



Liz Gibbons, Chair
City of Campbell

George Tyson, Vice Chair
Town of Los Altos Hills

Jon Robert Willey
City of Cupertino

Zach Hilton
City of Gilroy

Neysa Fligor
City of Los Altos

Rob Rennie
Town of Los Gatos

Evelyn Chua
City of Milpitas

Javed Ellahie
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Margaret Abe-Koga
City of Mountain View

Tina Walia
City of Saratoga

Larry Klein
City of Sunnyvale

Otto Lee
County of Santa Clara

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

**Silicon Valley Clean Energy Authority
Board of Directors Meeting**

Wednesday, April 13, 2022
7:00 pm

Teleconference Meeting
Webinar:

<https://svcleanenergy-org.zoom.us/j/84056961760>

Telephone (Audio Only):
US: +1 669 219 2599
Webinar ID: 840 5696 1760

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 via email up to three hours before the meeting begins to Board Clerk Andrea Pizano at Andrea.Pizano@svcleanenergy.org and will be distributed to the Board of Directors. The public will also have an opportunity to provide comments during the meeting. Members of the public using Zoom may comment during public comment or the applicable agenda item by using the Raise Hand feature and you will be recognized by the Chair. Those using the telephone (audio only) feature should press star 9 on your phones to initiate the "Raise Hand" function in Zoom. You will then be announced, unmuted, and your time to speak will begin.

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

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

AGENDA

Call to Order



Liz Gibbons, Chair
City of Campbell

Roll Call

George Tyson, Vice Chair
Town of Los Altos Hills

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.

Jon Robert Willey
City of Cupertino

Zach Hilton
City of Gilroy

Consent Calendar (Action)

Neysa Fligor
City of Los Altos

1a) Approve Minutes of the March 9, 2022, Board of Directors Meeting

Rob Rennie
Town of Los Gatos

1b) Receive February 2022 Treasurer Report

Evelyn Chua
City of Milpitas

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

Javed Ellahie
City of Monte Sereno

1d) Authorize the Chief Executive Officer to Execute Agreement with UtilityAPI, Inc. for a Long-Term Data Hive Program

Yvonne Martinez Beltran
City of Morgan Hill

1e) Adopt Resolution Amending SVCE Conflict of Interest Code to Add Multiple Positions

Margaret Abe-Koga
City of Mountain View

1f) Authorize the Chief Executive Officer to Execute Amendment to Agreement with Joint Venture Silicon Valley to Add Convening Support for a Building Electrification Stakeholder Group

Tina Walia
City of Saratoga

1g) Receive Q1 2022 Decarbonization Programs Update

Larry Klein
City of Sunnyvale

1h) Receive 2022 New Construction Reach Codes and Existing Building Policy Update

Otto Lee
County of Santa Clara

1i) Executive Committee Report

1j) Finance and Administration Committee Report

1k) Audit Committee Report

1l) Legislative and Regulatory Response to Industry Transition 2022 Ad Hoc Committee Report

1m) California Community Power Report

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Regular Calendar

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

2) CEO Report (Discussion)



Liz Gibbons, Chair
City of Campbell

3) Approve Plan to Conduct the May 2022 Board of Directors Meeting as a Hybrid Meeting (Action)

George Tyson, Vice Chair
Town of Los Altos Hills

4) Clean Energy Procurement Informational Update (Presentation)

Jon Robert Willey
City of Cupertino

Board Member Announcements and Direction on Future Agenda Items

Zach Hilton
City of Gilroy

Public Comment on Closed Session

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

Neysa Fligor
City of Los Altos

Convene to Closed Session

Rob Rennie
Town of Los Gatos

Conference with Legal Counsel – Anticipated Litigation
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (one potential case)

Evelyn Chua
City of Milpitas

Report from Closed Session

Javed Ellahie
City of Monte Sereno

Adjourn

Yvonne Martinez Beltran
City of Morgan Hill

Margaret Abe-Koga
City of Mountain View

Tina Walia
City of Saratoga

Larry Klein
City of Sunnyvale

Otto Lee
County of Santa Clara

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SVCE GLOSSARY OF TERMS

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

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

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

CEC – California Energy Commission

CPUC – California Public Utility Commission

C&I – Commercial and Industrial – Business customers

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

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

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

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

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

DAC – Disadvantaged Community

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

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

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

Distribution - The delivery of electricity to the retail customer’s home or business through low voltage distribution lines.

DLAP – Default Load Aggregation Point – In the CAISO’s electricity optimization model, DLAP is the node at which all bids for demand should be submitted and settled. SVCE settles its CAISO load at the PG&E DLAP as SVCE is in the PG&E transmission access charge area.

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

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

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

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

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

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

EV – Electric Vehicle

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

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

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

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

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

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

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

kWh – Kilowatt-hour – This is a measure of consumption. It is the amount of electricity that is used over some period of time, typically a one-month period for billing purposes. Customers are charged a rate per kWh of electricity used.

LCFS – Low Carbon Fuel Standard – A CARB program designed to encourage the use of cleaner low-carbon fuels in California, encourage the production of those fuels, and therefore, reduce greenhouse gas emissions.

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

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

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

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

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

NRDC – Natural Resources Defense Council

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

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

MWH – Megawatt-hour – measure of energy

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

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

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

PCC3 – RPS Portfolio Content Category 3 – Unbundled REC

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

PCL – Power Content Label – A user-friendly way of displaying information to California consumers about the energy resources used to generate the electricity they sell, as required by AB 162 (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.



Silicon Valley Clean Energy Authority

Board of Directors Meeting

Wednesday, March 9, 2022

7:00 pm

Pursuant to State of California Gov't Code Section 54953 (e) the meeting was conducted via teleconference.

DRAFT MINUTES

Call to Order:

Chair Gibbons called the Regular Meeting to order at 7:01 p.m.

Roll Call

Present:

Liz Gibbons (Chair), Campbell
George Tyson (Vice Chair), Los Altos Hills
Jon Robert Willey, Cupertino
Zachary Hilton, Gilroy
Neysa Fligor, Los Altos
Rob Rennie, Los Gatos
Evelyn Chua, Milpitas
Javed Ellahie, Monte Sereno
Yvonne Martinez Beltran, Morgan Hill (arrived during Item 7)
Margaret Abe-Koga, Mountain View
Tina Walia, Saratoga
Larry Klein, Sunnyvale
Otto Lee, Santa Clara County

Absent:

None.

All present Board members participated via teleconference.

Public Comment on Matters Not Listed on the Agenda

No speakers.

Consent Calendar

Chair Gibbons noted Directors received written communication from the public the preceding week.

- 1a) Approve Minutes of the February 9, 2022, Board of Directors Meeting
- 1b) Receive January 2022 Treasurer Report
- 1c) Adopt Resolution Authorizing Public Meetings to Continue to Be Held Via Teleconferencing Pursuant to Government Code Section 54953(e) and Making Findings
- 1d) Authorize the Chief Executive Officer Ability to Modify and Extend Scheduling Services Agreement with ZGlobal Inc.

- 1e) Adopt Resolution Delegating Authority to the Chief Executive Officer to Amend Existing Renewable Resources Power Purchase Agreements (PPAs) and Energy Storage Service Agreements (ESSAs) As Exigent Circumstances Arise Consistent with Policies and Financial Parameters Initially Established in the Approval of the PPAs
- 1f) Approve Bill Credits to CARE/FERA Customers to Implement Board Direction to Distribute \$3 Million in Customer Relief Funding
- 1g) Approve and Authorize the Chief Executive Officer to Execute Agreement with School of Thought for Marketing and Advertising Services
- 1h) Receive SVCE Rate Schedules Effective March 1, 2022
- 1i) Accept Committee Report and Authorize Support for Legislation to Amend the Brown Act to Promote Remote Meetings
- 1j) Executive Committee Report
- 1k) Finance and Administration Committee Report
- 1l) Audit Committee Report
- 1m) Legislative and Regulatory Response to Industry Transition 2022 Ad Hoc Committee Report
- 1n) California Community Power Report

There were no questions or comments from the Board; there were no requests from the public to speak on any matter on the Consent Calendar.

MOTION: Director Chua moved and Director Klein seconded the motion to approve the Consent Calendar, Items 1a through 1n.

The motion carried unanimously by verbal roll call vote with Director Martinez Beltran absent.

Regular Calendar

2) Receive Audit Results and Accept the Findings from Independent Auditor (Action)

Amrit Singh, CFO and Director of Administrative Services, introduced the item, followed by an introduction of independent auditors Brett Bradford and Jenna Blanchard of Pisenti and Brinker LLP. Bradford and Blanchard presented a PowerPoint presentation on the results of the audit of year end September 30, 2021 and 2020 Financial Statements, in addition to risk assessment procedures, audit procedures, and required board communications.

CFO and Director of Administrative Services Singh and Bradford responded to a question from Director Ellahie regarding bonds.

Chair Gibbons opened public comment.

No speakers.

Chair Gibbons closed public comment.

MOTION: Director Abe-Koga moved and Director Ellahie seconded the motion to receive the year-end financial statements and the independent auditor's report for the fiscal year 2020-21.

The motion carried unanimously by verbal roll call vote with Director Martinez Beltran absent.

3) CEO Report (Discussion)

CEO Girish Balachandran addressed the attachments to the CEO report which included an update on programs, legislative and regulatory issues, outreach through SVCE's Account Services and Community Relations team, and press that has been covered for initiatives undertaken by SVCE. CEO Balachandran announced the hiring of Senior Manager of Public Sector Services Tony Eulo, who provided brief welcome comments.

Chair Gibbons opened Public Comment.
No speakers.
Chair Gibbons closed Public Comment.

4) Approve the Mid-Year 2021-22 Adjusted Operating Budget (Action)

CFO and Director of Administrative Services Singh introduced the item and presented a PowerPoint presentation with a request to adopt Resolution 2022-09, approving the mid-year (FY) 2021-22 Adjusted Operating Budget that contributes \$61.61 million to the reserves. Presentation highlights included an overview of the mid-year versus the adopted budget, a reserves update, and personnel updates.

Chair Gibbons opened Public Comment.
No speakers.
Chair Gibbons closed Public Comment.

Directors provided comments on the presentation.

MOTION: Director Fligor moved and Director Klein seconded the motion to adopt Resolution 2022-09, Approving the Mid-Year 2021-22 Adjusted Operating Budget.

The motion carried unanimously by verbal roll call vote with Director Martinez Beltran absent.

5) Authorize the Chief Executive Officer to Execute Necessary Agreements for Goal Line Long Duration Energy Storage with California Community Power, Participating Community Choice Aggregators and Goal Line BESS 1, LLC (Action)

Director of Power Resources Monica Padilla introduced the item and presented a PowerPoint presentation with a request for the SVCE Board of Directors to delegate authority to the CEO to execute necessary agreements with CC Power, Goal Line and other participating CCAs for LDS with an expected share of 14.21 MW and maximum of 22.81 MW; start date of June 2025; 15-year term; and an amount not to exceed \$100 million. The agreements to be executed included: the Project Participation Share Agreement, Energy Storage Service Agreement, and Coordinated Operations Agreement.

Director of Power Resources Padilla responded to questions from board members.

Chair Gibbons opened Public Comment.

Bryan Mekechuk inquired of the approximate capital cost of the project to the owner.

Director of Power Resources Padilla responded that the cost was unknown, as that information is not typically shared by the developer.

Chair Gibbons closed Public Comment.

MOTION: Vice Chair Tyson moved and Director Willey seconded the motion to authorize the Chief Executive Officer to execute the necessary agreements for Goal Line Long Duration Energy Storage, as noted in Item 5.

The motion carried unanimously by verbal roll call vote with Director Martinez Beltran absent.

6) Adopt Resolution Approving Funding Allocations for “Double Down” on Decarbonization Programs (Action)

Director of Decarbonization and Grid Innovation Programs Justin Zagunis presented a PowerPoint presentation with a request for the Board of Directors to approve the program allocation breakdown and programmatic elements of the additional \$17M approved by the Board of Directors for programs as described in the table below:

Program	New Elements	Allocation
Multifamily EV charging assistance and funding	<ul style="list-style-type: none"> Add incentives to existing technical assistance Direct installation for toughest sites 	+\$2M
Whole-building electrification emphasis and funding	<ul style="list-style-type: none"> Menu of incentives, pushing towards total electrification Direct installation for large, affordable multifamily 	+\$4M
Local policy support	<ul style="list-style-type: none"> Continued work on Reach Codes 2.0; EVI incentives Support for cities to identify and pursue policies (e.g. retrofit-on-burnout, EV charging mandate, end-of-flow) 	+\$3M
Permitting simplification	<ul style="list-style-type: none"> Funding and technical resources for cities to simplify their processes (and compliance support for EVI) 	+\$3M
Accessible financing	<ul style="list-style-type: none"> Pursue Tariffed On-Bill financing Test out alternate financing approach(es) 	+\$5M
TOTAL		+\$17M

Programs were outlined in more detail during the presentation. Director of Decarbonization and Grid Innovation Programs Zagunis noted the allocations presented were initial, and staff would like to retain the ability to move funds around within the programs and would come back to the board with any significant shifts.

Director of Decarbonization and Grid Innovation Programs Zagunis responded to board member questions regarding funding, the multifamily EV charging program and identification of potential barriers, and a plan to support member agency participation.

Chair Gibbons opened Public Comment.

Bruce Karney commented he was glad there was more money for programs, but felt the focus was too much on the status quo and the current problems of 2022 and not the highly disruptive changes that will need to take place over the next 10-15 years. Karney noted he felt the conversation hadn't acknowledged the difficulty of the task ahead, and the shortness of the time available to get the job done.

Chair Gibbons closed Public Comment.

Chair Gibbons noted staff highlighted some of the challenges ahead, but the sooner we learn from them and document them the better. Vice Chair Tyson reiterated that if something isn't working, and likewise if something takes off, there will be flexibility to shift some of the money to the things that are working and make the most of it.

MOTION: Vice Chair Tyson moved and Director Klein seconded the motion to adopt Resolution 2022-10 to approve the initial funding allocations for "Double Down" on Decarbonization Programs.

The motion carried unanimously by verbal roll call vote with Director Martinez Beltran and Director Fligor absent.

7) Update on New Construction Reach Codes and Existing Building Electrification Policies (Discussion)

Director Martinez Beltran joined the meeting during Item 7.

Director of Account Services and Community Relations Don Bray introduced the item and presented a PowerPoint presentation with Manager of Energy Services Zoe Elizabeth. Topics covered in the presentation included SVCE's 2022 Building Electrification Policy Goals, activities underway, 2019 SVCE member agency codes, member agency reach code tasks and milestones, support from SVCE on Reach Code development and outreach, and next steps.

Director Ellahie inquired if there was coordination between the whole-building electrification emphasis program, and the efforts for support to member agency reach code adoption. Manager of Energy Services Elizabeth confirmed the program offering would be part of the discussion with member agencies as it develops.

Board Member Announcements and Future Agenda Items

None.

Adjourn

Chair Gibbons adjourned the meeting at 9:17 p.m.

