, CA 94061</td>
<td>E-mail: <a href="mailto:girish@svcleanenergy.org">girish@svcleanenergy.org</a></td>
</tr>
<tr>
<td></td>
<td>Attn: Steve Hall</td>
</tr>
<tr>
<td>(email) <a href="mailto:steve@hallenergylaw.com">steve@hallenergylaw.com</a></td>
<td></td>
</tr>
<tr>
<td>Supply Plan Contact: Sally Chen</td>
<td>Supply Plan Contact: Chailes Giinstead</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>E-mail: <a href="mailto:schen@peninsulacleanenergy.com">schen@peninsulacleanenergy.com</a></td>
<td>E-mail: <a href="mailto:chailes.giinstead@svcleanenergy.org">chailes.giinstead@svcleanenergy.org</a></td>
</tr>
<tr>
<td>Phone: 650.474.5139</td>
<td>Phone: 626.267.2444</td>
</tr>
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## APPENDIX D
### PLANNED OUTAGE SCHEDULE

<table>
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<tr>
<th>Unit Name</th>
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WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Clean Power Alliance of Southern California, a California joint powers authority (“Seller”) and Silicon Valley Clean Energy Authority, a California joint powers authority (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of October 13, 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, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall 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. 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 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 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

(c) Seller’s obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller’s option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the “Swap Reduction Option”); provided, however, that (i) Seller’s obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than two (2) Business Days before the initial Compliance Showing deadline for such Showing Month. Seller’s rights under the Swap Reduction Option are cumulative and in addition to Seller’s rights under the Swap Confirmation.

2.3 Seller’s Option To Provide Alternate Capacity
If Seller is unable to provide the full Contract Quantity for a 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 having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including 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 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 proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month;

(b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;

(c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser’s Compliance Showings;

(d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and

(e) 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, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser’s Re-Sale of Product

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall
notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:
(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 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.

6.3 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.

6.4 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.

6.5 No Recourse to Members

The Parties are each 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 each a
public entity separate from their constituent members. Each Party will solely be responsible for
all of such Party’s debts, obligations and liabilities accruing and arising out of this Confirmation.
Each Party agrees that it shall have no rights and shall not make any claims, take any actions or
assert any remedies against any of the other Party’s constituent members, or the officers, directors,
advisors, contractors, consultants or employees of the other Party or the other Party’s constituent
members, in connection with this Confirmation.

6.6 Other WSPP Agreement Changes

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising
hereunder, is disputed, payment of the undisputed portion of the invoice shall be
required to be made when due, with notice of the objection given to the other Party.
Any invoice dispute or invoice adjustment shall be in writing and shall state the
basis for the dispute or adjustment. Payment of the disputed amount shall not be
required until the dispute is resolved. Upon resolution of the dispute, any required
payment shall be made within two (2) Business Days of such resolution along with
interest accrued at the Interest Rate from and including the due date to but excluding
the date paid. Inadvertent overpayments shall be returned upon request or deducted
by the Party receiving such overpayment from subsequent payments, with interest
accrued at the Interest Rate from and including the date of such overpayment to but
excluding the date repaid or deducted by the Party receiving such overpayment.
Any dispute with respect to an invoice is waived unless the other Party is notified
in writing within twelve (12) months after the invoice is rendered or any specific
adjustment to the invoice is made. If an invoice is not rendered within twelve (12)
months after the close of the month during which performance of a Transaction
occurred, the right to payment for such performance is waived.”

(b) 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.”

(c) Section 22.2(a) is deleted in its entirety replaced with the following:

“If an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”

(d) 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.

(e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):

“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 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.”

(f) 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.”
(g) In Section 22.3(e) is deleted in its entirety and replaced with the following: “[Intentionally omitted]”

(h) Section 22.3(f) is deleted in its entirety and replaced 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.”

(i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(j) 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”.

(k) 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.”
(l) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(m) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(n) Section 37 is amended by inserting the following in the beginning of the section:

“On the date of entering into this Confirmation,”.

(o) 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.

(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.”

6.7 **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, 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.

6.8 **Entire Agreement; No Oral Agreements or Modifications**

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: __________________________
Name: Ted Bardacke           
Title: Executive Director

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: __________________________
Name: Girish Balachandran     
Title: CEO
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.

“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.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“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.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) 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” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“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”.

“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 60 MW of Product (as defined under such confirmation) from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“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 coal-fired generating facility.

“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.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☐ RAR  ☒ Local RAR  ☒ Flexible Capacity

and all Capacity Attributes related to such Product.

Delivery period:

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

<table>
<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Flexible Capacity Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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<tr>
<td></td>
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### Unit 1

<table>
<thead>
<tr>
<th><strong>Unit Specific Information</strong></th>
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<tr>
<td><strong>Resource Name</strong></td>
<td>Moss Landing</td>
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<tr>
<td><strong>Physical Location</strong></td>
<td>Moss Landing, CA</td>
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<tr>
<td><strong>CAISO Resource ID</strong></td>
<td>MOSSLD_2_PSP1</td>
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<tr>
<td><strong>SCID of Resource</strong></td>
<td>DYN1</td>
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<tr>
<td><strong>Unit NQC by month (e.g., Jan=50, Feb=65):</strong></td>
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<td><strong>Unit EFC by month (e.g., Jan=30, Feb=50):</strong></td>
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<tr>
<td><strong>Resource Type (e.g., gas, hydro, solar, etc.):</strong></td>
<td>Combined Cycle</td>
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<tr>
<td><strong>Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3):</strong></td>
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<td><strong>TAC Area (e.g., PG&amp;E, SCE):</strong></td>
<td>PG&amp;E</td>
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<tr>
<td><strong>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt):</strong></td>
<td>Bay Area</td>
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<tr>
<td><strong>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4):</strong></td>
<td>4</td>
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## APPENDIX C
### NOTICE INFORMATION

<table>
<thead>
<tr>
<th>Seller: Clean Power Alliance of Southern California</th>
<th>Purchaser: Silicon Valley Clean Energy Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Notices:</td>
<td>All Notices:</td>
</tr>
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</table>
## APPENDIX D
### PLANNED OUTAGE SCHEDULE

<table>
<thead>
<tr>
<th>Unit Name</th>
<th>CAISO Resource ID *</th>
<th>Outage (MW)</th>
<th>SLIC Outage Start Date</th>
<th>SLIC Outage End Date</th>
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<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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</tbody>
</table>
WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority (“Seller”) and Clean Power Alliance of Southern California, a California joint powers authority (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of October 13, 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, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall 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. 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 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  Reductions in Contract Quantity

(a)  If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the
Contract Quantity for each Showing Month may be reduced at Seller’s option by
the amount of any Planned Outages which exist with respect to any portion of the
Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser
by the Notification Deadline applicable to that Showing Month of the amount of
Product from the Unit that Purchaser may include in Purchaser’s Compliance
Showings applicable to that month as a result of such Planned Outage, and (ii) such
reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b)  In the event Seller is unable to provide the Contract Quantity for any portion of a
Showing Month because of a Planned Outage of a Unit, Seller has the option, but
not the obligation, to provide Product for such portions of such Showing Month
from Replacement Units, provided Seller provides and identifies such Replacement
Units in accordance with Section 2.3.

(c)  Seller’s obligation to deliver the Contract Quantity for each day of each Showing
Month may be reduced at Seller’s option in the event Purchaser fails to deliver, for
any reason, the contract quantity of product set forth in Appendix B of the Swap
Confirmation (such option, the “Swap Reduction Option”); provided, however, that
(i) Seller’s obligation to deliver the Contract Quantity of Product may not be
reduced by an amount greater than the contract quantity of product that Purchaser
failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction
Option is subject to Seller providing written notice to Purchaser of such
modification no later than two (2) Business Days before the initial Compliance
Showing deadline for such Showing Month. Seller’s rights under the Swap
Reduction Option are cumulative and in addition to Seller’s rights under the Swap
Confirmation.

2.3  Seller’s Option To Provide Alternate Capacity
If Seller is unable to provide the full Contract Quantity for a 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 having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including 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 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 proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month;

(b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;

(c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser’s Compliance Showings;

(d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and

(e) 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, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser’s Re-Sale of Product

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall
notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non- Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:
(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 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.

6.3 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.

6.4 **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.

6.5 **No Recourse to Members**

The Parties are each 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 each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party’s constituent members, or the officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party’s constituent members, in connection with this Confirmation.

6.6 **Other WSPP Agreement Changes**

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

(b) 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.”

(c) Section 22.2(a) is deleted in its entirety replaced with the following:

“If an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”

(d) 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.

(e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):

“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 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.”

(f) 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.”
(g) In Section 22.3(e) is deleted in its entirety and replaced with the following:
“[Intentionally omitted]”

(h) Section 22.3(f) is deleted in its entirety and replaced with the following:
“\[If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.\]”

(i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(j) 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”.

(k) 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.”
(l) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(m) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(n) Section 37 is amended by inserting the following in the beginning of the section:

“On the date of entering into this Confirmation,”.

(o) 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.

(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.”

6.7 **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, 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.

6.8 **Entire Agreement; No Oral Agreements or Modifications**

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

*[Signatures appear on the following page.]"
AGREED AS OF THE EFFECTIVE DATE:

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: __________________________
Name: Girish Balachandran
Title: CEO

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: __________________________
Name: Ted Bardacke
Title: Executive Director
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.

“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.
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.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“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.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) 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” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“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”.

“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 60 MW of Product (as defined under such confirmation) from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“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 coal-fired generating facility.

“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.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

- RAR
- Local RAR
- Flexible Capacity

and all Capacity Attributes related to such Product.

Delivery period:

Contract Quantity and Contract Price:

<table>
<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Flexible Capacity Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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</thead>
<tbody>
<tr>
<td></td>
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### Unit 1

<table>
<thead>
<tr>
<th>Resource Name</th>
<th>COSO NAVY 1</th>
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<tbody>
<tr>
<td>Physical Location</td>
<td>China Lake, California</td>
</tr>
<tr>
<td>CAISO Resource ID</td>
<td>CALGEN_1_UNITS</td>
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<td>SCID of Resource</td>
<td>TS23</td>
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<td>Unit NQC by month (e.g., Jan=50, Feb=65):</td>
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<td>Unit EFC by month (e.g., Jan=30, Feb=50)</td>
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<td>Resource Type (e.g., gas, hydro, solar, etc.)</td>
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<td>Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)</td>
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<td>TAC Area (e.g., PG&amp;E, SCE)</td>
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<td>Prorated Percentage of Unit Factor</td>
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<tr>
<td>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</td>
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### Unit 2

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<tr>
<th>Resource Name</th>
<th>Elk Hills Power</th>
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<tr>
<td>Physical Location</td>
<td>4026 Skyline Road, Tupman, CA</td>
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<tr>
<td>CAISO Resource ID</td>
<td>ELKHLIL_2_PL1X3</td>
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<td>SCID of Resource</td>
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<td>Unit EFC by month (e.g., Jan=30, Feb=50)</td>
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<td>Resource Type (e.g., gas, hydro, solar, etc.)</td>
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<td>Prorated Percentage of Unit Factor</td>
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<tr>
<td>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</td>
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## APPENDIX C
### NOTICE INFORMATION

<table>
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<tr>
<th><strong>Seller:</strong></th>
<th>Silicon Valley Clean Energy Authority</th>
<th><strong>Purchaser:</strong></th>
<th>Clean Power Alliance of Southern California</th>
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Appendix C - 1
## APPENDIX D
### PLANNED OUTAGE SCHEDULE

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<tr>
<th>Unit Name</th>
<th>CAISO Resource ID *</th>
<th>Outage (MW)</th>
<th>SLIC Outage Start Date</th>
<th>SLIC Outage End Date</th>
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<td>N/A</td>
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WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between East Bay Community Energy Authority, a California joint powers authority (“Seller”) and Silicon Valley Clean Energy Authority, a California joint powers authority municipality (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of October 27, 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, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall 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. 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 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 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

(c) Seller’s obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller’s option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the “Swap Reduction Option”); provided, however, that (i) Seller’s obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than two (2) Business Days before the initial Compliance Showing deadline for such Showing Month. Seller’s rights under the Swap Reduction Option are cumulative and in addition to Seller’s rights under the Swap Confirmation.

2.3 Seller’s Option To Provide Alternate Capacity
If Seller is unable to provide the full Contract Quantity for a 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 having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including 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 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 proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month;

(b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;

(c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser’s Compliance Showings;

(d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and

(e) 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, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 **Purchaser’s Re-Sale of Product**

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall
notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:
(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 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.

6.3 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.

6.4 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.

6.5 No Recourse to Members

The Parties are each 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 each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party’s constituent members, or the officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party’s constituent members, in connection with this Confirmation.

6.6 Other WSPP Agreement Changes

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

(b) 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.”

(c) Section 22.2(a) is deleted in its entirety replaced with the following:

“If an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”

(d) 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.

(e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):

“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 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.”

(f) 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.”
(g) In Section 22.3(e) is deleted in its entirety and replaced with the following: “[Intentionally omitted]”

(h) Section 22.3(f) is deleted in its entirety and replaced 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.”

(i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(j) 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”.

(k) 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.”
(l) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(m) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(n) Section 37 is amended by inserting the following in the beginning of the section:

“On the date of entering into this Confirmation,”.

(o) 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.

(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.”

6.7 **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, 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.

6.8 **Entire Agreement; No Oral Agreements or Modifications**

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

EAST BAY COMMUNITY ENERGY AUTHORITY, a California joint powers authority

By: Marie Fontenot
Name: Marie Fontenot
Title: Sr. Director of Power Resources

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO
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, however 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.

“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.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“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.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) 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” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“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”.

Appendix A - 3
“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 3.75 MW of Generic Local GBA RA from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“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 coal-fired generating facility.

“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.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

- ☒ RAR
- ☐ Local RAR
- ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: North
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

Delivery period: ______________________ inclusive.

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

<table>
<thead>
<tr>
<th>Showing Month</th>
<th>Contract Quantity</th>
<th>Contract Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</table>

Flexible Capacity, if applicable

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<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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## Unit 1

<table>
<thead>
<tr>
<th>Unit Specific Information</th>
<th>Metcalf Energy Center</th>
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<tbody>
<tr>
<td>Resource Name</td>
<td>Physical Location</td>
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<td></td>
<td>San Jose, CA</td>
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<tr>
<td>CAISO Resource ID</td>
<td>METEC_2_PL1X3</td>
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<tr>
<td>SCID of Resource</td>
<td>Unit NQC by month (e.g., Jan=50, Feb=65):</td>
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<td>Unit EFC by month (e.g., Jan=30, Feb=50):</td>
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<tr>
<td>Resource Type (e.g., gas, hydro, solar, etc.)</td>
<td>Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3):</td>
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<tr>
<td></td>
<td>Resource Type (e.g., gas, hydro, solar, etc.)</td>
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<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>TAC Area (e.g., PG&amp;E, SCE)</td>
<td>Prorated Percentage of Unit Factor</td>
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<tr>
<td></td>
<td>Prorated Percentage of Unit Flexible Factor</td>
</tr>
<tr>
<td>Capacity Area (CAISO System, Fresno, Sierra, Kern,</td>
<td>CAISO System</td>
</tr>
<tr>
<td>Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</td>
<td>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4):</td>
</tr>
<tr>
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## APPENDIX C
### NOTICE INFORMATION

<table>
<thead>
<tr>
<th>Seller:</th>
<th>Purchaser:</th>
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<tbody>
<tr>
<td>East Bay Community Energy Authority</td>
<td>Silicon Valley Clean Energy Authority</td>
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Appendix C - 1
### APPENDIX D
### PLANNED OUTAGE SCHEDULE

<table>
<thead>
<tr>
<th>Unit Name</th>
<th>CAISO Resource ID *</th>
<th>Outage (MW)</th>
<th>SLIC Outage Start Date</th>
<th>SLIC Outage End Date</th>
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WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority municipality (“Seller”) and East Bay Community Energy Authority, a California joint powers authority (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of October 27, 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, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall 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. 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 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 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

(c) Seller’s obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller’s option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the “Swap Reduction Option”); provided, however, that (i) Seller’s obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than two (2) Business Days before the initial Compliance Showing deadline for such Showing Month. Seller’s rights under the Swap Reduction Option are cumulative and in addition to Seller’s rights under the Swap Confirmation.

2.3 Seller’s Option To Provide Alternate Capacity
If Seller is unable to provide the full Contract Quantity for a 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 having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including 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 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 proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month;

(b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;

(c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser’s Compliance Showings;

(d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and

(e) 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.
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, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser’s Re-Sale of Product

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall
notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:
(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 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.

6.3 Governing Law

8
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.

6.4 **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.

6.5 **No Recourse to Members**

The Parties are each 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 each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party’s constituent members, or the officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party’s constituent members, in connection with this Confirmation.

6.6 **Other WSPP Agreement Changes**

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

(b) 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.”

(c) Section 22.2(a) is deleted in its entirety replaced with the following:

“If an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”

(d) 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.

(e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):

“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 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.”

(f) 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.”
(g) In Section 22.3(e) is deleted in its entirety and replaced with the following: “[Intentionally omitted]”

(h) Section 22.3(f) is deleted in its entirety and replaced 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.”

(i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(j) 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”.

(k) 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.”
(l) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(m) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(n) Section 37 is amended by inserting the following in the beginning of the section:

“On the date of entering into this Confirmation,”.

(o) 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.

(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.”

6.7 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, 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.

6.8 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO

EAST BAY COMMUNITY ENERGY AUTHORITY, a California joint powers authority

By: Marie Fontenot
Name: Marie Fontenot
Title: Sr. Director of Power Resources
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.

“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.
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.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“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.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) 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” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“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”.

Appendix A - 3
“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 3.75 MW of Generic System RA from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“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 coal-fired generating facility.

“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.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☑️ RAR  ☑️ Local RAR  ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: North
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): Bay Area
Flexible Capacity Category (if applicable): N/A

Delivery period: [ ] inclusive.