ATTEST:

Andrea Pizano, Board Secretary

DRAFT



TREASURER REPORT

**Fiscal Year to Date
As of February 28, 2022**

(Preliminary & Unaudited)

Issue Date: April 13, 2022

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

Financial Highlights for the month of February 2022:

- > SVCE operations resulted in a change in net position for the month of negative \$5.8 million and fiscal-year-to-date (FYTD) change in net position of negative \$17.3 million.
- > Retail GWh sales for the month landed 3.4% below budget.
- > FYTD operating margin of negative \$10.0 million or negative 11.5% is above budget expectations of a negative 15.1% operating margin for the fiscal year to date.
- > FYTD Power Supply costs are 0.6% below budget.
- > SVCE is investing ~95% of available funds generating FYTD investment income of \$0.09 million.

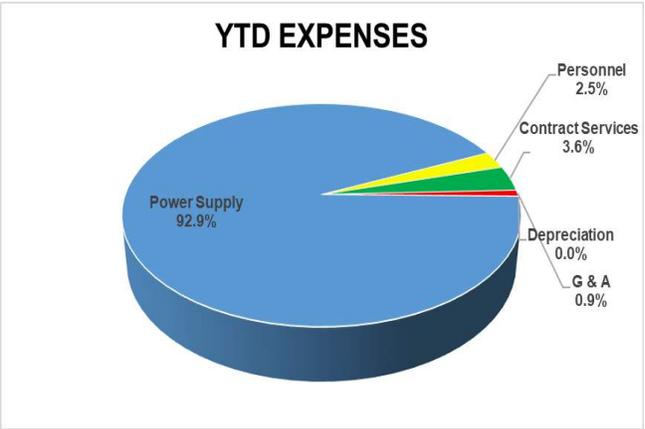
Change in Net Position	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Actual	1,532	(4,526)	(2,237)	(6,275)	(5,774)								(17,280)	61,611

Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Energy & REC's	11,938	15,483	13,478	17,209	15,665								73,773	
Wholesale Sales	(195)	(15)	-	(82)	(182)								(473)	
Capacity	2,890	2,207	2,324	3,281	3,557								14,258	
CAISO Charges	(1,301)	205	2,286	1,116	1,004								3,311	
NEM Expense	3	152	(187)	(200)	(30)								(261)	
Charge/Credit (IST/Net Rev)	1,189	(125)	759	1,855	2,020								5,699	
Net Power Costs	14,525	17,908	18,660	23,179	22,035	-	-	-	-	-	-	-	96,306	274,979

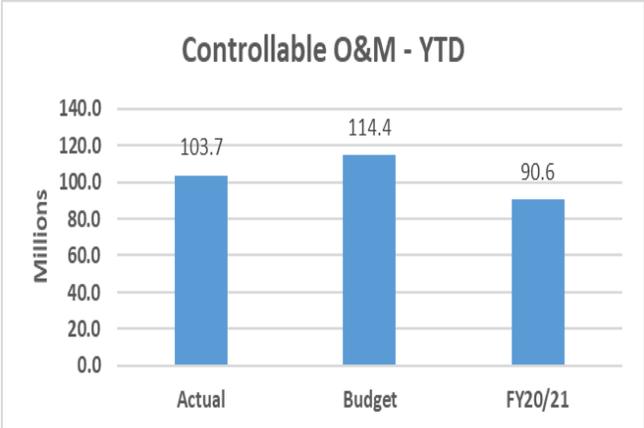
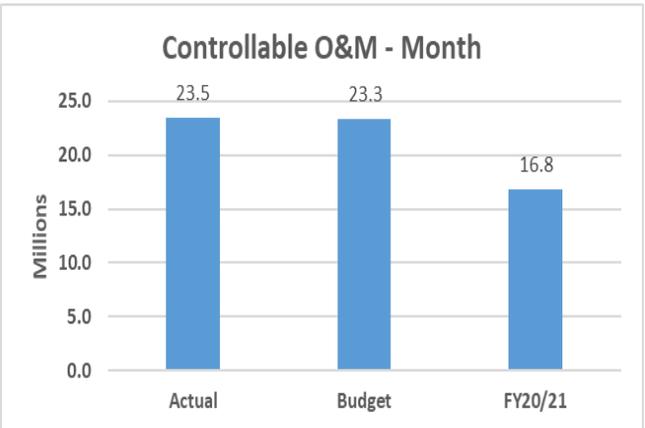
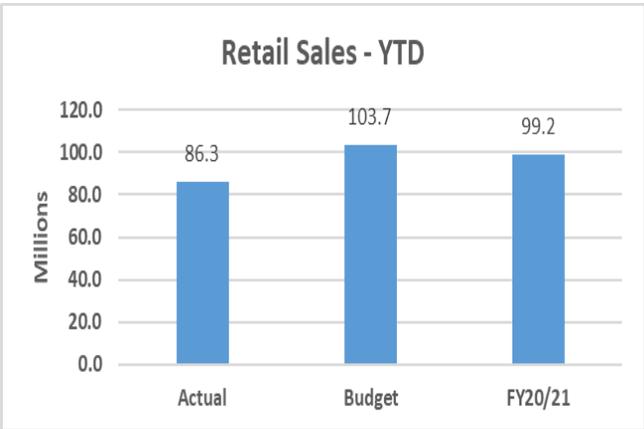
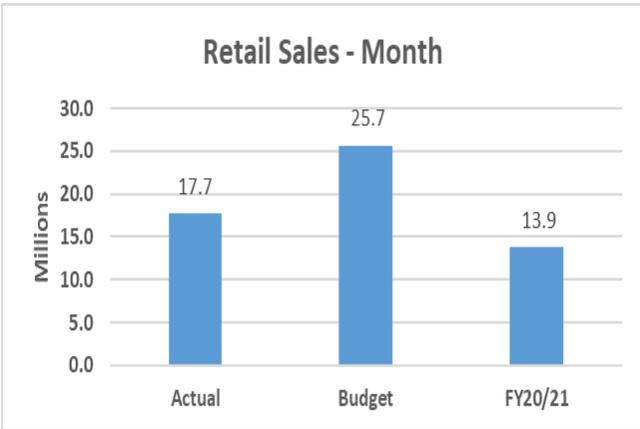
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Capital Expenditures	4	13	10	-	5								32	150
Energy Programs	68	123	116	220	114								640	8,582

Load Statistics - GWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Retail Sales Actual	302	288	327	322	286								1,525	
Retail Sales Budget	302	288	327	322	296	311	297	313	337	350	362	339	3,844	3,844

* 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	
Working Capital	\$156,916,237
Current Ratio	6.0
Operating Margin	-11.5%
Expense Coverage Days	164
Long-Term Debt	\$0
Total Accounts	275,506
Opt-Out Accounts (Month)	52
Opt-Out Accounts (FYTD)	179
Opt-Up Accounts (Month)	(20)
Opt-Up Accounts (FYTD)	196



SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION

As of February 28, 2022

ASSETS

Current Assets

Cash & Cash Equivalents	\$ 155,712,133
Accounts Receivable, net of allowance	16,603,512
Accrued Revenue	11,492,865
Other Receivables	2,155,828
Prepaid Expenses	1,600,203
Deposits	640,874
Restricted cash	661,755

Total Current Assets	188,867,170
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Noncurrent assets

Capital assets, net of depreciation	309,988
Deposits	45,330

Total Noncurrent Assets	355,318
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Total Assets	189,222,488
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LIABILITIES

Current Liabilities

Accounts Payable	1,048,073
Accrued Cost of Electricity	28,807,727
Other accrued liabilities	761,663
User Taxes and Energy Surcharges due to other gov'ts	671,715

Total Current Liabilities	31,289,178
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Noncurrent Liabilities

Supplier security deposits	9,131,250
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Total noncurrent liabilities	9,131,250
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Total Liabilities	40,420,428
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NET POSITION

Net investment in capital assets	309,988
Restricted for security collateral	661,755
Unrestricted (deficit)	147,830,317

Total Net Position	\$ 148,802,060
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SILICON VALLEY CLEAN ENERGY AUTHORITY

**STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION**

October 1, 2021 through February 28, 2022

OPERATING REVENUES	
Electricity Sales, Net	\$ 83,308,651
GreenPrime electricity premium	803,432
Other income	10,250
Liquidated damages	<u>2,224,250</u>
TOTAL OPERATING REVENUES	<u>86,346,583</u>
OPERATING EXPENSES	
Cost of Electricity	96,306,543
Contract services	3,765,953
Staff compensation and benefits	2,618,537
General & Administrative	932,264
Depreciation	<u>38,794</u>
TOTAL OPERATING EXPENSES	<u>103,662,091</u>
OPERATING INCOME (LOSS)	<u>(17,315,508)</u>
NONOPERATING REVENUES (EXPENSES)	
Interest Income	92,045
Financing costs	<u>(56,963)</u>
TOTAL NONOPERATING REVENUES (EXPENSES)	<u>35,082</u>
CHANGE IN NET POSITION	(17,280,426)
Net Position at beginning of period	<u>166,082,486</u>
Net Position at end of period	<u>\$ 148,802,060</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2021 through February 28, 2022

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers	\$ 98,116,684
Receipts from liquidated damages	\$ 2,224,250
Other operating receipts	2,195,501
Payments to suppliers for electricity	(98,983,920)
Payments for other goods and services	(5,325,722)
Payments for staff compensation and benefits	(2,581,043)
Tax and surcharge payments to other governments	(2,083,492)
Net cash provided (used) by operating activities	<u>(6,437,742)</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Finance costs paid	<u>(56,963)</u>
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CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Acquisition of capital assets	<u>(32,016)</u>
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CASH FLOWS FROM INVESTING ACTIVITIES

Interest income received	<u>92,045</u>
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Net change in cash and cash equivalents	(6,434,676)
Cash and cash equivalents at beginning of year	<u>162,808,564</u>
Cash and cash equivalents at end of period	<u>\$ 156,373,888</u>

Reconciliation to the Statement of Net Position

Cash and cash equivalents (unrestricted)	\$ 155,712,133
Restricted cash	661,755
Cash and cash equivalents	<u>\$ 156,373,888</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)

October 1, 2021 through February 28, 2022

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

Operating Income (loss)	\$ (17,315,508)
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	38,794
Revenue adjusted for uncollectible accounts	(500,000)
(Increase) decrease in net accounts receivable	9,886,672
(Increase) decrease in energy settlements receivable	269,012
(Increase) decrease in other receivables	(1,925,343)
(Increase) decrease in accrued revenue	2,917,755
(Increase) decrease in prepaid expenses	778,033
(Increase) decrease in current deposits	85,210
Increase (decrease) in accounts payable	(489,303)
Increase (decrease) in accrued cost of electricity	(4,280,719)
Increase (decrease) in accrued liabilities	119,620
Increase (decrease) in energy settlements payable	2,261,355
Increase (decrease) in taxes and surcharges due to other governments	(383,320)
Increase (decrease) in supplier security deposits	2,100,000
Net cash provided (used) by operating activities	<u>\$ (6,437,742)</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY
BUDGETARY COMPARISON SCHEDULE
October 1, 2021 through February 28, 2022

	<u>FYTD</u> <u>Actual</u>	<u>FYTD</u> <u>Amended Budget</u>	<u>Variance</u> <u>\$</u>	<u>%</u>	<u>FY 2021-22</u> <u>Amended Budget</u>	<u>FY 2021-22</u> <u>Remaining Budget</u>
OPERATING REVENUES						
Energy Sales	\$83,308,651	\$83,439,635	-\$130,984	0%	\$384,498,000	\$301,189,349
Green Prime Premium	803,432	729,809	73,623	10%	1,005,000	201,568
Liquidated damages	<u>2,224,250</u>		<u>2,224,250</u>			
TOTAL OPERATING REVENUES	<u>86,336,333</u>	<u>84,169,444</u>	<u>2,166,889</u>	<u>3%</u>	<u>385,503,000</u>	<u>301,390,917</u>
ENERGY EXPENSES						
Power Supply	<u>96,306,543</u>	<u>96,843,487</u>	<u>(536,944)</u>	<u>-0.6%</u>	<u>274,979,000</u>	178,672,457
Operating Margin	<u>(9,970,210)</u>	<u>(12,674,043)</u>	<u>2,703,833</u>	<u>-21%</u>	<u>110,524,000</u>	
OPERATING EXPENSES						
Data Management	1,317,987	1,353,922	(35,935)	-3%	3,249,000	1,931,013
PG&E Fees	492,500	604,144	(111,644)	-18%	1,450,000	957,500
Salaries & Benefits	2,618,537	3,556,101	(937,564)	-26%	8,535,000	5,916,463
Professional Services	1,326,338	2,425,970	(1,099,632)	-45%	5,669,000	4,342,662
Marketing & Promotions	191,966	383,727	(191,761)	-50%	908,000	716,034
Notifications	39,555	54,688	(15,133)	-28%	131,000	91,445
Lease	206,198	218,750	(12,552)	-6%	525,000	318,802
General & Administrative	<u>480,138</u>	<u>426,256</u>	<u>53,882</u>	<u>13%</u>	<u>1,225,000</u>	<u>744,862</u>
TOTAL OPERATING EXPENSES	<u>6,673,219</u>	<u>9,023,558</u>	<u>(2,350,339)</u>	<u>-26%</u>	<u>21,692,000</u>	<u>15,018,781</u>
OPERATING INCOME/(LOSS)	<u>(16,643,429)</u>	<u>(21,697,601)</u>	<u>5,054,172</u>	<u>-23%</u>	<u>88,832,000</u>	<u>105,475,429</u>
NON-OPERATING REVENUES						
Other Income	10,250	20,833	(10,583)	-51%	50,000	39,750
Investment Income	<u>92,045</u>	<u>125,000</u>	<u>(32,955)</u>	<u>-26%</u>	<u>300,000</u>	<u>207,955</u>
TOTAL NON-OPERATING REVENUES	<u>102,295</u>	<u>145,833</u>	<u>(43,538)</u>	<u>-30%</u>	<u>350,000</u>	<u>247,705</u>
NON-OPERATING EXPENSES						
Financing	56,963	16,667	40,296	242%	40,000	(16,963)
CAPITAL EXPENDITURES, TRANSFERS, & OTHER						
Capital Outlay	32,107	62,500	(30,393)	-49%	150,000	117,893
Transfer to Programs Fund	2,825,608	2,825,608	-	0%	6,781,000	3,955,392
Nuclear Allocation	250,000	250,000			600,000	350,000
Double Down Programs Allocation	7,083,333	7,083,333			17,000,000	9,916,667
Customer Bill Relief	<u>-</u>	<u>1,250,000</u>			<u>3,000,000</u>	<u>3,000,000</u>
TOTAL OTHER USES	<u>10,191,048</u>	<u>11,471,441</u>	<u>(1,280,393)</u>	<u>-11%</u>	<u>27,531,000</u>	<u>17,339,952</u>
NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE	<u>-\$26,789,145</u>	<u>-\$33,039,876</u>	<u>\$6,250,731</u>	<u>-19%</u>	<u>\$61,611,000</u>	