Contract Quantity and Contract Price:

<table>
<thead>
<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity</th>
<th>Contract Price</th>
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</thead>
<tbody>
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<td></td>
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Flexible Capacity, if applicable

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<tr>
<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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</thead>
<tbody>
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## Unit 1

<table>
<thead>
<tr>
<th><strong>Resource Name</strong></th>
<th>Los Medanos Energy Center Aggregate</th>
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<tbody>
<tr>
<td><strong>Physical Location</strong></td>
<td>Pittsburg, CA</td>
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<tr>
<td><strong>CAISO Resource ID</strong></td>
<td>LMEC_1.PL1X3</td>
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<tr>
<td><strong>SCID of Resource</strong></td>
<td>CALJ</td>
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<tr>
<td><strong>Unit NQC by month (e.g., Jan=50,Feb=65):</strong></td>
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<tr>
<td><strong>Unit EFC by month (e.g., Jan=30, Feb=50)</strong></td>
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</tr>
<tr>
<td><strong>Resource Type (e.g., gas, hydro, solar, etc.)</strong></td>
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<td><strong>Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)</strong></td>
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<td><strong>TAC Area (e.g., PG&amp;E, SCE)</strong></td>
<td>PG&amp;E</td>
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<tr>
<td><strong>Prorated Percentage of Unit Factor</strong></td>
<td></td>
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<tr>
<td><strong>Prorated Percentage of Unit Flexible Factor</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</strong></td>
<td>Bay Area</td>
</tr>
<tr>
<td><strong>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)</strong></td>
<td>4</td>
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## APPENDIX C
### NOTICE INFORMATION

<table>
<thead>
<tr>
<th>Seller: Silicon Valley Clean Energy Authority</th>
<th>Purchaser: East Bay Community Energy</th>
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<tbody>
<tr>
<td>All Notices:</td>
<td>All Notices:</td>
</tr>
</tbody>
</table>
# APPENDIX D

## PLANNED OUTAGE SCHEDULE

<table>
<thead>
<tr>
<th>Unit Name</th>
<th>CAISO Resource ID *</th>
<th>Outage (MW)</th>
<th>SLIC Outage Start Date</th>
<th>SLIC Outage End Date</th>
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<td>N/A</td>
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</table>
WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between East Bay Community Energy Authority, a California joint powers authority (“Seller”) and Silicon Valley Clean Energy Authority, a California joint powers authority municipality (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of October 27, 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, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall 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. 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 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 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

(c) Seller’s obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller’s option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the “Swap Reduction Option”); provided, however, that (i) Seller’s obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than two (2) Business Days before the initial Compliance Showing deadline for such Showing Month. Seller’s rights under the Swap Reduction Option are cumulative and in addition to Seller’s rights under the Swap Confirmation.

2.3 Seller’s Option To Provide Alternate Capacity
If Seller is unable to provide the full Contract Quantity for a 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 having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including 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 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 proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month;

(b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;

(c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser’s Compliance Showings;

(d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and

(e) 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, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser’s Re-Sale of Product

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall
notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day (“Monthly RA Capacity Payment”). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:
(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 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.

6.3 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.

6.4 **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.

6.5 **No Recourse to Members**

The Parties are each 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 each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party’s constituent members, or the officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party’s constituent members, in connection with this Confirmation.

6.6 **Other WSPP Agreement Changes**

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

(b) 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.”

(c) Section 22.2(a) is deleted in its entirety replaced with the following:

“If an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”

(d) 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.

(e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):

“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 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.”

(f) 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.”
(g) In Section 22.3(e) is deleted in its entirety and replaced with the following: “[Intentionally omitted]”

(h) Section 22.3(f) is deleted in its entirety and replaced 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.”

(i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(j) 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”.

(k) 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.”
(l) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(m) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(n) Section 37 is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.

(o) 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.

(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.”

6.7 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, 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.

6.8 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

EAST BAY COMMUNITY ENERGY AUTHORITY, a California joint powers authority

By: [Signature]
Name: Marie Fontenot
Title: Sr. Director of Power Resources

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: [Signature]
Name: Girish Balachandran
Title: CEO
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.

“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.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“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.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) 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” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“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”.

Appendix A - 3
“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 1 MW of System Generic RA from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“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 coal-fired generating facility.

“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.
APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

- ☑ RAR
- ☑ Local RAR
- ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: North
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): Bay Area
Flexible Capacity Category (if applicable): N/A

Delivery period: inclusive.

Contract Quantity and Contract Price:

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<th>Showing Month and Year</th>
<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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Flexible Capacity, if applicable

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<th>Contract Quantity (MW)</th>
<th>Contract Price ($/kW-mo)</th>
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## Unit 1

### Unit Specific Information

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<td>SCID of Resource</td>
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<tr>
<td>Unit EFC by month (e.g., Jan=30, Feb=50)</td>
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<tr>
<td>Resource Type (e.g., gas, hydro, solar, etc.)</td>
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<tr>
<td>Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)</td>
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</tr>
<tr>
<td>Prorated Percentage of Unit Flexible Factor</td>
<td></td>
</tr>
<tr>
<td>Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)</td>
<td>Bay Area</td>
</tr>
<tr>
<td>Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)</td>
<td>4</td>
</tr>
</tbody>
</table>
## APPENDIX C
NOTICE INFORMATION

<table>
<thead>
<tr>
<th>Seller:</th>
<th>Purchaser:</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Bay Community Energy Authority</td>
<td>Silicon Valley Clean Energy Authority</td>
</tr>
</tbody>
</table>
# APPENDIX D
## PLANNED OUTAGE SCHEDULE

<table>
<thead>
<tr>
<th>Unit Name</th>
<th>CAISO Resource ID *</th>
<th>Outage (MW)</th>
<th>SLIC Outage Start Date</th>
<th>SLIC Outage End Date</th>
</tr>
</thead>
<tbody>
<tr>
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<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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</tr>
</tbody>
</table>
Appendix A

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority municipality (“Seller”) and East Bay Community Energy Authority, a California joint powers authority (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of October 27, 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, C, and D 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 have the option to supply Alternate Capacity 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.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.
ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller’s obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.

(b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall 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. 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 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 Reductions in Contract Quantity

(a) If Seller is providing Contingent Firm RA Product, Seller’s obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser’s Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.

(b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

(c) Seller’s obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller’s option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the “Swap Reduction Option”); provided, however, that (i) Seller’s obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than two (2) Business Days before the initial Compliance Showing deadline for such Showing Month. Seller’s rights under the Swap Reduction Option are cumulative and in addition to Seller’s rights under the Swap Confirmation.

2.3 Seller’s Option To Provide Alternate Capacity
If Seller is unable to provide the full Contract Quantity for a 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 having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including 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 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 proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser’s Compliance Showings related to such Showing Month;

(b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;

(c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser’s Compliance Showings;

(d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and

(e) 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, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller’s failure to deliver the Product or a Shown Unit’s SC’s failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 **Purchaser’s Re-Sale of Product**

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller’s obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit’s SC, to follow Purchaser’s instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller shall, and shall cause the Shown Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser’s rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit’s SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall
notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser’s receipt of Seller’s invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit’s SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit’s SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit’s SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit’s SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit’s SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit’s SC, owner, or operator for noncompliance.

4.2 Seller’s and Purchaser’s Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser’s rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit’s SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the “deliverability” standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller’s Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:
(a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit’s Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;

(d) if applicable, Seller has notified either the Shown Unit’s SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Shown Unit’s SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit’s SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 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.

6.3 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.

6.4 **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.

6.5 **No Recourse to Members**

The Parties are each 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 each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party’s constituent members, or the officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party’s constituent members, in connection with this Confirmation.

6.6 **Other WSPP Agreement Changes**

For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

(b) 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.”

(c) Section 22.2(a) is deleted in its entirety replaced with the following:

“If an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”

(d) 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.

(e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):

“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 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.”

(f) 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.”
(g) In Section 22.3(e) is deleted in its entirety and replaced with the following: “[Intentionally omitted]”

(h) Section 22.3(f) is deleted in its entirety and replaced 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.”

(i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(j) 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”.

(k) 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.”
(l) The phrase “arbitration or” is deleted from the first line of Section 34.4.

(m) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(n) Section 37 is amended by inserting the following in the beginning of the section:

“On the date of entering into this Confirmation,”.

(o) 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.

(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.”

6.7 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, 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.

6.8 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]
AGREED AS OF THE EFFECTIVE DATE:

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: Girish Balachandran
Name: Girish Balachandran
Title: CEO

EAST BAY COMMUNITY ENERGY AUTHORITY, a California joint powers authority

By: Marie Fontenot
Name: Marie Fontenot
Title: Sr. Director of Power Resources
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.

“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.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“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.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) 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” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

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

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“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”.

Appendix A - 3
“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 1 MW of Generic Local GBA RA from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“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 coal-fired generating facility.

“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.
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: SP26
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): 1

Delivery period: [ ] inclusive.