**SILICON VALLEY CLEAN ENERGY AUTHORITY
PROGRAM FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2021 through February 28, 2022**

	<u>Amended BUDGET</u>	<u>ACTUAL</u>	<u>ADOPTED BUDGET REMAINING</u>	<u>ACTUAL/ ADOPTED BUDGET</u>
REVENUE & OTHER SOURCES:				
Transfer from Operating Fund	✓ \$ 24,381,000	✓ \$ 10,158,941	\$ 14,222,059	42%
EXPENDITURES & OTHER USES:				
Program expenditures	8,581,581	640,462	7,941,119	7.5%
Net increase (decrease) in fund balance	<u>\$ 15,799,419</u>	<u>\$9,518,479</u>		
Fund balance at beginning of period		<u>5,837,711</u>		
Fund balance at end of period		<u>\$15,356,190</u>		

**CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2021 through February 28, 2022**

	<u>Amended BUDGET</u>	<u>ACTUAL</u>	<u>ADOPTED BUDGET REMAINING</u>	<u>ACTUAL/ ADOPTED BUDGET</u>
REVENUE & OTHER SOURCES:				
Transfer from Operating Fund *	\$ -	\$ -	\$ -	
EXPENDITURES & OTHER USES:				
Program expenditures *	2,850,000	3,073	2,846,927	0.1%
Net increase (decrease) in fund balance	<u>\$ (2,850,000)</u>	<u>(3,073)</u>		
Fund balance at beginning of period		<u>7,990,315</u>		
Fund balance at end of period		<u>\$7,987,242</u>		

SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING FUND

BUDGET RECONCILIATION TO STATEMENT OF

REVENUES, EXPENSES AND CHANGES IN NET POSITION

October 1, 2021 through February 28, 2022

Net Increase (decrease) in available fund balance per budgetary comparison schedule	\$ (26,789,145)
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position	
Subtract depreciation expense	(38,794)
Subtract program expense not in operating budget	(640,462)
Subtract CRCR expense not in operating budget	(3,073)
Add back transfer to Program fund	10,158,941
Add back capital asset acquisition	<u>32,107</u>
Change in Net Position	<u><u>(17,280,426)</u></u>

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2021 through February 28, 2022

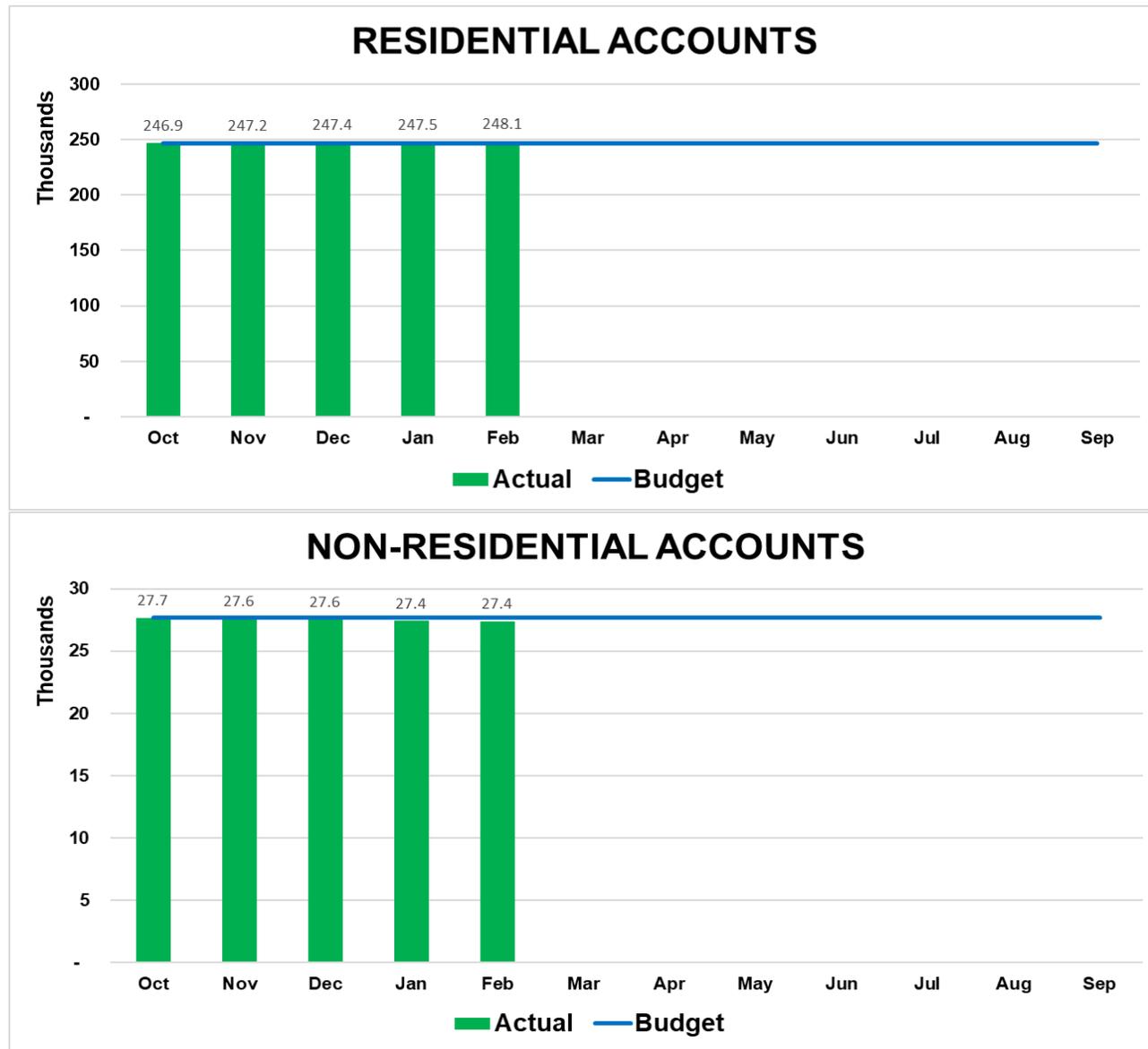
	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	\$ 17,365,080	\$ 14,621,707	\$ 17,815,729	\$ 17,228,581	\$ 16,277,554								\$ 83,308,651
Green electricity premium	80,961	\$ 60,556	\$ 95,594	\$ 462,687	\$ 103,634								803,432
Other income	1,000	\$ 2,500	\$ 1,000	\$ 3,500	\$ 2,250								10,250
Liquidated damages				922,250	\$ 1,302,000								2,224,250
Total operating revenues	<u>17,447,041</u>	<u>14,684,763</u>	<u>17,912,323</u>	<u>18,617,018</u>	<u>17,685,438</u>	-	-	-	-	-	-	-	<u>86,346,583</u>
OPERATING EXPENSES													
Cost of electricity	14,524,607	17,907,845	18,660,060	23,179,137	22,034,894								96,306,543
Staff compensation and benefits	448,844	465,162	593,320	572,350	538,861								2,618,537
Data manager	263,759	263,759	262,863	263,514	264,092								1,317,987
Service fees - PG&E	97,254	96,768	104,341	97,053	97,084								492,500
Consultants and other professional fees	370,413	341,404	376,273	473,924	393,452								1,955,466
General and administration	209,985	134,289	152,437	306,490	129,063								932,264
Depreciation	7,289	8,162	7,774	7,716	7,853								38,794
Total operating expenses	<u>15,922,151</u>	<u>19,217,389</u>	<u>20,157,068</u>	<u>24,900,184</u>	<u>23,465,299</u>	-	-	-	-	-	-	-	<u>103,662,091</u>
Operating income (loss)	<u>1,524,890</u>	<u>(4,532,626)</u>	<u>(2,244,745)</u>	<u>(6,283,166)</u>	<u>(5,779,861)</u>	-	-	-	-	-	-	-	<u>(17,315,508)</u>
NONOPERATING REVENUES (EXPENSES)													
Interest income	18,545	18,382	19,370	18,957	16,791								92,045
Financing costs	(11,042)	(11,626)	(12,027)	(11,042)	(11,226)								(56,963)
Total nonoperating revenues (expenses)	<u>7,503</u>	<u>6,756</u>	<u>7,343</u>	<u>7,915</u>	<u>5,565</u>	-	-	-	-	-	-	-	<u>35,082</u>
CHANGE IN NET POSITION	<u>\$ 1,532,393</u>	<u>\$ (4,525,870)</u>	<u>\$ (2,237,402)</u>	<u>\$ (6,275,251)</u>	<u>\$ (5,774,296)</u>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	<u>\$ (17,280,426)</u>

**SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2021 through February 28, 2022**

Return on Investments	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>YTD Total</u>
	\$18,545	\$18,382	\$19,370	\$18,957	\$16,791	\$0	\$0	\$0	\$0	\$0	\$0	\$0	<u>\$92,045</u>
<hr/>													
Portfolio Invested													
<i>Average daily portfolio available to invest*</i>	152,976,979	155,897,345	155,743,105	157,270,808	153,138,549								
<i>Average daily portfolio invested</i>	141,994,910	145,456,026	148,530,962	147,297,741	145,363,213								
<i>% of average daily portfolio invested</i>	92.8%	93.3%	95.4%	93.7%	94.9%								
<hr/>													
Detail of Portfolio													
	<u>Opening Rate</u>	<u>December Rate</u>	<u>Carrying Value</u>	<u>Interest Earned</u>									
<i>Money Market - River City Bank</i>	1.26%	0.14%	\$0	\$16,728									

* Note: Balance available to invest does not include lockbox funds.

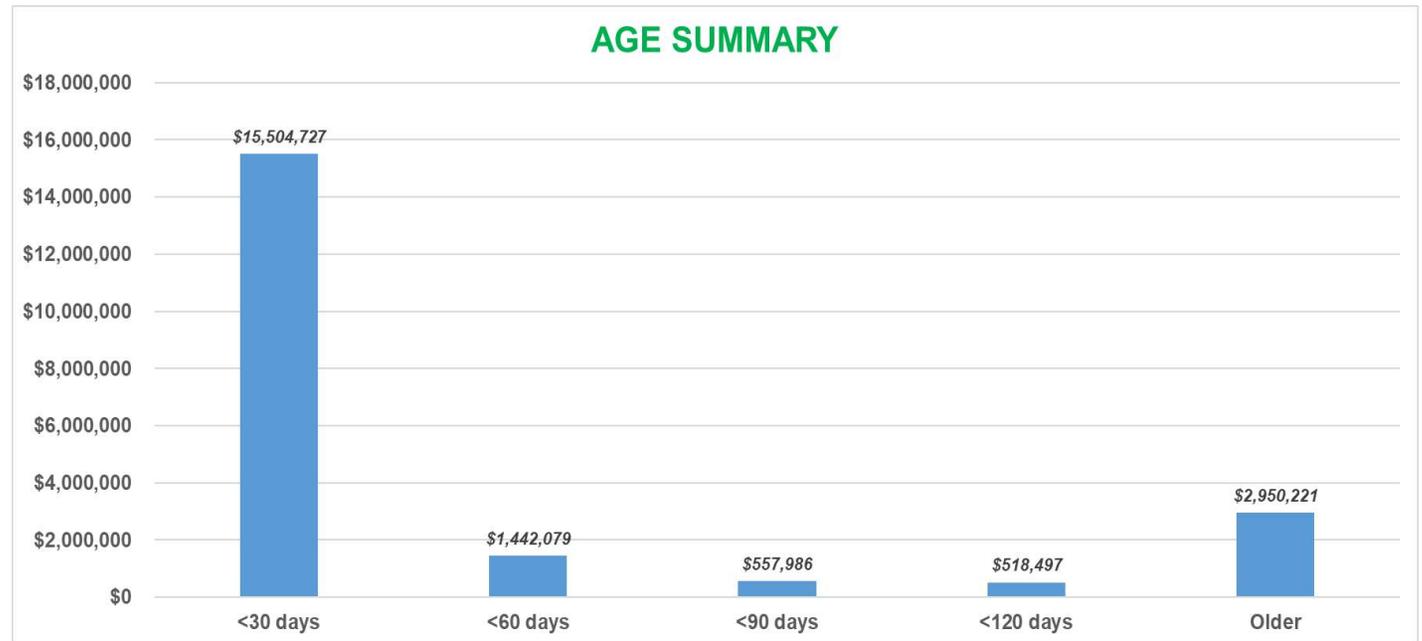
CUSTOMER ACCOUNTS



SILICON VALLEY CLEAN ENERGY AUTHORITY ACCOUNTS RECEIVABLE AGING REPORT

	October	November	December	January	February	March	April	May	June	July	August	September
0 to 30 days	74.6%	66.6%	67.7%	70.4%	73.9%							
31 to 60 days	8.3%	11.6%	9.1%	5.4%	6.9%							
61 to 90 days	3.1%	3.7%	5.1%	3.9%	2.7%							
91 to 120 days	2.0%	2.9%	3.0%	3.2%	2.5%							
Over 120 days	12.0%	15.1%	15.0%	17.1%	14.1%							

Accounts Receivable Days
20 Days
\$20,973,510
TOTAL DUE
Bad Debt % (<i>Budget</i>)
1%





Staff Report – Item 1c

Item 1c: **Adopt Resolution 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: 4/13/2022

RECOMMENDATION

To continue meetings to be held via teleconferencing pursuant to Government Code Section 54953(e), adopt the attached Resolution 2022-11 making the findings required by Section 54953(e)(3).

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. In addition, the Health Officer has described the new Omicron variant as significantly more transmissible than prior variants of the virus.

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).

Agenda Item: 1c**Agenda Date: 4/13/2022**

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, December 8, 2021, January 12, 2022, February 9, 2022, and March 9, 2022 the Board adopted Resolutions 2021-26, 2021-27, 2022-02, 2022-03, and 2022-07 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. As required by Government Code Section 54953(e)(3), the resolution makes the findings as of April 8, 2022 and provides that the findings will cover the period of time until the next regular meeting of the Board. 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 2022-11 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. 2022-11

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 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. As required by Government Code Section 54953(e)(3), the findings made pursuant to this Section 2 shall apply as of April 8, 2022 and shall cover the period of time until the next regular meeting of the Board.

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 13th day of April 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Alternate Director Armendariz				
City of Los Altos	Director Fligor				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Chua				
City of Monte Sereno	Director Ellahie				
City of Morgan Hill	Director Martinez Beltran				
City of Mountain View	Director Abe-Koga				
County of Santa Clara	Director Lee				
City of Saratoga	Director Walia				
City of Sunnyvale	Director Klein				

Chair

ATTEST:

Andrea Pizano, Board Clerk



Staff Report – Item 1d

Item 1d: Authorize the Chief Executive Officer to Execute Agreement with UtilityAPI, Inc. for a Long-Term Data Hive Program

From: Girish Balachandran, CEO

Prepared by: Justin Zagunis, Director of Decarbonization and Grid Innovation Programs
Rebecca Fang, Data Analyst

Date: 4/13/2022

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy Authority Board (“SVCE Board”) authorize the Chief Executive Officer (“CEO”) to execute the attached agreement with non-substantive changes approved by the CEO and subject to final review and approval by the General Counsel with a cost not-to-exceed amount of \$405,000 with UtilityAPI, Inc. (“UAPI”), to scale the Innovation Onramp Data Hive pilot to a standard, longer-term program.

BACKGROUND

In December 2018, the SVCE Board adopted the Decarbonization Strategy and Programs Roadmap (abbrev. “Roadmap”) to achieve its mission to reduce dependence on fossil fuels by providing carbon-free, affordable, and reliable electricity and innovative programs for the community. The Roadmap budget includes funding for the Innovation Onramp program, which is designed to leverage our unique position to engage and support the innovation ecosystem in addressing key market barriers to achieving deep decarbonization in SVCE service territory and beyond. In June 2019, the SVCE Board approved grant funding for a flagship pilot which had been proposed by UAPI. This pilot, later named “Data Hive”, has deployed a data exchange platform for SVCE service territory that allows third parties to request and download customer utility bill and usage data.

ANALYSIS & DISCUSSION

The Data Hive opened for public use in March 2020 with the goal of demonstrating the potential of free, authorized access to standardized and automated energy usage data in accelerating the deployment of clean energy projects, empowering customer choice and supporting local businesses. Interest in the Data Hive was high at launch and throughout the summer, with 60 3rd-party registrations in the first several months. Today, there are over 180 companies registered to use the Data Hive.

Transactional activity on the Data Hive for the spring and summer of 2020 remained fairly low – extending lockdowns and worsening economic conditions seemed to affect consumer interest in clean energy projects (see reference for solar installers¹). As the pilot approached its original termination date of mid-September 2020, staff and UAPI implemented a no-cost term extension with a usage-based monthly fee to give the clean energy market more time to recover and use Data Hive.

¹ See recent Solar Energy Industries Association (SEIA) report on solar installations: <https://www.seia.org/researchresources/solar-market-insight-report-2020-q4>

Agenda Item: 1d**Agenda Date: 4/13/2022**

In Q3 of 2020, the market for clean energy projects began to show some recovery² and usage of the Data Hive increased. Additionally, SVCE's other programs (e.g. GridShift: EV Charging pilot and FutureFit Assist: EV Charging) began to use the Data Hive to help our 3rd party administrators easily access customer data.

In February 2021, the pilot term was extended to November 15, 2021 to allow time to fully vet the efficacy of Data Hive. Since then, Data Hive has received positive feedback from SVCE's 3rd party program partners. For the GridShift: EV Charging program, Data Hive was successfully integrated into the GridShift app such that the entire customer enrollment process is on-app, significantly reducing program administration costs. Interviews with 3rd parties indicated strong support for key features of the platform such as: streamlined 3rd party registration process, streamlined customer consent using one-time passcodes, and scope of data.

Providing simplified, effective access to usage data is beneficial to SVCE's ongoing and future decarbonization programs by streamlining the process for sharing with vendors and making sure customers are aware. Continuing Data Hive will also keep helping 3rd parties and customers across SVCE service territory pursue energy projects and explore new and innovative approaches to decarbonization. Acting as the source for customers to share their usage data is a key way that SVCE serves our community. Further, UAPI has committed to adding functions to the Data Hive that are intended to increase its use.

The above reasons led to the decision to pursue a full-scale, multi-year Data Hive program. Since November 2021, the pilot term has been extended to allow time to negotiate a long-term contract with UAPI.

STRATEGIC PLAN

The proposal supports SVCE's updated 2021-2022 Strategic Plan Goal 8, which is to "coordinate development of decarbonization strategy, lead design of local policy and programs, and support program deployment."

ALTERNATIVE

The primary alternative to the Staff recommendation is to not pursue a full-scale Data Hive program and allow the pilot to end once the current funding runs out in April 2022. Staff does not recommend this alternative because it would result in a termination of service for the Data Hive and its users (3rd parties, SVCE customers, and SVCE programs).

FISCAL IMPACT

The staff proposal has no incremental fiscal impact. Through the annual budget process, the Board approved 2% of annual operating revenues for programs. Approval of this contract would merely allocate \$405,000 within that budget towards this UAPI contract as a part of ongoing Innovation efforts.

ATTACHMENTS

1. Draft Agreement with UtilityAPI, Inc. for Long-Term Data Hive Program
2. Previous Amendments and Agreement with UtilityAPI, Inc.

² See SEIA report or a National Renewable Energy Laboratory update: <https://www.nrel.gov/docs/fy21osti/78625.pdf>

MASTER AGREEMENT

SOFTWARE AS A SERVICE

This agreement ("Agreement") is entered into and is effective as of April 14, 2022 ("Effective Date"), by and between Silicon Valley Clean Energy, an independent public agency located at 333 W El Camino Real, #330, Sunnyvale, California 94087 ("SVCE") and UtilityAPI, Inc., a Delaware corporation, located at 1212 Broadway, 16th Floor, Oakland, CA 94612 ("Service Provider").

RECITALS

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

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

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

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

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

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

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

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

1. Term. This Agreement is legally binding as of the Effective Date and shall continue until terminated as provided for herein. Unless this Agreement is terminated earlier in accordance with the terms set forth herein, the term (the "Initial Term") shall commence on the Effective Date and continue for three (3) years. Following the Initial Term and unless otherwise terminated as provided for in this Agreement, this Agreement may be renewed for successive one (1) year terms (each, a "Renewal Term") upon mutual written agreement of the parties.
2. Fees. SVCE shall be responsible for and shall pay to Service Provider the fees as further described in Exhibit A (the "Services Fees"), subject to the terms and conditions contained in this Agreement, including, but not limited to, Section 11 Fees; Billing, below. The total amount payable to Service Provider under this Agreement shall not exceed \$405,000.00.

3. The Services. This Agreement sets forth the terms and conditions under which Service Provider agrees to license and provide SVCE with access to and use of Service Provider's utility data delivery platform and certain other support and maintenance services necessary for the productive use of such platform, as set forth in Exhibit A (collectively, the "Services"). The parties understand that SVCE is not obtaining a software license or any proprietary right, interest in, or ownership over the software.
- 3.1 Authorized Users. Unless otherwise limited herein, Service Provider hereby grants SVCE a renewable, nonexclusive, non-transferable, and worldwide right and license for any SVCE employee, contractor, or agent, or any other individual or entity properly authorized by SVCE (each, an "Authorized User") to access and use the Services on behalf of SVCE in accordance with the terms of this Agreement. Other than any limitations otherwise described herein, Authorized Users will have no other limitations on their access to or use of the Services. SVCE is responsible for identifying and authenticating all Authorized Users, for approving access by such persons, and for ensuring that such persons keep their usernames, passwords and other authentication information strictly confidential. SVCE is responsible for the acts and omissions of all Authorized Users.
- 3.2 [Omitted]
- 3.3 Changes in Number of Authorized Users. SVCE is entitled to increase or decrease the initial number of Authorized Users on an as-requested basis. Should SVCE elect to change the number of Authorized Users, Service Provider shall reduce or increase Authorized Users specified in Exhibit A and adjust the prospective Services Fees accordingly no later than five (5) business days from SVCE's written request.
- 3.4 Control and Location of Services. The method and means of providing the Services shall be under the exclusive control, management, and supervision of Service Provider (including through its cloud service provider), giving due consideration to the requests of SVCE. In connection with the Services, Service Provider shall utilize only cloud storage service providers that have certified compliance with ISO/IEC 27001 and ISO/IEC 27017, or any successor standard, as applicable. Except as otherwise expressly set forth in Exhibit A, the Services (including all data storage), shall be provided solely from within the continental United States and on computing and data storage devices residing therein, and, upon request, all such locations shall be disclosed to SVCE within thirty (30) days of such request.
- 3.4.1 Subcontractors. Service Provider shall not enter into any subcontracts for the performance of the Services, or assign or transfer any of its rights or obligations under this Agreement (other than an assignment permitted under Section 20.10) without SVCE's prior written consent and any attempt to do so shall be void and without further effect and shall be a material breach of this Agreement. Service Provider's use of subcontractors and other third-party service providers shall not relieve Service Provider of any of its duties or obligations under this Agreement. SVCE understands that Service Provide shall utilize the services of third parties in connection with the Services (including but not limited to Amazon Web Services Inc. (AWS))

for cloud-based storage services); the use of such third-party services does not constitute a “subcontract” for purposes of the above restriction; however any such third-party user that has access or stores SVCE Data shall be required to maintain such data to the same level of security as required for Service Provider.

- 3.5 Storage. The Service Fees are inclusive of all data storage expected to be necessary for the Services. In the event that required data storage materially exceeds the reasonably foreseeable requirements, the parties agree to reasonably negotiate the costs of such additional storage.
- 3.6 Right to Review. In addition to production use of the Services, Service Provider will allow a select group of Authorized Users (as determined by SVCE) the opportunity to review and use any Major Release (as defined) in advance of providing access to such features to all Authorized Users. For purposes hereof, a “Major Release” means a change to the software component of the Services that reflects substantial architectural changes or a significant change in functionality. A Major Release does not include (i) new products that are not included in Client’s Services package, or (ii) patches, corrections and bug fixes to the Services.
- 3.7 Documentation. Service Provider will use its reasonable efforts to ensure that (i) the written and electronic user manuals and guides to the Services (the “Documentation”) will reasonably describe the functions and features of the Services, including all subsequent revisions thereto, (ii) is understandable by a typical administrative user, and (iii) provides Authorized Users with sufficient information to reasonably access and use the Services. SVCE shall have the right to make any number of additional copies of the Documentation at no additional charge.
- 3.8 Changes in Functionality. During the term of this Agreement, Service Provider shall not materially reduce or eliminate functionality in the Services. Where Service Provider has materially reduced or eliminated functionality in the Services and where such functionality has not been restored within 10 business days of SVCE providing Service Provider with written notice thereof, SVCE, at SVCE’s sole election and in SVCE’s sole determination, shall have, in addition to any other rights and remedies under this Agreement or at law, the right to immediately terminate this Agreement and be entitled to a return of any prepaid and unused fees. As further described in Section 6.2, Service Provider may, from time to time, change any component of the Services for the purpose of correcting problems or otherwise maintaining the functionality of the Services. No such change or correction to the functionality of the Services will require the payment of additional Services Fees hereunder.
- 3.9 No Effect of Click-Through Terms and Conditions. Where an Authorized User is required to “click through” or otherwise accept or made subject to any online terms and conditions in accessing or using the Services, such terms and conditions are not binding and shall have no force or effect as to the Services or this Agreement.
- 3.10 Waiver of the Services. SVCE’s Director of Information Technology shall be authorized to waive, in writing, any of the Service Provider’s obligations with respect to the

Services, where deemed to be in SVCE's best interests, provided that no such waiver shall result in any increase in the amount of the Services Fees.

- 3.11 Compliance with All Laws. Service Provider shall keep itself informed of all applicable federal, state and local laws, ordinances, codes, regulations and requirements which may, in any manner, affect the performance of its services pursuant to this Agreement. Service Provider shall, at all times, observe and comply with all such laws and regulations, including, but not limited to the Americans with Disabilities Act. SVCE, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the Service Provider to comply with this paragraph.

4. SVCE Restrictions and Responsibilities.

- 4.1 SVCE will not, directly or indirectly: (i) disassemble, decompile, reverse engineer, adapt or otherwise attempt to gain access to any software component of the Services, discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services, (ii) modify, translate or create any derivative works based on any part of the Services, (iii) access or use the Services in any way to build or support, or assist any third party in building or supporting, products or services competitive to the Services, (iv) use the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of the Service Provider, (v) lease, sell, license, publish, transfer, allow access to or otherwise make the Services available to any third party, (vi) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (vii) use the Services to store or transmit Viruses, (viii) attempt to interfere with or disrupt the integrity or performance of the Services, (ix) attempt to gain unauthorized access to the Services or any Service Provider systems or networks, (x) use or attempt to use any data mining, robots, or similar unauthorized data gathering and extraction tools to gather any data from the Services, (xi) copy, frame or mirror any part of the Services, or (xi) remove or obscure any Service Provider tradename or trademark that appear on the Services.
- 4.2 SVCE will maintain the security of its and its Authorized Users' login credentials to the Services and prevent any unauthorized access to or use of the Services, and SVCE will notify Service Provider promptly of any such unauthorized access or use of which SVCE is aware.
- 4.3 SVCE will use the Services only in compliance with this Agreement, the Documentation, and all applicable laws and regulations. Prior to transferring or directing the transfer of any data for processing or transmittal through the Services, SVCE shall make such disclosures and obtain such consents from account holders or other applicable third parties as are required under applicable law, rules or regulations.
- 4.4 SVCE shall be responsible for obtaining and maintaining the security of any equipment, hardware, software and ancillary services needed for SVCE and its Authorized Users to connect to or access the Services from the Internet.
- 4.5 SVCE is responsible for all uses of the Services resulting from access provided by SVCE or its Authorized Users.

5. Service Levels.

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

5.2 Service Level Reporting. Service Provider shall provide information, accessible by SVCE via a website on an ongoing basis, describing the performance of the Services as compared to the Availability Service Level Standard. The online service level reporting shall be in a form agreed-to by SVCE, and, in no case shall contain less than the following information: actual monthly performance compared to the Availability Service Level Standard. In the event that the Availability Service Level Standard is not met for a given month, Service Provider shall calculate and include on the applicable invoice the appropriate Performance Credit (as set forth on Exhibit A).

Service Provider and SVCE will meet as often as shall be reasonably requested by SVCE to review the performance of Service Provider as it relates to the Availability Service Level. Service Provider shall, without charge, make SVCE's historical monthly Availability Service Level information available to SVCE upon request.

5.3 Failure to Meet Service Level Standards. In the event Service Provider does not meet an Availability Service Level Standard, Service Provider shall: (a) owe to SVCE any applicable Performance Credit, as liquidated damages and not as a penalty; and, (b) use its commercially reasonable efforts to ensure that any unmet Service Level Standard is subsequently met. Notwithstanding the foregoing, Service Provider will use its commercially reasonable efforts to minimize the impact or duration of any outage, interruption, or degradation of Service. In no case shall SVCE be required to notify Service Provider that an Uptime Performance Credit is due as a condition of payment of the same.