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

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Flexible Capacity, if applicable

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# Unit 1

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## APPENDIX C
### NOTICE INFORMATION

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Appendix C - 1
### APPENDIX D
PLANNED OUTAGE SCHEDULE

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MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINa ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware limited partnership ("Seller"), and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 27, 2021, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of June 20, 2017, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Agreement" has the meaning specified in the introductory paragraph hereof.

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

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

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

1.5 "Availability Standards" shall mean Availability Standards as defined in Section 40.9 of the Tariff or otherwise applicable to CAISO.

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

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

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

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

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

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

1.12 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
1.13 “Contract Quantity” means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in the table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month (as such amount may be adjusted pursuant to Section 4.4).

1.14 “Control Area” has the meaning set forth in the Tariff.

1.15 “CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022 and 19-06-026, and any other existing or subsequent decisions related to resource adequacy issued from time to time by the CPUC, as amended from time to time.

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

1.17 “Delivery Period” has the meaning specified in Section 4.1 hereof.

1.18 “Delivery Point” has the meaning specified in Section 4.2 hereof.

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

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

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

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

1.23 “Firm RA Product” has the meaning specified in the Section 3.3 hereof.

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

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

1.26 “GADS” means the Generating Availability Data System or its successor.

1.27 “Generic RA Product” means Product consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.
“Governmental Body” means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

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

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

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

“LRA” has the meaning set forth in the Tariff.

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

“Master Agreement” has the meaning specified in the introductory paragraph hereof.

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

“Monthly RA Capacity Payment” has the meaning specified in Section 4.9 hereof.

“NERC” means the North American Electric Reliability Council, or its successor.

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

“Net Qualifying Capacity” has the meaning set forth in the Tariff.

“Non-Availability Charges” has the meaning set forth in the Tariff.

“Notification Deadline” means fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings for the applicable Showing Month.

“Outage” means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
“Party” and “Parties” have the meanings specified in the introductory paragraph hereof.

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

“Product” has the meaning specified in Article 3 hereof.

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

“RA Capacity Price” means the price specified in the RA Capacity Price Table in Section 4.9 hereof.

“RAR” or “Resource Adequacy Requirements” means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, by the CAISO under the Tariff, or by an LRA or other Governmental Body having jurisdiction.

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

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

“Replacement Capacity” has the meaning specified in Section 4.7 hereof.

“Replacement Unit” means a generating unit meeting the requirements specified in Section 4.5.

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

“Scheduling Coordinator” or “SC” has the meaning set forth in the Tariff.

“Seller” has the meaning specified in the introductory paragraph hereof.

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

“Subsequent Buyer” means the purchaser of Product from Buyer in a re-sale of Product by Buyer.

“Supply Plan” means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.
1.59 “Tariff” means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.60 “Transaction” has the meaning specified in the introductory paragraph hereof.

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

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

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

2. UNIT INFORMATION

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</tr>
<tr>
<td>Run Hour Restrictions</td>
<td>None</td>
</tr>
</tbody>
</table>
3.

**RESOURCE ADEQUACY CAPACITY PRODUCT**

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

3.1 **RAR and LAR Attributes**

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

3.2 **Flexible RA Product**

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

3.3 **Firm RA Product**

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

3.4 **Contingent Firm RA Product**

Seller shall provide Buyer with Product from the Units in the amount of the applicable Contract Quantity; provided, however, that if, and to the extent that, (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure or any reduction in Contract Quantity in accordance with Section 4.4, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Product from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity (x) for a reason other than a Force Majeure, Planned Outage in accordance with Section 4.4(a), or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be inclusive. For the avoidance of doubt, nothing in this Agreement shall obligate Seller to provide any RA Capacity to Buyer for any period after the end of the Delivery Period.

4.2 Delivery Point

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

4.3 Contract Quantity

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

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

4.4 Adjustments to Contract Quantity

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

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

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

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

(d) UCAP: If during the Delivery Period the CAISO or the CPUC either replaces Unit NQC as the value utilized to measure the qualifying capacity of a Unit with a successor value such as unforced capacity (UCAP) or utilizes such successor value as a supplemental means of measuring the qualifying capacity of a Unit together with Unit NQC, then the Parties shall negotiate an amendment to this Confirmation so that from and after such replacement, Seller shall convey to Buyer an amount of qualifying capacity of such Unit, to be determined by Seller, of (i) no less than the amount obtained by calculating the Buyer’s share of such qualifying capacity on a pro rata basis but (ii) no more than the Contract Quantity. Seller’s pro-rata delivery obligation pursuant to clause (i) above will be obtained by calculating the product of (A) the Contract Quantity divided by the Unit NQC, multiplied by (B) the Unit’s qualifying capacity on a pro rata basis but (ii) no more than the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date.

4.5 Alternate Capacity and Replacement Units

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

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if (i) the failure to deliver the full Contract Quantity is due to a reduction in Contract Quantity in accordance with Section 4.4 or Force Majeure and (ii) Seller has notified Buyer, no later than the Notification Deadline, of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

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

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

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than the Notification Deadline, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

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

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

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

4.8 Indemnities for Failure to Deliver Contract Quantity

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

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

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

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

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

4.9 Monthly RA Capacity Payment

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

RA CAPACITY PRICE TABLE

<table>
<thead>
<tr>
<th>Contract Year/Month</th>
<th>RA Capacity Price ($/kW-month)</th>
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4.10 Allocation of Other Payments and Costs

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

5. CAISO OFFER REQUIREMENTS

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

6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

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

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

(b) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the benefits of the bargain struck by the Parties on the Confirmation Effective Date.
7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

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

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

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

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

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

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

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

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

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

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

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

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose information regarding this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having
jurisdiction as necessary to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose information regarding this Transaction to the SC of each Unit as necessary for such SC to timely submit accurate Supply Plans. Buyer may disclose information related to this Transaction to a Subsequent Buyer.

9. **BUYER’S RE-SALE OF PRODUCT**

(a) Buyer may re-sell all or a portion of the Contract Quantity of Product hereunder. Seller will, or will cause the Unit’s SC, to follow Buyer’s instructions with respect to providing such resold Product to Subsequent Buyers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Buyers to use such resold Product in a manner consistent with Buyer’s rights under this Confirmation. If Buyer incurs any liability to a Subsequent Buyer due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Buyer for the same amounts Seller would have owed Buyer under this Confirmation if Buyer had not resold the Product.

(b) Buyer will notify Seller in writing of any resale of Product and the Subsequent Buyer no later than two Business Days before the Notification Deadline for the Showing Month. Buyer will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights 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. Seller agrees to take all commercially reasonable actions to assist Buyer with such re-sale, provided that Seller’s obligation to assist shall not require modification of any of the commercial terms of this Confirmation.

10. **MARKET BASED RATE AUTHORITY**

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

Notwithstanding anything herein or in the Master Agreement to the contrary, Performance Assurance shall not be required from either Party in connection with this Transaction.

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

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

By: __________________________

Name: Andrew Novotny

Title: Vice President

**Silicon Valley Clean Energy Authority**

By: __________________________

Name: Girish Balachandran

Title: CEO
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware limited partnership ("Buyer"), and Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller"), each individually a “Party” and together the “Parties”, dated as of October 27, 2021 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of June 20, 2017, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement”. Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 “Agreement” has the meaning specified in the introductory paragraph hereof.

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

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

1.4 “Availability Incentive Payments” has the meaning set forth in the Tariff.

1.5 “Availability Standards” shall mean Availability Standards as defined in Section 40.9 of the Tariff or otherwise applicable to CAISO.

1.6 “Buyer” has the meaning specified in the introductory paragraph hereof.

1.7 “CAISO” means the California Independent System Operator or its successor.

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

1.9 “Confirmation” has the meaning specified in the introductory paragraph hereof.

1.10 “Confirmation Effective Date” has the meaning specified in the introductory paragraph hereof.

1.11 “Contingent Firm RA Product” has the meaning specified in Section 3.4 hereof.

1.12 “Contract Price” means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
1.13 “Contract Quantity” means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in the table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month (as such amount may be adjusted pursuant to Section 4.4).

1.14 “Control Area” has the meaning set forth in the Tariff.

1.15 “CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022 and 19-06-026, and any other existing or subsequent decisions related to resource adequacy issued from time to time by the CPUC, as amended from time to time.

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

1.17 “Delivery Period” has the meaning specified in Section 4.1 hereof.

1.18 “Delivery Point” has the meaning specified in Section 4.2 hereof.

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

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

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

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

1.23 “Firm RA Product” has the meaning specified in the Section 3.3 hereof.

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

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

1.26 “GADS” means the Generating Availability Data System or its successor.

1.27 “Generic RA Product” means Product consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.
1.28 “Governmental Body” means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

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

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

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

1.32 “LRA” has the meaning set forth in the Tariff.

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

1.34 “Master Agreement” has the meaning specified in the introductory paragraph hereof.

1.35 “Monthly Delivery Period” means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.36 “Monthly RA Capacity Payment” has the meaning specified in Section 4.9 hereof.

1.37 “NERC” means the North American Electric Reliability Council, or its successor.

1.38 “NERC/GADS Protocols” means the GADS protocols established by NERC, as may be updated from time to time.

1.39 “Net Qualifying Capacity” has the meaning set forth in the Tariff.