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

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

6. Support; Maintenance; Additional Services.
 - 6.1 Technical Support. Service Provider shall provide the Technical Support as described in Exhibit A. The Services Fees shall be inclusive of the fees for such Technical Support.
 - 6.2 Maintenance. Service Provider shall provide bug fixes, corrections, modifications, enhancements, upgrades, and new releases to the Services to ensure: (a) the functionality of the Services, as described in Exhibit A hereto, is available to Authorized Users; (b) the functionality of the Services in accordance with the representations and warranties set forth herein, including but not limited to the specifications, functions, descriptions, standards, and criteria set forth in Exhibit A and the Documentation; (c) the Availability Service Level Standard can be achieved; and (d) the Services work with the then-current version and the three prior versions of Microsoft Edge, Internet Explorer, Mozilla Firefox, and Google Chrome Internet browsers. The Services Fees shall be inclusive of the fees for maintenance required under this Section 6.2.
 - 6.2.1 Required Notice of Maintenance. Service Provider shall use its commercially reasonable efforts to perform non-emergency maintenance on the Services that has a reasonable likelihood of disrupting the Services only during the following time windows: Tuesday 8:00 PM – 11:00 PM, Thursday 8:00 PM – 11:00 PM, and Saturday 8:00 PM – 11:00 PM Pacific Time. Service Provider shall provide no less than three (3) calendar days' prior written notice to SVCE of all non-emergency maintenance (with a reasonable likelihood of being disruptive) to be performed on the Services outside of the aforementioned time windows, such written notice including a reasonable description of all maintenance to be performed. For emergency maintenance which is reasonably likely to disrupt the Services, Service Provider shall provide as much prior notice as commercially practicable to SVCE and, upon request of SVCE, shall provide a reasonable description of the purpose of such maintenance.
 - 6.3 Customization / Integration Services. Service Provider shall provide the Customization / Integration Services, if any, described in Exhibit A. The Services Fees shall be inclusive of the fees for such Customization / Integration Services.
 - 6.4 Training Services. Service Provider shall provide the Training Services, if any, described in Exhibit A. The Services Fees shall be inclusive of the fees for such Training Services.
7. Audit Rights of Service Provider. Service Provider shall have no right to conduct an on-premises audit of SVCE's compliance with the use of the Services.
8. Change Control Procedure. SVCE may, upon written notice, request changes to the scope of the Services under Exhibit A. If SVCE requests a change in the scope, SVCE shall notify Service Provider, and, not more than thirty (30) days (or other mutually agreed upon period) after receiving the request, Service Provider shall notify SVCE whether or not the change is acceptable to Service Provider and, if so, its associated cost impact. If SVCE approves, SVCE shall draft an amendment to Exhibit A for review and approval of Service Provider. Such amendment will only be effective once executed and delivered by both parties.

9. Termination; Renewals.

- 9.1 Termination for Convenience. Without limiting the right of a party to terminate this Agreement for Cause as provided for in this Agreement, SVCE may, on the anniversary of the Effective Date each year, terminate this Agreement for convenience upon not less than thirty (30) days prior written notice to Service Provider; provided that SVCE shall pay to Service Provider an early termination fee equal to 10% of the Services Fees that would have been payable (but for the early termination) with respect to the portion of the original Term following the termination date; provided further that, to the extent that the Services Fees are variable, the termination fee will be calculated assuming monthly Services Fees following the termination date equal to the average Services Fees for the months of the Term preceding the termination date. For clarity, unless exercised in accordance with the preceding sentence, each such annual termination right shall expire and be cancelled as of the applicable anniversary date.
- 9.2 Termination for Cause. Without limiting the right of a party to immediately terminate this Agreement for cause as provided for in this Agreement, if either party materially breaches any of its duties or obligations hereunder and such breach is not cured, or the breaching party is not diligently pursuing a cure to the non-breaching party's sole satisfaction, within thirty (30) calendar days after written notice of the breach, the non-breaching party may terminate this Agreement for cause as of a date specified in such notice. Either party may also terminate this agreement for cause if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 9.3 Payments upon Termination. Upon the termination of this Agreement, SVCE shall pay to Service Provider all undisputed amounts due and payable hereunder, if any, and Service Provider shall pay to SVCE all undisputed amounts due and payable hereunder, such as Performance Credits and (other than in connection with a termination by Service Provider for cause) any unused prepaid fees (calculated on a prorated basis, if applicable).
- 9.4 Return of SVCE Data. Upon the termination of this Agreement, Service Provider shall, within thirty (30) days following the termination of this Agreement, provide SVCE, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Service Provider), with a final extract of the Authorized Data and Admin Data (as defined in Section 13.1 below) in a usable format mutually agreed upon by both parties. Further, Service Provider shall certify to SVCE the destruction, in accordance with Section 14.6, of any remaining SVCE Data within the possession or control of Service Provider, but such destruction shall occur only after the Authorized Data and Admin Data have been returned to SVCE. This Section shall survive the termination of this Agreement.
- 9.5 Renewals. Should the Services continue beyond the Initial Term, the Services Fees for any Renewal Term shall be as mutually agreed by the parties in writing.
10. Transition Services. Service Provider will provide to SVCE and/or to the service provider selected by SVCE ("Successor Service Provider") commercially reasonable assistance to the extent

reasonably requested by SVCE to effect the orderly transition of the Services, in whole or in part, to SVCE or to Successor Service Provider ("Transition Services") following the termination of this Agreement, in whole or in part. The Transition Services may include: (a) developing a plan for the orderly transition of the terminated Services from Service Provider to SVCE or Successor Service Provider; (b) if required, using its commercially reasonable efforts to transfer Authorized Data and Admin Data to Successor Service Provider; (c) using commercially reasonable efforts to assist SVCE in acquiring any necessary rights to legally and physically access and use any third-party technologies and documentation then being used by Service Provider in connection with the Services; (d) using commercially reasonable efforts to make available to SVCE, pursuant to mutually agreeable terms and conditions, any third-party services then being used by Service Provider in connection with the Services; and (e) such other activities upon which the parties may agree. All applicable terms and conditions of this Agreement shall apply to the Transition Services. For the absence of doubt, under no circumstances shall Service Provider be required to pay any fees or charges to third parties, disclose any trade secret or commercially sensitive information, or provide any assistance to any competitor of Service Provider in connection with the Transition Services. This Section shall survive the termination of this Agreement.

11. Fees; Billing. Any sum due Service Provider for the Services for which payment is not otherwise specified shall be due and payable thirty (30) business days after receipt by SVCE of an invoice from Service Provider.
 - 11.1 Billing Procedures. Service Provider shall bill to SVCE the sums due pursuant to Exhibit A by Service Provider's invoice, which shall contain: (a) SVCE's purchase order number, if any, and Service Provider's invoice number; (b) description of Services for which an amount is due; (c) the fees or portion thereof that are due; (d) taxes, if any; (e) any Performance Credits or other credits; and, (f) total amount due. Service Provider shall forward invoices in electronic format to the email address of the designated SVCE program manager and invoices@svcleanenergy.org.
 - 11.2 Late Payments. If SVCE fails to make any payment when due, then without limiting Service Provider's other rights and remedies: (i) Service Provider may charge interest on the past due amount at the rate of 1.5% per month, or if lower, the highest amount permitted by law, and (ii) subject to Section 11.9, if such delinquency continues for 60 days or more, Service Provider may suspend SVCE's access to any portion or all of the Services.
 - 11.3 Disputed Amounts. If SVCE, in good faith, disputes any amounts owed hereunder ("Disputed Amounts"), then SVCE (i) must provide Service Provider with written notice of such disputed charges or fees within 30 days of the applicable invoice receipt date (a "Dispute Notice") (ii) may withhold the Disputed Amount pending resolution of such dispute, (iii) will promptly pay and will not withhold any undisputed amounts, (iv) will work with Service Provider in good faith to promptly resolve such dispute, and (v) upon resolution of such dispute, will promptly pay to Service Provider such portion of the Disputed Amount that is determined to be owed to Service Provider.
 - 11.4 Taxes. Service Provider represents and warrants that it is an independent contractor for purposes of federal, state, and local taxes. Service Provider agrees that SVCE is not responsible to collect or withhold any such taxes, including income tax withholding and

social security contributions, for Service Provider. Any and all taxes, interest, or penalties, including any federal, state, or local withholding or employment taxes, imposed, assessed, or levied on Service Provider or its employees as a result of this Agreement shall be paid or withheld by Service Provider.

- 11.5 Credits. Any amounts due to SVCE, such as a Performance Credit, from Service Provider shall be applied by Service Provider as a credit against the next invoice for Services Fees, unless SVCE provides Service Provider with advance notice that such amounts should be otherwise paid or credited against any current or future fees due to Service Provider. Any such undisputed amounts that are not so credited shall be paid to SVCE by Service Provider within thirty (30) calendar days following SVCE's request. This Section shall survive the termination of this Agreement.
- 11.6 Non-binding Terms. Any terms and conditions included in a Service Provider invoice shall be deemed to be solely for the convenience of the Service Provider, and no such term or condition shall be binding upon SVCE.
- 11.7 Auditable Records. Service Provider shall maintain accurate records of all fees billable to, and payments made by, SVCE in a format that will permit audit by SVCE for a period of no less than three (3) years from when a fee was incurred or a payment was made. The foregoing obligation of Service Provider shall survive the termination of this Agreement. For the term of this Agreement, upon SVCE's written request, Service Provider shall provide SVCE with a copy of its annual American Institute of Certified Public Accountants Service Organization Control SOC 2 type 2 report.
- 11.8 Billing Reviews by Third Parties For purposes of determining the competitiveness and appropriateness of fees charged to SVCE by Service Provider, SVCE is entitled to disclose to a third-party this Agreement, and any other data pertaining to fees paid or payable by SVCE to Service Provider.
- 11.9 Suspension of Services. Service Provider shall not suspend any part of the Services because: (a) SVCE is reasonably disputing any amount due to Service Provider in accordance with Section 11.3; provided that not more than 60 days have passed since the provision of the Dispute Notice, or (b) any unpaid but undisputed amount due to Service Provider is less than sixty (60) days in arrears.
12. Representations and Warranties.
- 12.1 Mutual. SVCE and Service Provider represent and warrant that:
- 12.1.1 it is a public entity or business duly incorporated, validly existing, and in good standing under the laws of its state of incorporation;
- 12.1.2 it has all requisite corporate power and authority to execute, deliver, and perform its obligations under this Agreement;
- 12.1.3 the execution, delivery, and performance of this Agreement has been duly authorized by it and this Agreement constitutes the legal, valid, and binding agreement of it and is enforceable against it in accordance with its terms,

except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganizations, moratoriums, and similar laws affecting creditors' rights generally and by general equitable principles;

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

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

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

12.2.1 it is in the business of providing the Services;

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

12.2.3 to the best of its knowledge, none of the Services or any other work performed by Service Provider hereunder shall infringe upon any United States or foreign copyright, patent, trade secret, or other proprietary right, or misappropriate any trade secret, of any third-party, and that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Agreement;

12.2.4 it has the expertise to perform the Services in a competent, workmanlike, and professional manner and in accordance with prevailing industry standards of care, skill and diligence;

12.2.5 to the best of its knowledge, in the original form provided by Service Provider, none of the Services nor any software that Service Provides to SVCE for local installation will contain any computer viruses, worms, malware, or similar unauthorized items (collectively, a "Virus");

12.2.6 it shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions and shall perform the Support Service and the Maintenance Services in a professional and workmanlike manner in accordance with this Agreement;

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

12.2.8 NOTWITHSTANDING ANY OF THE FOREGOING, SERVICE PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR FREE, OR MEET SVCE'S REQUIREMENTS. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 12.2, THE SERVICES ARE PROVIDED "AS IS" AND SERVICE PROVIDER DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.

13. SVCE Data.

13.1 Ownership. SVCE's data ("SVCE Data," which shall be treated by Service Provider as Confidential Information) shall include: (a) SVCE's data collected, accessed, used, processed, stored, or generated through SVCE's use of the Services; and, (b) personally identifiable information ("PII") collected, used, processed, stored, or generated through SVCE's use of the Services, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements listed herein. Except where subject to a third party's intellectual property rights, all SVCE Data is and shall remain the sole and exclusive property of SVCE and all right, title, and interest in the same belongs to SVCE. SVCE Data can be categorized as follows: (a) "Authorized Data", which consists of all data that has been authorized by SVCE customers for release to third parties through the Services; (b) "Calpine Data", which consists of all data that Service Provider has received from Calpine; (c) "Admin Data", which consists of all administrative data generated by SVCE's use of the Services (e.g. number of customer authorizations, identities of the authorizing customers, and the scope of data that was authorized for release). This Section 13 shall survive the termination of this Agreement.

13.2 Service Provider Use of SVCE Data. Service Provider is provided a limited license to access SVCE Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display SVCE Data only to the extent necessary in the providing of the Services. Service Provider shall: (a) keep and maintain SVCE Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose SVCE Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Agreement, and applicable law; (c) allow access to SVCE Data only to those employees of Service Provider who are directly involved with and responsible for providing the Services; and, (d) not use, sell, rent, transfer, distribute, or otherwise disclose or make available SVCE Data for Service Provider's own purposes or for the benefit of anyone other than SVCE without SVCE's prior written consent. Notwithstanding any of the foregoing, however, it is specifically understood and agreed that Service Provider is affirmatively permitted to release and share Authorized Data in accordance with the applicable customer authorization.

Notwithstanding any other provision herein, Service Provider may aggregate, anonymize, or otherwise de-identify information relating to SVCE's use and the performance of the Services ("Anonymized Data"), and use and disclose such Anonymized Data for its legitimate business purposes, including but not limited to improving the Services and promotion and marketing; provided that such Anonymized Data cannot reasonably be used to identify SVCE or any accountholder. For the absence of doubt, Anonymized Data does not include and may not be derived from any Authorized Data.

This Section shall survive the termination of this Agreement.

- 13.3 Access to, and Extraction of SVCE Data. SVCE shall have full and complete access to, and ability to download, Authorized Data 24 hours per day, 7 days per week, except during periods of maintenance by Service Provider. Further, Service Provider shall, within thirty (30) days of SVCE's written request, provide SVCE, without charge and without any conditions or contingencies whatsoever (including, but not limited to, the payment of any fees due to Service Provider), an extract of the Authorized Data and Admin Data in a usable format agreed upon by both parties. In the event SVCE gives Service Provider written notice of a "litigation hold", then as to all data identified in such notice, Service Provider shall, at no additional cost to SVCE, isolate and preserve all such data pending receipt of further direction from SVCE.
- 13.4 Backup and Recovery of SVCE Data. As a part of the Services, Service Provider is responsible for maintaining a backup of Authorized and Admin Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted. Unless otherwise described in Exhibit A, Service Provider shall maintain a contemporaneous backup of Authorized and Admin Data that can be recovered within four (4) days. Such backup of Authorized and Admin Data shall be stored in an off-site (but within the continental United States) facility no less than daily, maintaining the security of Authorized and Admin Data, the security requirements of which are further described herein. Any backups of Authorized and Admin Data shall not be considered in calculating storage used by SVCE.
- 13.5 Loss or Unauthorized Access to Data. In the event of the occurrence of unauthorized access to, or any other event that compromises or is suspected to compromise the security, confidentiality, or integrity of SVCE Data or the physical, technical, administrative, or organizational safeguards put in place by Service Provider that relate to the protection of the security, confidentiality, or integrity of SVCE Data, Service Provider shall, as applicable: (a) notify SVCE as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with SVCE in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise reasonably required by SVCE.