1.40 “Non-Availability Charges” has the meaning set forth in the Tariff.

1.41 “Notification Deadline” means fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings for the applicable Showing Month.

1.42 “Outage” means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
“Party” and “Parties” have the meanings specified in the introductory paragraph hereof.

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

“Product” has the meaning specified in Article 3 hereof.

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

“RA Capacity Price” means the price specified in the RA Capacity Price Table in Section 4.9 hereof.

“RAR” or “Resource Adequacy Requirements” means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, by the CAISO under the Tariff, or by an LRA or other Governmental Body having jurisdiction.

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

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

“Replacement Capacity” has the meaning specified in Section 4.7 hereof.

“Replacement Unit” means a generating unit meeting the requirements specified in Section 4.5.

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

“Scheduling Coordinator” or “SC” has the meaning set forth in the Tariff.

“Seller” has the meaning specified in the introductory paragraph hereof.

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

“Subsequent Buyer” means the purchaser of Product from Buyer in a re-sale of Product by Buyer.

“Supply Plan” means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.
1.59 “Tariff” means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.60 “Transaction” has the meaning specified in the introductory paragraph hereof.

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

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

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

2. UNIT INFORMATION

Name: GEYSERS UNIT 14 (HEALDSBURG)

Location: Middletown, CA

CAISO Resource ID: GEYS14_7_UNIT14

Resource Type: I_Phys_Res

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

Point of interconnection with the CAISO Controlled Grid (“Substation”): Fulton

Path 26 (North, South or None): North

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

Run Hour Restrictions: None

LAR Attributes (Yes/No): Yes

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

Product Type (Flexible/Generic): Generic

If Generic: Unit NQC (as of the Confirmation Effective Date): 50 MW

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

3. RESOURCE ADEQUACY CAPACITY PRODUCT

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

3.1 RAR and LAR Attributes

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

3.2 Flexible RA Product

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

3.3 Firm RA Product

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

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Product from the Units in the amount of the applicable Contract Quantity; provided, however, that if, and to the extent that, (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure or any reduction in Contract Quantity in accordance with Section 4.4, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Product from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity (x) for a reason other than a Force Majeure, Planned Outage in accordance with Section 4.4(a), or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be inclusive. For the avoidance of doubt, nothing in this Agreement shall obligate Seller to provide any RA Capacity to Buyer for any period after the end of the Delivery Period.

4.2 Delivery Point

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

4.3 Contract Quantity

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

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

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

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

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

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

(d) **UCAP:** If during the Delivery Period the CAISO or the CPUC either replaces Unit NQC as the value utilized to measure the qualifying capacity of a Unit with a successor value such as unforced capacity (UCAP) or utilizes such successor value as a supplemental means of measuring the qualifying capacity of a Unit together with Unit NQC, then the Parties shall negotiate an amendment to this Confirmation so that from and after such replacement, Seller shall convey to Buyer an amount of qualifying capacity of such Unit, to be determined by Buyer, of (i) no less than the amount obtained by calculating the Buyer’s share of such qualifying capacity on a pro rata basis but (ii) no more than the Contract Quantity. Seller’s pro-rata delivery obligation pursuant to clause (i) above will be obtained by calculating the product of (A) the Contract Quantity divided by the Unit NQC, multiplied by (B) the Unit’s overall qualifying capacity (in MW) as measured by such new method of measuring a Unit’s qualifying capacity).

### 4.5 Alternate Capacity and Replacement Units

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

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if (i) the failure to deliver the full Contract Quantity is due to a reduction in Contract Quantity in accordance with Section 4.4 or Force Majeure and (ii) Seller has notified Buyer, no later than the Notification Deadline, of Seller’s intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

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

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

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than the Notification Deadline, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 **Damages for Failure to Provide Designated RA Capacity**

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

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

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

4.8 **Indemnities for Failure to Deliver Contract Quantity**

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

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

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

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

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

4.9 Monthly RA Capacity Payment

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

RA CAPACITY PRICE TABLE

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<tr>
<th>Contract Year/Month</th>
<th>RA Capacity Price ($/kW-month)</th>
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4.10 Allocation of Other Payments and Costs

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

5. CAISO OFFER REQUIREMENTS

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

6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

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

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

(b) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the benefits of the bargain struck by the Parties on the Confirmation Effective Date.
7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

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

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

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

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

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

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

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

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

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

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

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

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose information regarding this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having...
jurisdiction as necessary to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose information regarding this Transaction to the SC of each Unit as necessary for such SC to timely submit accurate Supply Plans. Buyer may disclose information related to this Transaction to a Subsequent Buyer.

9. BUYER'S RE-SALE OF PRODUCT

(a) Buyer may re-sell all or a portion of the Contract Quantity of Product hereunder. Seller will, or will cause the Unit’s SC, to follow Buyer's instructions with respect to providing such resold Product to Subsequent Buyers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Buyers to use such resold Product in a manner consistent with Buyer’s rights under this Confirmation. If Buyer incurs any liability to a Subsequent Buyer due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Buyer for the same amounts Seller would have owed Buyer under this Confirmation if Buyer had not resold the Product.

(b) Buyer will notify Seller in writing of any resale of Product and the Subsequent Buyer no later than two Business Days before the Notification Deadline for the Showing Month. Buyer will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights 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. Seller agrees to take all commercially reasonable actions to assist Buyer with such re-sale, provided that Seller’s obligation to assist shall not require modification of any of the commercial terms of this Confirmation.

10. MARKET BASED RATE AUTHORITY

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

Notwithstanding anything herein or in the Master Agreement to the contrary, Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: ________________________________
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: ________________________________
Name: Girish Balachandran
Title: CEO
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware limited partnership ("Seller"), and Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 27, 2021 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of June 20, 2017, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Agreement" has the meaning specified in the introductory paragraph hereof.

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

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

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

1.5 "Availability Standards" shall mean Availability Standards as defined in Section 40.9 of the Tariff or otherwise applicable to CAISO.

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

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

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

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

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

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

1.12 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
“Contract Quantity” means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in the table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month (as such amount may be adjusted pursuant to Section 4.4).

“Control Area” has the meaning set forth in the Tariff.

“CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022 and 19-06-026, and any other existing or subsequent decisions related to resource adequacy issued from time to time by the CPUC, as amended from time to time.

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

“Delivery Period” has the meaning specified in Section 4.1 hereof.

“Delivery Point” has the meaning specified in Section 4.2 hereof.

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

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

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

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

“Firm RA Product” has the meaning specified in the Section 3.3 hereof.

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

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

“GADS” means the Generating Availability Data System or its successor.

“Generic RA Product” means Product consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.
1.28 “Governmental Body” means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

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

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

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

1.32 “LRA” has the meaning set forth in the Tariff.

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

1.34 “Master Agreement” has the meaning specified in the introductory paragraph hereof.

1.35 “Monthly Delivery Period” means each calendar month during the Delivery Period and shall correspond to each Showing Month.

1.36 “Monthly RA Capacity Payment” has the meaning specified in Section 4.9 hereof.

1.37 “NERC” means the North American Electric Reliability Council, or its successor.

1.38 “NERC/GADS Protocols” means the GADS protocols established by NERC, as may be updated from time to time.

1.39 “Net Qualifying Capacity” has the meaning set forth in the Tariff.

1.40 “Non-Availability Charges” has the meaning set forth in the Tariff.

1.41 “Notification Deadline” means fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings for the applicable Showing Month.

1.42 “Outage” means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
1.43 “Party” and “Parties” have the meanings specified in the introductory paragraph hereof.

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

1.45 “Product” has the meaning specified in Article 3 hereof.

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

1.47 “RA Capacity Price” means the price specified in the RA Capacity Price Table in Section 4.9 hereof.

1.48 “RAR” or “Resource Adequacy Requirements” means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, by the CAISO under the Tariff, or by an LRA or other Governmental Body having jurisdiction.

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

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

1.51 “Replacement Capacity” has the meaning specified in Section 4.7 hereof.

1.52 “Replacement Unit” means a generating unit meeting the requirements specified in Section 4.5.

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

1.54 “Scheduling Coordinator” or “SC” has the meaning set forth in the Tariff.

1.55 “Seller” has the meaning specified in the introductory paragraph hereof.

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

1.57 “Subsequent Buyer” means the purchaser of Product from Buyer in a re-sale of Product by Buyer.

1.58 “Supply Plan” means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.
1.59 “Tariff” means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.60 “Transaction” has the meaning specified in the introductory paragraph hereof.

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

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

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

2. UNIT INFORMATION

Name: Gilroy Cogen Aggregate

Location: Gilroy, CA

CAISO Resource ID: GILRPP_1_PL1X2

Resource Type: I_Phys_Res

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

Point of interconnection with the CAISO Controlled Grid (“Substation”): Llagas

Path 26 (North, South or None): North

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

Run Hour Restrictions: None

LAR Attributes (Yes/No): Yes

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

Product Type (Flexible/Generic): Generic

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

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

3. RESOURCE ADEQUACY CAPACITY PRODUCT

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

3.1 RAR and LAR Attributes

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

3.2 Flexible RA Product

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

3.3 Firm RA Product

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

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Product from the Units in the amount of the applicable Contract Quantity; provided, however, that if, and to the extent that, (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure or any reduction in Contract Quantity in accordance with Section 4.4, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Product from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity (x) for a reason other than a Force Majeure, Planned Outage in accordance with Section 4.4(a), or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be [ ] inclusive. For the avoidance of doubt, nothing in this Agreement shall obligate Seller to provide any RA Capacity to Buyer for any period after the end of the Delivery Period.

4.2 Delivery Point

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

4.3 Contract Quantity

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

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<thead>
<tr>
<th>Contract Year/Month</th>
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4.4 Adjustments to Contract Quantity

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

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

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

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

(d) **UCAP:** If during the Delivery Period the CAISO or the CPUC either replaces Unit NQC as the value utilized to measure the qualifying capacity of a Unit with a successor value such as unforced capacity (UCAP) or utilizes such successor value as a supplemental means of measuring the qualifying capacity of a Unit together with Unit NQC, then the Parties shall negotiate an amendment to this Confirmation so that from and after such replacement, Seller shall convey to Buyer an amount of qualifying capacity of such Unit, to be determined by Seller, of (i) no less than the amount obtained by calculating the Buyer’s share of such qualifying capacity on a pro rata basis but (ii) no more than the Contract Quantity. Seller’s pro-rata delivery obligation pursuant to clause (i) above will be obtained by calculating the product of (A) the Contract Quantity divided by the Unit NQC, multiplied by (B) the Unit’s overall qualifying capacity (in MW) as measured by such new method of measuring a Unit’s qualifying capacity).

4.5 **Alternate Capacity and Replacement Units**

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

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for
4.6 Delivery of Product

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

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

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than the Notification Deadline, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

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

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

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

4.8 **Indemnities for Failure to Deliver Contract Quantity**

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

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

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

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

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

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

4.9 **Monthly RA Capacity Payment**

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

<table>
<thead>
<tr>
<th>Contract Year/Month</th>
<th>RA Capacity Price ($/kW-month)</th>
</tr>
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<tbody>
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</table>

**RA CAPACITY PRICE TABLE**
4.10 Allocation of Other Payments and Costs

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

5. CAISO OFFER REQUIREMENTS

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

6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose information regarding this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction as necessary to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose information regarding this Transaction to the SC of each Unit as necessary for such SC to timely submit accurate Supply Plans. Buyer may disclose information related to this Transaction to a Subsequent Buyer.

9. BUYER’S RE-SALE OF PRODUCT

(a) Buyer may re-sell all or a portion of the Contract Quantity of Product hereunder. Seller will, or will cause the Unit’s SC, to follow Buyer’s instructions with respect to providing such resold Product to Subsequent Buyers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Buyers to use such resold Product in a manner consistent with Buyer’s rights under this Confirmation. If Buyer incurs any liability to a Subsequent Buyer due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Buyer for the same amounts Seller would have owed Buyer under this Confirmation if Buyer had not resold the Product.

(b) Buyer will notify Seller in writing of any resale of Product and the Subsequent Buyer no later than two Business Days before the Notification Deadline for the Showing Month. Buyer will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights 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. Seller agrees to take all commercially reasonable actions to assist Buyer with such re-sale, provided that Seller’s obligation to assist shall not require modification of any of the commercial terms of this Confirmation.

10. MARKET BASED RATE AUTHORITY

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

Notwithstanding anything herein or in the Master Agreement to the contrary, Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: ____________________________
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: ________________
Name: Girish Balachandran
Title: CEO

Calpine Deal: 3030438
MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Calpine Energy Services, L.P., a Delaware limited partnership ("Buyer"), and Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller"), each individually a “Party” and together the “Parties", dated as of October 27, 2021 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of June 20, 2017, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement”. Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1. DEFINITIONS

1.1 "Agreement” has the meaning specified in the introductory paragraph hereof.

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

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

1.4 “Availability Incentive Payments” has the meaning set forth in the Tariff.

1.5 “Availability Standards” shall mean Availability Standards as defined in Section 40.9 of the Tariff or otherwise applicable to CAISO.

1.6 “Buyer” has the meaning specified in the introductory paragraph hereof.

1.7 “CAISO” means the California Independent System Operator or its successor.

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

1.9 “Confirmation” has the meaning specified in the introductory paragraph hereof.

1.10 “Confirmation Effective Date” has the meaning specified in the introductory paragraph hereof.

1.11 “Contingent Firm RA Product” has the meaning specified in Section 3.4 hereof.

1.12 “Contract Price” means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.

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Appendix A

1.13  “Contract Quantity” means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in the table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month (as such amount may be adjusted pursuant to Section 4.4).

1.14  “Control Area” has the meaning set forth in the Tariff.

1.15  “CPUC Decisions” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022 and 19-06-026, and any other existing or subsequent decisions relating to resource adequacy issued from time to time by the CPUC, as amended from time to time.

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

1.17  “Delivery Period” has the meaning specified in Section 4.1 hereof.

1.18  “Delivery Point” has the meaning specified in Section 4.2 hereof.

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

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

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

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

1.23  “Firm RA Product” has the meaning specified in the Section 3.3 hereof.

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

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

1.26  “GADS” means the Generating Availability Data System or its successor.

1.27  “Generic RA Product” means Product consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.
“Governmental Body” means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

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

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

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

“LRA” has the meaning set forth in the Tariff.

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

“Master Agreement” has the meaning specified in the introductory paragraph hereof.

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

“Monthly RA Capacity Payment” has the meaning specified in Section 4.9 hereof.

“NERC” means the North American Electric Reliability Council, or its successor.

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

“Net Qualifying Capacity” has the meaning set forth in the Tariff.

“Non-Availability Charges” has the meaning set forth in the Tariff.

“Notification Deadline” means fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings for the applicable Showing Month.

“Outage” means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
“Party” and “Parties” have the meanings specified in the introductory paragraph hereof.

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

“Product” has the meaning specified in Article 3 hereof.

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

“RA Capacity Price” means the price specified in the RA Capacity Price Table in Section 4.9 hereof.

“RAR” or “Resource Adequacy Requirements” means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, by the CAISO under the Tariff, or by an LRA or other Governmental Body having jurisdiction.

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

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

“Replacement Capacity” has the meaning specified in Section 4.7 hereof.

“Replacement Unit” means a generating unit meeting the requirements specified in Section 4.5.

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

“Scheduling Coordinator” or “SC” has the meaning set forth in the Tariff.

“Seller” has the meaning specified in the introductory paragraph hereof.

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

“Subsequent Buyer” means the purchaser of Product from Buyer in a re-sale of Product by Buyer.

“Supply Plan” means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.
1.59  “Tariff” means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.

1.60  “Transaction” has the meaning specified in the introductory paragraph hereof.

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

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

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

2. UNIT INFORMATION

Name: Gilroy Cogen Aggregate
Location: Gilroy, CA
CAISO Resource ID: GILRPP_1_PL1X2
Resource Type: I_Phys_Res
Resource Category (1, 2, 3 or 4): 4
Point of interconnection with the CAISO Controlled Grid (“Substation”): Llagas
Path 26 (North, South or None): North
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None
Run Hour Restrictions: None
LAR Attributes (Yes/No): No
   If yes: Local Capacity Area (as of Confirmation Effective Date): N/A
Product Type (Flexible/Generic): Generic
   If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month
   If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A
Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): N/A

3. RESOURCE ADEQUACY CAPACITY PRODUCT

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

3.1 RAR and LAR Attributes

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

3.2 Flexible RA Product

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

3.3 Firm RA Product

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

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Product from the Units in the amount of the applicable Contract Quantity; provided, however, that if, and to the extent that, (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure or any reduction in Contract Quantity in accordance with Section 4.4, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Product from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity (x) for a reason other than a Force Majeure, Planned Outage in accordance with Section 4.4(a), or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.
4. DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be [redacted] inclusive. For the avoidance of doubt, nothing in this Agreement shall obligate Seller to provide any RA Capacity to Buyer for any period after the end of the Delivery Period.

4.2 Delivery Point

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

4.3 Contract Quantity

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

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

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

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

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

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

(d) UCAP: If during the Delivery Period the CAISO or the CPUC either replaces Unit NQC as the value utilized to measure the qualifying capacity of a Unit with a successor value such as unforced capacity (UCAP) or utilizes such successor value as a supplemental means of measuring the qualifying capacity of a Unit together with Unit NQC, then the Parties shall negotiate an amendment to this Confirmation so that from and after such replacement, Seller shall convey to Buyer an amount of qualifying capacity of such Unit, to be determined by Seller, of (i) no less than the amount obtained by calculating the Buyer’s share of such qualifying capacity on a pro rata basis but (ii) no more than the Contract Quantity. Seller’s pro-rata delivery obligation pursuant to clause (i) above will be obtained by calculating the product of (A) the Contract Quantity divided by the Unit NQC, multiplied by (B) the Unit’s overall qualifying capacity (in MW) as measured by such new method of measuring a Unit’s qualifying capacity.