Subject to the Data Protection Liability Cap set forth in Section 18.2, Service Provider agrees that in the event of an unauthorized release of SVCE Data caused by its or any of its third-party subcontractors' or service providers' (a) negligence or misconduct, (b) breach of Service Provider's obligations under this Agreement, or (c) failure to adhere to

the processes and procedures of Service Provider's data privacy and information security program pursuant to Section 15.1 hereof, Service Provider shall:

- (A) in the case of PII, at SVCE's sole election, (i) notify the affected individuals who comprise the PII as soon as practicable but, to the extent reasonably feasible, no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or in the absence of any legally required notification period, as soon as reasonably practical after the discovery of the occurrence, or reimburse SVCE for its reasonable costs in notifying the affected individuals; and (ii) if the nature of the breach is such that there is a reasonable risk of identity theft as a result of the breach, provide commercially reasonable third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for twelve (12) months following the date of notification to such individuals, and
- (B) in the case of SVCE Data (whether PII or otherwise), (i) perform or take any other actions required to comply with applicable law as a result of the occurrence; (ii) as further described in Section 17 of this Agreement, indemnify, defend, and hold harmless SVCE for any and all Claims (as defined herein), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from SVCE in connection with the occurrence; (iii) be responsible for recreating lost Authorized Data and Admin Data on the schedule reasonably set by SVCE without charge to SVCE; and (iv) will use its commercially reasonable efforts to provide to SVCE a detailed plan within ten (10) calendar days of the discovery of the occurrence, describing the measures Service Provider will undertake to prevent a future occurrence.
- (C) Notification to affected individuals, as described in clause (A) above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Service Provider's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Service Provider has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Service Provider. This Section shall survive the termination of this Agreement.

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

- 14.1 Meaning of Confidential Information. For the purposes of this Agreement, the term “Confidential Information” shall mean all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; or (c) should reasonably be recognized as confidential information of the disclosing party. Except for electric and gas usage information provided to Service Provider pursuant to this Agreement the term “Confidential Information” does not include any information or documentation that was: (a) already in the possession of the receiving party without an obligation of confidentiality; (b) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (c) obtained from a source other than the disclosing party without an obligation of confidentiality; or (d) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). To illustrate the types of information that shall qualify as Confidential Information, for purposes of this Agreement, in all cases and for all matters: SVCE Data shall be deemed to be Confidential Information of SVCE and any technical specifications or limitations, software code, algorithms and processes, security measures, audit and inspection results, and product plans and technical proposals relating to the Services shall be deemed to be Confidential Information of the Service Provider.
- 14.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement, or as required by law. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. The parties understand and agree that this provision shall not restrict Service Provider, in any manner, from disclosing Authorized Information in accordance with the applicable customer authorization.
- 14.3 Cooperation to Prevent Disclosure of Confidential Information. Each party shall use its commercially reasonable efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party shall advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each party will reasonably cooperate with the other party in seeking injunctive or other equitable relief against any such person. It is understood that SVCE is subject to the California Public Records Act (Gov. Code § 6250 *et seq.*). If a request under the California Public Records Act is made to view Service Provider’s Confidential Information, SVCE shall notify Service Provider of the request and the date that such records will be released to the requester unless Service Provider obtains a court order

enjoining that disclosure. If Service Provider fails to obtain a court order enjoining that disclosure, SVCE will release the requested information on the date specified.

- 14.4 Compelled by Law. In the event that either party (as the “Recipient”) becomes compelled by law (by subpoena, court order, or otherwise), to disclose any Confidential Information of the other party (as the “Discloser”), Recipient’s disclosure shall not exceed that required by such legal mandate, and Recipient shall to the extent legally permissible and practicable, provide Discloser with prompt written notice so that Discloser may seek, at Discloser’s own expense, a protective order or other appropriate remedy.
- 14.5 Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of a material breach by Service Provider that is reasonably likely to cause significant ongoing disruption or material legal risk to SVCE, the right to SVCE to effect, at the sole election of SVCE, the immediate termination, without liability (other than the payment of all amounts then due), of this Agreement.
- 14.6 Surrender of Confidential Information upon Termination. Upon termination of this Agreement, each party shall, within thirty (30) calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which is in such party’s possession, custody, or control; provided, however, that Service Provider shall return SVCE Data to SVCE following the timeframe and procedure described further in this Agreement. Should Service Provider or SVCE determine that the return of any SVCE Data or non-SVCE Data Confidential Information is not feasible, Service Provider shall destroy the data comprising such Confidential Information in compliance with the most current version of NIST standard SP800-88 (or such other standard offered by Service Provider’s cloud service provider), and shall certify the same in writing within thirty (30) calendar days from the date of termination to the other party. Notwithstanding the foregoing, SVCE agrees that Service Provider shall not be required to destroy any copies of Confidential Information that (A) reside on Service Provider’s backup, disaster recovery or business continuity systems, or (B) that Service Provider is obligated by applicable law and/or governmental regulations to retain; provided that Service Provider shall neither retrieve nor use any such Confidential Information for any purpose other than that specified in the foregoing clause (B) and Service Provider maintains the same level of security as required by this Agreement.
15. Data Privacy and Information Security.
- 15.1 Undertaking by Service Provider. Without limiting Service Provider’s obligation of confidentiality as further described herein, Service Provider shall be responsible for establishing, maintaining, and upon request providing a written description to SVCE of, a data privacy and information security program, including physical, technical,

administrative, and organizational safeguards, that is reasonably designed to: (a) ensure the security and confidentiality of the SVCE Data; (b) protect against any anticipated threats or hazards to the security or integrity of the SVCE Data; (c) protect against unauthorized disclosure, access to, or use of the SVCE Data; (d) ensure the proper disposal of SVCE Data; and, (e) ensure that all employees, agents, and subcontractors of Service Provider, if any, comply with all of the foregoing. In no case shall the safeguards of Service Provider's data privacy and information security program used to protect SVCE Data be less stringent than the safeguards used by Service Provider for its own data.

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

SVCE represents and warrants that it will not transfer or direct the transfer, processing, storage or transmittal of any cardholder data through the Services without the prior written consent of Service Provider.

- 15.2 Audit by Service Provider. No less than annually, Service Provider shall obtain an AICPA SOC 2 Type 2 report (in connection with which Service Provider generally conducts a third-party penetration test of Service Provider's data network). Upon request of SVCE, Service Provider will provide SVCE with the most recent such SOC 2 Type 2 Report (provided that Service Provider may redact any information that does not relate to the Services). Such report shall constitute UtilityAPI Confidential Information. The parties acknowledge that industry and accounting practices regarding data security audits are subject to change in the future. In the event that Service Provider deems it advisable and appropriate to obtain an independent data security audit or review other than an AICPA Soc 2 Type 2 report, it may do so without violation of this covenant, provided that such replacement audit or review meets or exceeds then-applicable industry standards.
- 15.3 Right of Audit by SVCE. Without limiting any other audit rights of SVCE, SVCE shall have the right to review Service Provider's data privacy and information security program prior to the commencement of Services and during the term of the Agreement. No more than once in each 12 month period, SVCE, at its own expense and with no less than 30 days' prior notice, shall be entitled to have an audit of Service Provider's data privacy and information security program performed by an independent third-party auditor subject to confidentiality restrictions (with such auditor to be selected by SVCE and reasonably approved by Service Provider). In lieu of an on-site audit, upon request by SVCE, Service Provider agrees to complete, within forty-five (45 days) of receipt, an audit questionnaire provided by SVCE regarding Service Provider's data privacy and information security program. The results of any such audit or questionnaire shall be treated by SVCE as Confidential Information of Service Provider under Section 14.

- 15.4 Audit Findings. Service Provider shall use its commercially reasonable efforts to implement any required safeguards identified in writing in any audit of Service Provider's data privacy and information security program, and to the extent that it fails to do so within 60 days of a written request therefor by SVCE, SVCE may terminate this Agreement, and be entitled to a return of any unused prepaid fees.
- 15.5 Pattern of Violations. It shall be considered a material breach of this Agreement if Service Provider engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Service Provider understands that if SVCE finds that Service Provider is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement SVCE shall promptly cease all disclosures of Confidential Information to Service Provider. Service Provider further understands that if SVCE receives a customer complaint about Service Provider's misuse of data or other violation of the Disclosure Provisions, SVCE shall promptly cease disclosing that customer's information to Service Provider and shall notify the California Public Utilities Commission ("CPUC") of the complaint.
- 15.6 CPUC Compliance. Service Provider shall comply with all applicable consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.
- 15.7 Injunction, Specific Performance or Such Other Relief. Service Provider acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to SVCE and/or SVCE Customers, the amount of which may be difficult to assess. Accordingly, Service Provider hereby confirms that the SVCE shall be entitled to apply to a court of competent jurisdiction or the CPUC for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Service Provider or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the SVCE, in law or equity.
- 15.8 [Omitted]
16. Proprietary Rights.
- 16.1 Pre-existing Materials. SVCE acknowledges that, in the course of performing the Services, Service Provider may use software and related processes, instructions, methods, and techniques that have been previously developed by Service Provider (collectively, the "Pre-existing Materials," which shall include the Services) and that the same shall remain the sole and exclusive property of Service Provider.
- 16.2 Software & Services. SVCE acknowledges that Service Provider exclusively owns and shall retain all right, title and interest in and to (a) the Services including all software components and code thereof, and all improvements, enhancements, derivative works, or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with the Services, and (c) all intellectual property rights related to any of the foregoing (collectively, the "Services Assets"); provided that SVCE shall

have the limited right to access and use the Services to the extent expressly set forth in this Agreement.

16.3 No License. Except as expressly set forth herein, no license or rights are granted by either party to the other with respect to the Confidential Information, the Services Assets, or the Pre-existing Materials. Nothing in this Agreement shall be construed to grant to (i) either party any ownership or other interest or license in the other party's Confidential Information, except to the extent explicitly provided in this Agreement, or (ii) to SVCE any ownership or other interest in the Services Assets or Pre-existing Materials.

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

17. Indemnification.

17.1 General Indemnification. Service Provider agrees to indemnify, defend, and hold harmless SVCE and its officers, directors, agents, attorneys and employees (each, an "Indemnitee") from and against any and all liabilities, damages, losses, expenses, fines or judgments resulting from any claims, demands, suits or causes of action brought by any third party (each, a "Claim," and collectively, the "Claims"), including reasonable attorneys' fees, costs, and expenses incidental thereto, to the extent suffered by, incurred by, accrued against, charged to, or recoverable from any Indemnitee, by reason of any Claim arising out of or caused by the negligence or misconduct of Service Provider or its officers, directors, agents, employees, or subcontractors during the performance of this Agreement, or the breach by Service Provider of any of its obligations under this Agreement, including Claims relating to: (a) bodily injury (including death) or damage to tangible personal or real property to the extent caused by the negligence or misconduct of Service Provider or its officers, directors, agents, employees, or subcontractors during the performance of this Agreement; (b) any payment required to be paid to subcontractors, if any, of Service Provider; (c) any breach of a representation or warranty of Service Provider set forth in this Agreement; (d) any unauthorized destruction, access, use, or theft of SVCE Data (collectively, "cyber theft") to the extent caused by the negligence or misconduct of Service Provider or any of its officers, directors, agents, employees, or subcontractors or by any breach by Service Provider of any of its obligations under this Agreement; or (e) any material breach by Service Provider of any covenant set forth in this Agreement; provided, however, that the foregoing indemnity obligations shall not apply to the extent that the applicable Claim resulted from the negligence, misconduct or breach of this Agreement by SVCE or any Indemnitee.

17.2 Proprietary Rights Indemnification. Service Provider agrees to indemnify, defend, and hold harmless Indemnitees from and against any and all third-party Claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to, or recoverable from any Indemnitee, by reason of any Claim arising out of or relating to the Services allegedly or actually infringing or misappropriating any United States or foreign patent, copyright, trade secret, trademark, or other proprietary right (an "Infringement Claim"). The foregoing obligation does not apply to any Claims arising from any modification or use of the Services by SVCE not in accordance with this Agreement.

In the event that Service Provider is enjoined from providing the Services and such injunction is not dissolved within thirty (30) calendar days, or in the event that SVCE is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any patent, copyright, trade secret, trademark, or other proprietary right in the access or use of the Services, or, if Service Provider otherwise receives information about an infringement claim relating to the Services or believes such a claim is likely, Service Provider may, at its option and expense: (a) obtain for SVCE the right to continue using such Services; or (b) replace or modify such Services so that they do not infringe upon or misappropriate such proprietary right and are able to be used by SVCE. In the event that Service Provider is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Service Provider shall terminate this Agreement and reimburse to SVCE any prepaid unused fees and provide Transition Services as set forth in Section 10.

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

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

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

18. Limitation of Liability.

18.1 EXCEPT WITH RESPECT TO CLAIMS COVERED BY THE DATA PROTECTION LIABILITY CAP (SECTION 18.2) AND LIABILITY ARISING UNDER SERVICE PROVIDER'S INDEMNITY OBLIGATIONS FOR THIRD PARTY CLAIMS UNDER SECTION 17, SERVICE PROVIDER'S TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO SERVICE PROVIDER BY SVCE FOR SERVICES IN THE TWELVE MONTH PERIOD PRECEDING THE LAST EVENT GIVING RISE TO LIABILITY, LESS ANY REFUNDS OR CREDITS PAID TO SVCE BY SERVICE PROVIDER. ("SERVICE PROVIDER'S GENERAL LIABILITY CAP"). THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

- 18.2 THE AGGREGATE LIABILITY OF SERVICE PROVIDER UNDER THIS AGREEMENT WITH RESPECT TO OR ARISING OUT OF ANY UNAUTHORIZED USE, LOSS OR DISCLOSURE OF SVCE DATA OR ANY DATA OR SECURITY BREACH (WHETHER ARISING UNDER SECTION 13.5, SECTION 17, OR OTHERWISE) SHALL NOT EXCEED FIVE MILLION DOLLARS (\$5,000,000.00) ("DATA PROTECTION LIABILITY CAP"). THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.
- 18.3 SERVICE PROVIDER SHALL NOT BE LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OR FOR DIMINUTION IN VALUE OR LOSS OF PROFITS.
- 18.4 Nothing in this Section 18 shall exclude or limit the liability of Service Provider to the extent that such liability may not be excluded or limited as a matter of applicable law.
- 18.5 The provisions of this Section shall survive the termination of this Agreement.
19. Insurance.
- 19.1 Insurance. Unless otherwise approved in writing by SVCE's risk manager, Service Provider shall, at its own expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts as follows, with responsible insurance carriers duly admitted and qualified in California covering the operations of Service Provider, pursuant to this Agreement: commercial general liability (\$1,000,000 per occurrence, \$2,000,000 aggregate); excess liability (\$2,000,000 per occurrence, \$2,000,000 aggregate); workers' compensation (statutory limits) and employers' liability (\$500,000 per accident); cyber liability (\$5,000,000 per occurrence) providing protection against claims and liabilities arising from: (i) errors and omissions in connection with maintaining security of SVCE Data; (ii) data breach including theft, destruction, and/or unauthorized use of SVCE Data; (iii) identity theft; and (iv) violation of privacy rights due to a breach of SVCE Data; and professional liability (\$1,000,000 per occurrence, \$1,000,000 aggregate).