4.5 Alternate Capacity and Replacement Units

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

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for
damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if (i) the failure to deliver the full Contract Quantity is due to a reduction in Contract Quantity in accordance with Section 4.4 or Force Majeure and (ii) Seller has notified Buyer, no later than the Notification Deadline, of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

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

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

(b) Seller shall cause the Unit’s Scheduling Coordinator to submit written notification to Buyer, no later than the Notification Deadline, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit’s Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

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

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

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

4.8 **Indemnities for Failure to Deliver Contract Quantity**

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

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

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

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

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

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

4.9 **Monthly RA Capacity Payment**

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

**RA CAPACITY PRICE TABLE**

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4.10 Allocation of Other Payments and Costs

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

5. CAISO OFFER REQUIREMENTS

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

6. RESERVED

7. OTHER BUYER AND SELLER COVENANTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose information regarding this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction as necessary to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose information regarding this Transaction to the SC of each Unit as necessary for such SC to timely submit accurate Supply Plans. Buyer may disclose information related to this Transaction to a Subsequent Buyer.

9. BUYER’S RE-SALE OF PRODUCT

(a) Buyer may re-sell all or a portion of the Contract Quantity of Product hereunder. Seller will, or will cause the Unit’s SC, to follow Buyer’s instructions with respect to providing such resold Product to Subsequent Buyers, to the extent such instructions are consistent with Seller’s obligations under this Confirmation. Seller will, and will cause the Unit’s SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Buyers to use such resold Product in a manner consistent with Buyer’s rights under this Confirmation. If Buyer incurs any liability to a Subsequent Buyer due to the failure of Seller or the Unit’s SC to comply with this Confirmation, Seller will be liable to Buyer for the same amounts Seller would have owed Buyer under this Confirmation if Buyer had not resold the Product.

(b) Buyer will notify Seller in writing of any resale of Product and the Subsequent Buyer no later than two Business Days before the Notification Deadline for the Showing Month. Buyer will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights 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. Seller agrees to take all commercially reasonable actions to assist Buyer with such re-sale, provided that Seller’s obligation to assist shall not require modification of any of the commercial terms of this Confirmation.

10. MARKET BASED RATE AUTHORITY

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

Notwithstanding anything herein or in the Master Agreement to the contrary, Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

By: ________________________________
Name: Andrew Novotny
Title: Vice President

Silicon Valley Clean Energy Authority

By: ________________________________
Name: Girish Balachandran
Title: CEO
This confirmation agreement (“Confirmation”) confirms the Transaction between TransAlta Energy Marketing (U.S.) Inc. (“Seller”) and Silicon Valley Clean Energy Authority (“Purchaser”), each individually a “Party” and together the “Parties,” dated as of November 5, 2021 (“Effective Date”) regarding the sale and purchase of electric capacity and/or electric energy under the terms and conditions set forth below.

**Governing Terms:** This Transaction is governed by the terms and conditions of the EEI Master Agreement dated July 24, 2017, as amended August 15, 2019, along with any schedules and amendments thereto (collectively, the “Master Agreement”), and is subject to all the terms and provisions of such agreement. The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.”

If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement.

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

**Entire Agreement; No Oral Agreements Or Modifications:** This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire Agreement between the

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<td>Trade Date:</td>
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Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a written agreement executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a written agreement executed by both Parties.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

**TRANSALTA ENERGY MARKETING (U.S.) Inc.**

By: __________________________
Name: Shauna Britton
Title: Confirmation Coordinator
Date: 2021/11/05

**SILICON VALLEY CLEAN ENERGY AUTHORITY**

By: __________________________
Name: Girish Balachandran
Title: CEO
Date: 11/7/2021
BUNDLED RENEWABLE ENERGY
WSPP PORTFOLIO CONTENT CATEGORY ONE (“PCC1”) CONFIRMATION

This confirmation ("Confirmation") confirms the transaction between Sonoma Clean Power, a California joint powers authority ("SCP") and Silicon Valley Clean Energy, a California joint powers authority ("SVCE"), and each individually a "Party" and together the "Parties", dated as of November 10, 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, including WSPP Service Schedule R, this Confirmation, and any applicable appendices, exhibits or amendments hereto, shall be collectively referred to herein as the "Agreement" and will constitute a single agreement between the Parties with respect to the Transaction. Terms capitalized but not defined herein shall have the meaning as set forth in the WSPP Agreement, WSPP Service Schedule R or the CAISO Tariff.

The Parties agree as follows:

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<th>Seller:</th>
<th>SVCE</th>
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This Confirmation is subject to the General Terms and Conditions and Exhibits identified below and attached hereto:

| Exhibit A – Generating Facilities |
| Exhibit B – Notice Information |
IN WITNESS WHEREOF, the Parties have signed this Confirmation effective as of the Effective Date.

SONOMA CLEAN POWER, a California joint powers authority

Sign: 
Print: Deb Emerson
Title: Managing Director

SONOMA CLEAN POWER, a California joint powers authority

Sign: 
Print: Mike Koszalik
Title: COO

SILICON VALLEY CLEAN ENERGY, a California joint powers authority

Sign: 
Print: Girish Balachandran
Title: CEO
GENERAL TERMS AND CONDITIONS

Product: “Product” means Portfolio Content Category 1. “Portfolio Content Category 1” or “PCC1” means Energy, along with the associated RECs produced by a Generating Facility without substituting energy from another generating source (as defined by the CPUC in D.11-12-052), delivered on an hourly basis to the Delivery Point during the Delivery Term. The Product meets the RPS compliance requirements of California Public Utilities Code Section 399.16(b)(1) and CPUC Decision 11-12-052, as applicable to the Energy and RECs transferred hereunder. To the extent not inconsistent with the foregoing, the Product is a Firm Bundled REC as such is described under Section R-2.3.2 of WSPP Service Schedule R.

Generating Facilities: The Product is produced by the generating facilities listed in Exhibit A, each of which is: (i) certified as an ERR for the California RPS and registered with WREGIS, and (ii) from which Seller is entitled, pursuant to its agreements, to the output of the Energy and associated RECs, and such output is used to source the Product delivered hereunder during the Delivery Term (each, a “Generating Facility” and collectively, the “Generating Facilities”). In addition, each Generating Facility either:

(i) has a first point of interconnection with a California balancing authority; or
(ii) has its first point of interconnection with distribution facilities used to serve end users within a California balancing authority area; or
(iii) the generation from the Generating Facility is scheduled into a California balancing authority without substituting electricity from any other source, provided that, if another source provides real-time ancillary services required to maintain an hourly or subhourly import schedule into the California balancing authority only the fraction of the schedule actually generated by the Generating Facility from which the electricity is procured may count toward this Product; or
(iv) the generation from the Generating Facility is scheduled into a California balancing authority pursuant to a dynamic transfer agreement between the balancing authority where the Generating Facility is located and the California balancing authority into which the generation is scheduled.

Subject to prior written approval of Buyer, Seller may add additional replacement Generating Facilities to Exhibit A.

Scheduling: Seller or Seller’s designee shall schedule and deliver the Energy portion of the Product, on behalf of Purchaser, to the Delivery Point, in accordance with the requirements and the prevailing protocols of the WECC and CAISO Tariff, as applicable. The Energy associated with the Product will be directly delivered from the Generating Facility on an hourly or sub-hourly basis to the Delivery Point without substituting electricity from another source (“Facility Energy”).

Eligibility: Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the
Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a Change in Law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC 6, Non-Modifiable. (Source: D.07-11-025, Attachment A.) D.08-04-009] The aggregate “commercially reasonable efforts” expenditures for Eligibility, Transfer of RECS, and Change of Law Provisions (Section R-5.2.2(b)) are limited to the Capped Amount.

Transfer of RECs: Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC REC-1, Non-modifiable. D.11-01-025]

Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under this contract. [STC REC-2, Non-modifiable. D.11-01-025]

The Transfer of RECs shall be made in accordance with the rules and regulations of WREGIS. Purchaser and Seller agree that the obligation to deliver RECs hereunder shall be evidenced by the delivery of WREGIS Certificates in WREGIS. Seller shall transfer WREGIS Certificates from its WREGIS account to Purchaser’s WREGIS account no later than April 15 following the end of each Reporting Year.

Payment: Contract Price. Contract Price shall be calculated as follows:

Contract Price = (Energy Price + REC Price) - CAISO Credit

Where:

“CAISO Credit” means the Energy Price paid by the CAISO for the energy associated with the Product.

“Energy Price” means the applicable day-ahead hourly market, hour-ahead fifteen-minute market, or real-time five-minute market, locational marginal price clearing at the Delivery Point, as published by the CAISO, per MWh of energy delivered.

“REC Price” is equal to the applicable amount set forth on page 1 of this Confirmation.
Payment: For each month during the Delivery Term, (a) Purchaser shall pay the REC Price multiplied by the portion of the Contract Quantity that is to be Delivered and (b) Seller shall be entitled to retain all revenues associated with delivery of the Product to the CAISO at the Delivery Point in full satisfaction of Buyer’s payment obligation for the Energy component of the Product. The Parties acknowledge that the actual CAISO revenues received by Seller may be greater than or less than the Energy Price but agree that the CAISO Credit shall fully offset the Energy Price component of the Contract Price, and that no amount associated with the Energy Price shall be payable by Buyer hereunder.