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

20. General.

- 20.1 Relationship between SVCE and Service Provider. Service Provider represents and warrants that it is an independent contractor with no authority to contract for SVCE or in any way to bind or to commit SVCE to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of SVCE. Under no circumstances shall Service Provider, or any of its staff, if any, hold itself out as or be considered an agent employee, joint venturer, or partner of SVCE. In recognition of Service Provider's status as an independent contractor, SVCE shall carry no Workers' Compensation insurance or any health or accident insurance to cover Service Provider or Service Provider's agents or staff, if any. SVCE shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, nor provide any other contributions or benefits which might be expected in an employer-employee relationship. Neither Service Provider nor its staff, if any, shall be eligible for, participate in, or accrue any direct or indirect benefit under any other compensation, benefit, or pension plan of SVCE.
- 20.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America. Service Provider hereby consents and submits to the jurisdiction and forum of the state and federal courts in the County of Santa Clara, State of California, in all questions and controversies arising out of this Agreement.
- 20.3 Attorneys' Fees and Costs. In any arbitration, litigation, or other proceeding by which one party either seeks to enforce this Agreement or seeks a declaration of any rights or obligations under this Agreement, the non-prevailing party shall pay the prevailing party's costs and expenses, including but not limited to, reasonable attorneys' fees.
- 20.4 Compliance with Laws. Each of the parties agrees to comply with all applicable federal, state, and local laws, executive orders and regulations issued, where applicable to the provision or use of the Services.
- 20.5 Cooperation. Where agreement, approval, acceptance, consent or similar action by either party hereto is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld. Each party will reasonably cooperate with the other by, among other things, making available, as reasonably requested by the other, appropriate information, approvals, and acceptances in order that each party may properly accomplish its obligations and responsibilities hereunder. Service Provider will reasonably cooperate with any SVCE supplier performing services, and all parties supplying hardware, software, communication services, and other services and products to SVCE, including, without limitation, the Successor Service Provider. Service Provider agrees to reasonably cooperate with such suppliers, and shall not commit or permit any act which may interfere with the performance of services by any such supplier.
- 20.6 Force Majeure; Excused Performance. Neither party shall be liable for delays or any failure to perform the Services or this Agreement due to causes beyond its reasonable control. Such causes include, but are not limited to, fire, explosion, earthquake, flood or

other natural catastrophe, acts of war or terror, cyber-warfare, civil unrest, epidemics, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, internet service provider or communication line outages, and denial of service attacks, to the extent not caused by the fault or negligence of the delayed party. Any such excuse for delay or failure to perform shall last only as long as the event remains beyond the reasonable control of the delayed party. However, the delayed party shall use its commercially reasonable efforts to minimize the delays caused by any such event beyond its reasonable control. Where Service Provider fails to use its commercially reasonable efforts to minimize such delays, the delays shall be included in the determination of Service Level achievement. The delayed party must notify the other party promptly upon the occurrence of any such event, or performance by the delayed party will not be considered excused pursuant to this Section, and inform the other party of its plans to resume performance. A force majeure event does not excuse Service Provider from fulfilling its responsibilities relating to the requirements of backup and recovery of SVCE Data. In no event shall any of the following constitute a force majeure event: (a) failure, inadequate performance by or unavailability of Service Provider's subcontractors, if any; or, (b) configuration changes, other changes, Viruses, or other errors or omissions introduced, or permitted to be introduced, by Service Provider that result in an outage or inability for SVCE to access or use the Services. Service Provider shall provide a summary or description of its then-current business continuity plan ("Business Continuity Plan") to SVCE upon SVCE's written request. The Business Continuity Plan shall include procedures designed to facilitate the resumption of critical operations and technology in the event of a disaster

- 20.7 Advertising and Publicity. Service Provider shall not refer to SVCE directly or indirectly in any advertisement, news release, or publication, or use any SVCE logo, seal or mark, without prior written approval from SVCE. Notwithstanding the foregoing, however, Service Provider is permitted, in connection with marketing its products and services, to identify SVCE as a customer of the Services and to use and refer to SVCE's "Data Hive" as an example of the Services (but Service Provider may not reveal any account holder information in connection with such demos). Notwithstanding the foregoing, Service Provider is not permitted to state or imply any endorsements of the Services or Service Provider on behalf of SVCE.
- 20.8 No Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect that party's right to enforce such provisions, nor shall the waiver by either party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision.
- 20.9 Notices. Any notice given pursuant to this Agreement shall be in writing and shall be given by personal service or by United States certified mail, return receipt requested, postage prepaid to the addresses appearing at the end of this Agreement, or as changed through written notice to the other party. Notice given by personal service shall be deemed effective on the date it is delivered to the addressee, and notice mailed shall be deemed effective on the third day following its placement in the mail addressed to the addressee.

- 20.10 Assignment of Agreement. This Agreement may not be assigned or transferred by either party without the written consent of the other party; provided, that a party may assign this Agreement to its Affiliate or in connection with any merger, acquisition, reorganization, sale or transfer of all or substantially all of such party's assets or business provided that such party provides notice of such transfer within thirty (30) days. "Affiliate" for purposes hereof means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity, and "control" means ownership or control of more than 50% of the voting interests.
- 20.11 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.
- 20.12 Counterparts; Facsimile/PDF/Electronic Signature. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.
- 20.13 Entire Agreement. This Agreement and any and all attached exhibits, each of which is incorporated by reference herein, constitute the entire agreement between the parties and supersede any and all previous representations, understandings, or agreements between SVCE and Service Provider as to the subject matter hereof. No representation or promise not expressly set forth herein shall be binding. The provisions of this Agreement shall govern over any inconsistent or conflicting provisions contained in any exhibit hereto. This Agreement may only be amended by an instrument in writing signed by the parties. This Agreement shall be construed without regard to the party that drafted it, such that any ambiguity shall not be interpreted against either party and shall, instead, be resolved in accordance with other applicable rules concerning the interpretation of contracts.
- 20.14 Cumulative Remedies. All rights and remedies of the parties herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance against Service Provider for the enforcement of this Agreement, and temporary and permanent injunctive relief.
- 20.15 No Recourse against Constituent Members of Authority. SVCE is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members. SVCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Service Provider shall have no rights and shall not make any claims, take any actions or assert any remedies against any of SVCE's constituent members in connection with this Agreement.
- 20.16 Non-Discrimination. In the performance of this Agreement, Service Provider, and any subcontractor of Service Provider shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry,

age, physical disability, mental disability, medical condition, genetic information, sexual orientation, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Service Provider shall have responsibility for compliance with this Section.

- 20.17 Conflict Of Interest. Service Provider warrants that it, its officers, employees, associates and subcontractors, presently have no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement in a manner impermissible under the Conflict Statutes (as defined below), and that it, its officers, employees, associates and subcontractors, will not employ any person having such an interest. Service Provider and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Service Provider's services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090 (the "Conflict Statutes"). During the term of this Agreement, Service Provider may perform similar services for other clients, but Service Provider and its officers, employees, associates and subcontractors shall not, without SVCE's prior written approval, perform work for another person or entity for whom Service Provider is not currently performing work that would require Service Provider or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a Conflict Statute. Service Provider shall incorporate a clause substantially similar to this Section into any subcontract that Service Provider executes in connection with the performance of this Agreement. Service Provider understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Service Provider to make certain governmental decisions or serve in a staff capacity, as set forth in Title 2, Division 6, Section 18700 of the California Code of Regulations.
- 20.18 Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- 20.19 [omitted]
- 20.20 SVCE's Rights to Employ Other Consultants. SVCE reserves the right to employ other consultants in connection with the subject matter of the Services.
- 20.21 Captions and Terms. The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.
- 20.22 Exhibits. The Exhibits referenced in this Agreement are attached hereto and incorporated herein by this reference as though set forth in full in the Agreement. If any inconsistency exists or arises between a provision of this Agreement and a provision of any Exhibit, or between a provision of this Agreement and a provision of Service Provider's proposal, the provisions of this Agreement shall control.
- 20.23 Successors and Assigns. The terms and conditions of this Agreement shall be binding on the successors and assigns of the parties to this Agreement.

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

SILICON VALLEY CLEAN ENERGY (SVCE)

By:

Name:

Title:

Date:

Address for Notice:

UTILITYAPI, INC. (SERVICE PROVIDER)

By:

Name:

Title:

Date:

Address for Notice:

EXHIBIT A

STATEMENT OF SERVICES, SUPPORT, AND SERVICE LEVEL AGREEMENT

This Exhibit A - Statement of Services and Service Level Agreement shall be incorporated in and governed by the terms of that certain Master Software as a Service Agreement by and between **SILICON VALLEY CLEAN ENERGY** ("SVCE") and **UTILITYAPI, INC.** ("Service Provider") dated April 14, 2022, ("Agreement"). In the event of a conflict between the provisions contained in the Agreement and those contained in this Exhibit A, the provisions contained in the Agreement shall prevail.

Services Description.

- (1) As of the Effective Date, Service Provider shall continue to maintain and provide SVCE with access to and use of the existing UtilityAPI data access and exchange platform for SVCE electricity accountholders (the "Platform"), which currently includes the following features:
 - a. Accountholder Interface - A dashboard for accountholders, white-labeled with SVCE's branding, and including the following components:
 - i. Landing and informational pages about Green Button Connect
 - ii. Links to SVCE Terms and Privacy Policies
 - iii. Third Party Directory with search capabilities
 - iv. Accountholder authorization & authentication interfaces
 - b. Third Party Interface - A dashboard and fully documented API that allows third parties to register with SVCE, manage their third party settings, view accountholder authorizations, and download authorized accountholder data, and including the following components:
 - i. Third party registration form for the Platform.
 - ii. Interface to view and download data authorized for release by accountholders.
 - iii. Data request interface for third parties to send direct data requests to accountholders, allowing third parties to use the Platform without direct software integration.
 - iv. Standards-compliant APIs, including the Green Button XML API, that can be used to integrate the Platform into third parties' websites and apps.
 - v. Settings interface to self-manage registration and technical integration settings.
 - vi. Sandbox mode to test Platform functionality using test accounts and test datasets before the third party has been approved by SVCE.
 - c. Utility Administrator Interface - A dashboard for SVCE administrators to use to view and approve third party registrations and accountholder authorizations by customers for third party access, and including the following components:
 - i. Homepage with the latest accountholder authorizations and third party registrations needing review
 - ii. Interface showing all accountholder authorizations
 - iii. interface for management of registered third parties, with the following features:
 1. Administrator control of third party approval status
 2. Administrator control of Third Party Directory visibility of each third party
 3. Administrator communication via email with third parties

4. Details of third party settings and logs of changes
 5. List of accountholder authorizations to the third party
 6. Ability for manual accountholder authorization to third parties (i.e., to support "paper/call" authorizations)
- (2) After the Effective Date, Service Provider will use its commercially reasonable efforts to (i) expand the Platform to also cover SVCE's gas utility accounts (the "Gas Expansion"), and (ii) to rollout a Utility Discovery Tool (the "Discovery Tool Expansion"). For purposes hereof, the "Utility Discovery Tool" means a tool, to be added to the authorization form, that assists the accountholder and third party in determining the correct utility and/or Community Choice Aggregator holding the accountholder's account.
- (3) Service Provider will manage historical and ongoing data collection, and data cleaning and standardization for the Platform. Service Provider will provide Technical Support for both SVCE and the third-party or commercial users of the platform.

Services Fees. As of the Effective Date, the Services Fee shall be \$9,000 per month. The Services Fee shall increase by an additional (i) \$1,500 per month effective as of the first calendar month following the launch of the Gas Expansion, and an additional (ii) \$750 per month effective as of the first calendar month following the launch of the Utility Discovery Tool (the "Service Fee Additions").

Storage fees are included in the Services Fees above.

Technical Support Description.

- A. Service Provider will provide to SVCE telephone and email support (“Technical Support”) as follows:

Standard support: Monday – Friday 9:00 am - 5 p.m., PST, except for Service Provider Holidays

Critical Matters support: For Problems with Severity Level 1 or 2: While Service Provider is responding to and resolving the Problem, support is available twenty-four (24) hours per day, seven (7) days per week, 365 days per year.

Technical Support will include any research and resolution activity performed by Service Provider.

For emailed Technical Support requests, Service Provider shall confirm to the requestor receipt of the request.

- B. Problem Severity Level 1 and 2 Resolution. If a Problem Severity Level 1 or 2 request cannot be corrected to the reasonable satisfaction of SVCE within the applicable Request Resolution Time, Service Provider will: (a) immediately escalate the request to Service Provider’s management; (b) take and continue to take the actions which will most expeditiously resolve the request; and (c) provide regular updates to SVCE of the steps taken and to be taken to resolve the request and the estimated time until the request is resolved.
- C. Problem Severity Level 3 or 4 Resolution. If a Problem Severity Level 3 or Level 4 request cannot be corrected to the reasonable satisfaction of SVCE within the applicable Request Resolution Time, then Service Provider will so notify SVCE and will provide regular updates to SVCE of the steps taken and to be taken to resolve the request and the estimated time until the request is resolved.

Technical Support Problem Severity Levels. For purposes hereof, “Problem” means a bug, defect or error in the Services causing them to fail to perform in material conformance with the Documentation. Each technical support request that qualifies as a “Problem” will be assigned a severity level by Service Provider as set forth below. Service Provider will use its commercially reasonable efforts to resolve (or create a patch or work-around that temporarily resolves) each Problem within the applicable Request Resolution Time.

- i. Problem Severity Level 1: A Problem causing a material unauthorized exposure of all or part of SVCE Data or a material loss or corruption of all or part of the SVCE Data.

Request Response Time. 30 minutes.

Request Resolution Time. 2 hours.

- ii. Problem Severity Level 2: A Problem causing a significant interruption of the Services that has a material adverse impact on SVCE operations and for which no reasonable work-around is available.

Request Response Time. 1 hour.

Request Resolution Time. 48 hours.

- iii. Problem Severity Level 3: A Problem causing minor and/or limited interruption of the Services.

Request Response Time. 8 hours.

Request Resolution Time. 5 business days.

- iv. Problem Severity Level 4: This Problem Severity Level is associated with: (a) general questions pertaining to the Services; or, (b) problems which are not included in Problem Severity Levels 1, 2, or 3.

Request Response Time. 8 hours

Request Resolution Time. 10 business days.

Availability Service Level.

1) Definitions.

- (a) "Actual Uptime" means the total minutes in the reporting month of Service Availability.
- (b) "Service Availability" means Authorized Users are able to access the Services for normal use.
- (c) "Maintenance Window" means the total minutes in the reporting month represented by the following days and times during which Service Provider shall maintain the Services: Every Tuesday, Thursday, and Saturday 8:00 PM – 11:00 PM PST.
- (d) "Excluded Downtime" means the total minutes in the reporting month during which there is no Service Availability due to:
- Outages not caused by or within the control of Service Provider or its service providers (i.e., outages on SVCE's network or telecommunication services, denial of service attacks)
 - Downtime requested by SVCE.
 - Outages caused by force majeure events under Section 20.6.
- (e) "Allowed Downtime" shall mean the total minutes in the reporting month represented by the Maintenance Window plus Excluded Downtime.
- (f) "Scheduled Uptime" shall mean the total minutes in the reporting month less the Allowed Downtime.