Monthly Invoice Timeline. The Parties hereby agree that all invoices under this Confirmation shall be due and payable within twenty (20) days of invoice receipt, provided that if such day is not a Business Day, then on the next Business Day. Seller shall transfer to Purchaser the WREGIS Certificates associated with the Contract Quantity within ten (10) days of Purchaser’s payment.

Environmental Attributes: All Attributes. The Product consists of Firm Bundled RECs sourced from the Generating Facilities. The Parties agree that the Product will be sourced only from the specific Generating Facilities identified in the Confirmation with no substitutions.

Applicable Program: State of California Renewable Portfolio Standard Program (hereinafter referred to as “California RPS”, “Renewables Portfolio Standards” or “RPS Program”), as codified at California Public Utilities Code Section 399.11, et seq., and requiring that a specified percentage of a retail seller’s retail sales should be supplied with electricity generated by eligible ERRs.

Tracking System: RECs associated with the Product shall be tracked using WREGIS.

Representations and Warranties: Seller represents and warrants to Purchaser that:

(i) Seller has the right to sell the Product from the Generating Facilities;

(ii) Seller has not sold the Product or any REC or other attributes of the Product to be transferred to Purchaser to any other person or entity;

(iii) Energy and RECs to be purchased and sold pursuant to this Confirmation are not committed to another party;

(iv) The Product is free and clear of all liens or other encumbrances; and

(v) Seller will cooperate and work with Purchaser, the CEC, and/or the CPUC to provide any documentation required by the CPUC or CEC to support the Product’s classification as a Portfolio Content Category 1 Product as set forth in California Public Utilities Code Section 399.16(b)(1).

Seller further represents and warrants to Purchaser that, to the extent that the Product sold by Seller is a resale of part or all of a contract between Seller and one or more third parties, Seller represents, warrants and covenants that the resale
complies with the following conditions in (i) through (iv) below as of the Effective Date and throughout the generation period:

(i) The original upstream third-party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1);

(ii) This Confirmation transfers only electricity and RECs that have not yet been generated prior to the Effective Date;

(iii) The electricity transferred by this Confirmation is transferred to Buyer in real time; and

(iv) If the Project has an agreement to dynamically transfer electricity to a California balancing authority, the transactions implemented under this Confirmation are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement.

**Change in Law Provisions:**

The Product shall be Regulatorily Continuing requiring that Seller shall use commercially reasonable efforts to obtain compliance with a Change in Law in the Applicable Program, provided that such costs should not be greater than $10,000 (the “Capped Amount”). This provision shall not apply to any Product that was Delivered and Accepted prior to any Change in Law if such Product complies with the California RPS that existed when it was Delivered and Accepted.

This Confirmation is executed for the express purposes of complying with the California RPS and Section 399.16(b)(1) of the California Public Utilities Code. The Parties acknowledge that the CEC and/or CPUC may be modifying mandatory contract language, altering the procurement and product qualification rules, and updating the relevant RPS Eligibility Guidebook in a manner consistent with that legislation. If any statutes, rules, regulations, permits or authorizations are enacted, amended, granted or revoked which have the effect of changing the transfer and sale procedure set forth in this Confirmation so that the implementation of this Transaction becomes impossible or impracticable, or otherwise revokes or eliminates the California RPS or language required to conform to the California RPS, subject to Seller’s obligation to use commercially reasonable efforts to obtain compliance with a Change in Law up to the Capped Amount, the Parties hereto agree to negotiate in good faith to amend this Confirmation to conform with such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Agreement.

**Audit/Review:**

Each Party reserves the right to review during normal business hours and at its own expense, for up to two (2) years following delivery of the Product under this Confirmation, and with reasonable advance notice to the other Party, the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Confirmation. In addition, during the Delivery Term and for a period of three (3) years after the Delivery Term, upon Purchaser’s reasonable request, Seller shall provide (i) meter data from the Generating Facility related to the Product, (ii) if applicable, E-tag information related to the delivery of the Product to the CAISO or a California balancing authority, and (iii) any other records reasonably required to demonstrate that the Product has been conveyed and delivered in accordance with the terms and
conditions of this Confirmation, including scheduling or delivery information necessary to meet the requirements of the California RPS Program.

Confidentiality: The Parties acknowledge and agree that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

Applicable Law/Governing Law: This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. [STC 17, (Source: D.07-11-025, Attachment A.) D.08-04-009]

Forward Contract: This Confirmation constitutes a sale of a nonfinancial commodity for deferred shipment or delivery that the Parties intend to be physically settled and is excluded from the term “swap” as defined in the Commodity Exchange Act under 7 U.S.C. §1a(47) and the regulations of the Commodity Future Trading Commission and Securities and Exchange Commission, with further reference to 77 Fed. Reg. 48233-35.

Amendments To Master Agreement: For this Transaction, the WSPP Agreement shall be amended as follows:

(a) Section 22.1 of the WSPP Agreement 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) of the WSPP Agreement is amended by inserting in Section 22.2, “and is continuing” after “Event of Default occurs” in the first line thereof and deleting the second sentence therein.

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

(g) Section 28.1 of the WSPP Agreement shall be applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.

(h) Section 30 of the WSPP Agreement is amended by inserting at the end of Section 30.1(6) prior to the semicolon the following: “or to Deliver RECs pursuant to the requirements of WREGIS”.

(i) Section 30.1 of the WSPP Agreement 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”.

(j) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby 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 LOS ANGELES, 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.”

(k) The phrase “arbitration or” is hereby deleted from the first line of Section 34.4.

(l) The following shall be inserted as a new Section 34.5:

“34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND THE AGREEMENT FOR THE BREACH, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE.”

(m) Section 37 of the WSPP Agreement is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.
n) Section 41 “Witness” of the WSPP Agreement shall become Section 42 and the following “FERC Standard of Review; Mobile-Sierra Waiver” Section shall be substituted in its place:

“(a) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting sua sponte, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008), and NRG Power Marketing LLC v. Maine Public Utility Commission, 558 U.S. 527 (2010).

“(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties, 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 (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing section (a).”

No Recourse to Members of Purchaser and Seller: Purchaser and Seller are each 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 each is a public entity separate from its constituent members. Each Party will solely be responsible for all of such Party’s debts, obligations and liabilities accruing and arising out of this Confirmation. Neither Party will have any rights and will not make any claims, take any actions or assert any remedies against any of the other Party’s constituent members, or the officers,
directors, advisors, contractors, consultants or employees of the other Party or the other Party’s constituent members, in connection with this Confirmation.

**Counterparts:**
This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, facsimile or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

**Entire Agreement; No Oral Agreements or Modifications:**
This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.

**Definitions/Interpretations:**
For purposes of the Confirmation, the following definitions and rules of interpretations shall apply:

“Accepted” has the meaning set forth in the WSPP Agreement.

“Applicable Law” means any statute, law, treaty, rule, tariff, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, or any binding interpretation of the foregoing, as any of them is amended or supplemented from time to time, that apply to either or both of the Parties, the Generating Facilities, or the terms of the Agreement.

“Buyer” as used herein shall have the same meaning as “Purchaser” under the WSPP Agreement.

“CAISO” means the California Independent System Operator Corporation or any successor entity performing similar functions.

“CAISO Tariff” means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

“CEC” means the California Energy Commission or any successor entity performing similar functions.

“Change in Law” has the meaning set forth under the WSPP Agreement.
“Contract Price” has the meaning set forth on page 1 of this Confirmation.

“Contract Quantity” has the meaning set forth on page 1 of this Confirmation.

“CPUC” means the California Public Utilities Commission or any successor entity performing similar functions.

“Delivered” has the meaning set forth in the WSPP Agreement.

“Delivery Point” has the meaning set forth on page 1 of this Confirmation.

“Delivery Term” shall be the period set forth on page 1 of this Confirmation, during which the Product was generated; provided that, for the sole purpose of matching delivery of RECs with Facility Energy, such period will extend through the date that all RECs associated with such Facility Energy have been delivered from Seller to Purchaser in accordance with this Confirmation.

“Energy” means electrical energy, measured in MWh.

“Project” as used herein has the same meaning as “Generating Facility.”

“REC Vintage” means the date of Energy generation found on a WREGIS Certificate.

“Reporting Year” means the period beginning January 1 and continuing until December 31 of the subject year (e.g., Reporting Year 2021 means January 1, 2021 through December 31, 2021).

“WECC” means the Western Electricity Coordinating Council or its successor organizations.

“WREGIS” mean the Western Renewable Energy Generation Information System, or any successor renewable energy tracking program.

“WREGIS Certificate” means a “Certificate” as defined by WREGIS in the WREGIS Operating Rules and designated by law as eligible for complying with the California RPS Program and for evidencing the RECs associated with the Product.

“WREGIS Operating Rules” means the operating rules and requirement adopted by WREGIS, as amended from time to time.
# EXHIBIT A

## GENERATING FACILITIES

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# EXHIBIT B

## NOTICE INFORMATION

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