3) Calculation. $(\text{Actual Uptime} / \text{Scheduled Uptime}) * 100 = \text{Percentage Uptime}$ (rounded to the first decimal point)

4) Performance Credit. Where Percentage Uptime is less than 99.9% for any month, SVCE shall be due a Performance Credit in the amount of 10% of such month's Services Fees for each full 1% reduction in Percentage Uptime; but no such Performance Credit may be greater than 30% of the Services Fee for such reporting month.

5) Example Calculation.

- (a) Assuming reporting month is January 2022 (44,640 minutes in month total).
- (b) Maintenance Window for such month equals 2,340 minutes and Excluded Downtime (assumed) is 60 minutes, therefore Allowed Downtime equals 2,400 minutes.
- (e) Scheduled Uptime equals 42,240 minutes (44,640 total monthly minutes minus 2,400 minutes of Allowed Downtime).
- (f) Assuming that Actual Uptime is equal to 41,500 minutes, the Percentage Uptime is calculated as follows: $(41,500 / 42,240) * 100 = 98.3\%$.

- (e) The threshold of 99.9% less the Percentage Uptime of 98.3% = 1.6% reduction from the threshold.
- (f) The difference is greater than a 1% reduction from the threshold but is less than a 2% reduction; therefore, SVCE is due 10% of the Services Fees as a Performance Credit.

FIFTH AMENDMENT TO AGREEMENT WITH UTILITY API, INC

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and UTILITY API, INC entered into that certain agreement entitled ENERGY DATA EXCHANGE PLATFORM PILOT, effective on June 12, 2019, hereinafter referred to as “Original Agreement”; and

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

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

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

The term of this Agreement shall commence on June 12, 2019 and shall terminate on April 15, 2022 (“Term”), unless terminated earlier as set forth herein.

2. COMPENSATION TO PARTICIPANT section of Original Agreement shall be amended to read as follows:

Participant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed three hundred and ninety-seven thousand, five hundred dollars (\$397,500.00).

3. EXHIBIT B SCHEDULE OF PERFORMANCE section of Original Agreement shall be amended to read as follows:

Milestone 11: Launch and maintain platform / Promotion activities & Ongoing support	April 2022
---	------------

Note – As of February 2022, all other deliverables have been completed.

4. EXHIBIT C COMPENSATION section of Original Agreement shall be amended to read as follows:

The compensation to be paid to Participant under this Agreement for all services described in Exhibit “A” shall not exceed a total of three hundred and ninety-seven thousand, five hundred dollars (\$397,500.00), as set forth below. Any work performed for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority. No reimbursable expenses are contemplated as a part of this Agreement.

Deliverable 11: Launch and maintain platform / Promotion activities & Ongoing support

Note – As of February 2022, all other deliverables have been completed.

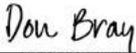
\$9,000 each month, not to exceed \$18,000 in aggregate

Original + Amendment 1 + Amendment 2 + Amendment 3 + Amendment 4	
\$279,000+\$0+\$0+\$73,500 + \$27,000	
Total - not to exceed	\$379,500
Amendment 5	
Deliverables 11	\$18,000
Total - not to exceed	\$397,500

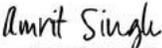
5. This Amendment shall be effective on February 9, 2022.
6. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
7. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

RECOMMENDED FOR APPROVAL

DocuSigned by:

25A56668D5413484...
 Don Bray, Director of Account Services & Community Relations

RECOMMENDED FOR APPROVAL

DocuSigned by:

A88F1DF82E8F407...
 Amrit Singh, Director of Finance and Administration

CONSULTANT NAME
 UTILITY API

DocuSigned by:

 By: Lynne Wandler
D50833D64586468...
 Name: Lynne Wandler
 Title: chief operating officer
 Date: 2/24/2022

SILICON VALLEY CLEAN ENERGY
 AUTHORITY

A Joint Powers Authority
 DocuSigned by:

 By: Girish Balachandran
5C464B9AC4C24C3...
 Name: Girish Balachandran
 Title: Chief Executive Officer
 Date: 2/24/2022

APPROVED AS TO FORM:

DocuSigned by:

Trisha Ortiz

80CEDB7681684C2...

Counsel for Authority

ATTEST:

DocuSigned by:

Andrea Pizano

8BC3564ACEA048D...

Authority Clerk

FOURTH AMENDMENT TO AGREEMENT WITH UTILITY API, INC

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and UTILITY API, INC entered into that certain agreement entitled ENERGY DATA EXCHANGE PLATFORM PILOT, effective on June 12, 2019, hereinafter referred to as “Original Agreement”; and

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

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

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

The term of this Agreement shall commence on June 12, 2019, and shall terminate on February 15, 2022 (“Term”), unless terminated earlier as set forth herein.

2. COMPENSATION TO PARTICIPANT section of Original Agreement shall be amended to read as follows:

Participant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed three hundred and seventy-nine thousand, five hundred dollars (\$379,500.00).

3. EXHIBIT B SCHEDULE OF PERFORMANCE section of Original Agreement shall be amended to read as follows:

Milestone 10: Launch and maintain platform / Promotion activities & Ongoing support	February 2022
---	---------------

Note – As of November 2021, all other deliverables have been completed.

4. EXHIBIT C COMPENSATION section of Original Agreement shall be amended to read as follows:

The compensation to be paid to Participant under this Agreement for all services described in Exhibit “A” shall not exceed a total of three hundred and seventy-nine thousand, five hundred dollars (\$379,500.00), as set forth below. Any work performed for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority. No reimbursable expenses are contemplated as a part of this Agreement.

Deliverable 10: Launch and maintain platform / Promotion activities & Ongoing support

Note – As of November 2021, all other deliverables have been completed.

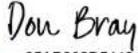
\$9,000 each month, not to exceed \$27,000 in aggregate

Original + Amendment 1 + Amendment 2 + Amendment 3	
\$279,000+\$0+\$0+\$73,000	
Total - not to exceed	\$352,500
Amendment 4	
Deliverables 10	\$27,000
Total - not to exceed	\$379,500

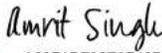
5. This Amendment shall be effective on November 11, 2021.
6. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
7. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

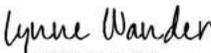
RECOMMENDED FOR APPROVAL

DocuSigned by:

 25A8666D5413484...
 Don Bray, Director of Account Services & Community Relations

RECOMMENDED FOR APPROVAL

DocuSigned by:

 A89F1DF92E8F467...
 Amrit Singh, Director of Finance and Administration

CONSULTANT NAME
 UTILITY API

DocuSigned by:

 By: Lynne Wander
 Name: Lynne Wander
 Title: Chief operating officer
 Date: 11/16/2021

SILICON VALLEY CLEAN ENERGY
 AUTHORITY

A Joint Powers Authority
 DocuSigned by:

 By: Girish Balachandran
 Name: Girish Balachandran
 Title: Chief Executive Officer
 Date: 11/16/2021

APPROVED AS TO FORM:

DocuSigned by:

Trisha Ortiz

60CEDB7661684C2...

Counsel for Authority

ATTEST:

DocuSigned by:

Dorothy Roberts

FA4736575CF7449...

Authority Clerk

THIRD AMENDMENT TO AGREEMENT WITH UTILITYAPI, INC

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and UTILITYAPI, INC entered into that certain agreement entitled ENERGY DATA EXCHANGE PLATFORM PILOT, effective on June 12, 2019, hereinafter referred to as “Original Agreement”; and

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

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

The term of this Agreement shall commence on June 12, 2019 and shall terminate on November 15, 2021 (“Term”), unless terminated earlier as set forth herein.

2. COMPENSATION TO PARTICIPANT of Original Agreement shall be amended to read as follows:

Participant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed three hundred and fifty-two thousand, five hundred dollars (\$352,500.00) based on the rates and terms set forth in Exhibit “C”, which is attached hereto and incorporated herein by this reference.

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

Launch, Operations & Support:

End of setup through a 20 month term:

Task 1: Launch & maintain platform

Task 2: Promotion activities

Marketing by SVCE

Marketing by UtilityAPI

Task 3: Ongoing support, including biweekly reporting and check in

4. EXHIBIT B SCHEDULE OF PERFORMANCE of Original Agreement shall be amended to read as follows:

Launch, Operations & Support, Task 1 / Launch and maintain platform	Monthly for a 20 month term starting at platform launch and beginning of software license
Launch, Operations & Support, Tasks 2 & 3 / Promotion activities & Ongoing support	Monthly for a 20 month term starting at platform launch and beginning of software license

5. EXHIBIT C COMPENSATION of Original Agreement shall be amended to read as follows:

The compensation to be paid to Participant under this Agreement for all services described in Exhibit "A" shall not exceed a total of three hundred and fifty-two thousand, five hundred dollars (\$352,500), as set forth below. Any work performed for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority. No reimbursable expenses are contemplated as a part of this Agreement.

Deliverable 8: Launch, Operations & Support, Task 1 /Launch and maintain platform
Months 1-4
\$22,500 per month

Months 5-11
\$0 per month if there are fewer than 90 Unique Account Holders Served* for that month
\$7,500 per month if there are at least 90 Unique Account Holders Served* for that month

Months 12-20
\$4,500 per month

Total Deliverable 8 payments are not to exceed \$145,500 in aggregate (total spend months 1-20)

**For the purposes of the Agreement, 'Unique Account Holders Served' shall be defined as the number of distinct email addresses associated with an authorization or collection of data in the billing month. Multiple data pulls in a month, data pulls encompassing multiple meters, and data pulls across multiple accounts supporting the same email address will count as only one Unique Account Holder Served for that month; each billing month will reset and the email address can be counted again as a Unique Account Holder Served in a preceding month if any of these actions recur in that month.*

Deliverable 9: Launch, Operations & Support, Tasks 2 & 3 /Promotion activities & Ongoing support
\$4,500 each month, not to exceed \$90,000 in aggregate

Original+ Amendment 1+ Amendment 2	
\$279,000+\$0+\$0	\$279,000
Total - not to exceed	
Amendment 3	
Total - not to exceed	\$73,500
New Total	
Deliverables 1-7	\$117,000
Deliverables 8	\$145,500
Deliverables 9	\$90,000
Total - not to exceed	\$352,500

6. This Amendment shall be effective on February 11, 2021.

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

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

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

RECOMMENDED FOR APPROVAL

DocuSigned by:
Don Bray
25A8666D5413484...

Don Bray, Director of Account Services & Community Relations

RECOMMENDED FOR APPROVAL

DocuSigned by:
Amrit Singh
A88F1DF92E8F467...

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
UTILITY API, INC

DocuSigned by:
Lynne Wander
D59833D64586468...

By: Lynne Wander
Name: Lynne Wander
Title: Chief Operating Officer
Date: 2/16/2021

SILICON VALLEY CLEAN ENERGY
AUTHORITY

A Joint Powers Authority
DocuSigned by:
Girish Balachandran
5CA64B9AC4624C3...

By: Girish Balachandran
Name: Girish Balachandran
Title: Chief Executive Officer
Date: 2/17/2021

APPROVED AS TO FORM:

DocuSigned by:
Gregory W. Stepanicich
9E728D9E914F493...

Counsel for Authority

ATTEST:

DocuSigned by:
Andrea Pizano
8BC3564ACEA048D...

Authority Clerk

SECOND AMENDMENT TO AGREEMENT WITH UTILITYAPI, INC

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and UTILITYAPI, INC entered into that certain agreement entitled ENERGY DATA EXCHANGE PLATFORM PILOT, effective on June 12, 2019, hereinafter referred to as “Original Agreement”; and

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

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

The term of this Agreement shall commence on June 12, 2019 and shall terminate on July 15, 2021 or once payment for services performed pursuant to this Agreement reach the not-to-exceed total amount of compensation based on the rates and terms set forth in Exhibit “C” (“Term”), unless terminated earlier as set forth herein.

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

Launch, Operations & Support:

End of setup through an up to 16 month term:

Task 1: Launch & maintain platform

Task 2: Promotion activities

Marketing by SVCE

Marketing by UtilityAPI

Task 3: Ongoing support, including biweekly reporting and check in

3. EXHIBIT B SCHEDULE OF PERFORMANCE of Original Agreement shall be amended to read as follows:

Launch, Operations & Support, Task 1 / Launch and maintain platform	Monthly for an up to 16-month term starting at platform launch and beginning of software license
Launch, Operations & Support, Tasks 2 & 3 / Promotion activities & Ongoing support	Monthly for an up to 16-month term starting at platform launch and beginning of software license

4. EXHIBIT C COMPENSATION of Original Agreement shall be amended to read as follows:

Deliverable 8: Launch, Operations & Support, Task 1 /Launch and maintain platform

For the first four months of a public-facing platform: \$22,500 each month, not to exceed \$90,000 in aggregate

For all subsequent months of a public-facing platform: \$0 each month for any months in which the total number of Unique Account Holders Served is below 90; \$7,500 each month for any months in which the total number of Unique Account Holders Served is 90 or more, not to exceed \$31,500 in aggregate

Months 1-4
\$22,500 per month

Months 5-16
\$0 per month if there are fewer than 90 Unique Account Holders Served* for that month
\$7,500 per month if there are at least 90 Unique Account Holders Served* for that month

Total Deliverable 8 payments are not to exceed \$121,500 in aggregate

**For the purposes of the Agreement, 'Unique Account Holders Served' shall be defined as the number of distinct email addresses associated with an authorization or collection of data in the billing month. Multiple data pulls in a month, data pulls encompassing multiple meters, and data pulls across multiple accounts supporting the same email address will count as only one Unique Account Holder Served for that month; each billing month will reset and the email address can be counted again as a Unique Account Holder Served in a preceding month if any of these actions recur in that month.*

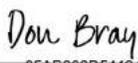
Deliverable 9: Launch, Operations & Support, Tasks 2 & 3 /Promotion activities & Ongoing support

\$4,500 each month, not to exceed \$72,000 in aggregate

- 5. This Amendment shall be effective on September 21, 2020.
- 6. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
- 7. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

RECOMMENDED FOR APPROVAL

DocuSigned by:

 25A8060D5413484...
 Don Bray, Director of Account Services & Community Relations

CONSULTANT NAME
UTILITYAPI, INC

DocuSigned by:
Lynne Wander
D59833D64586468...
By: _____
Name: Lynne Wander
Title: Chief Operating Officer
Date: 9/22/2020

SILICON VALLEY CLEAN ENERGY
AUTHORITY

A Joint Powers Authority
DocuSigned by:
Girish Balachandran
3CA64B9AC4C24C3...
By: _____
Name: Girish Balachandran
Title: Chief Executive Officer
Date: 9/22/2020

FIRST AMENDMENT TO AGREEMENT WITH UTILITYAPI, INC

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and UTILITYAPI, INC entered into that certain agreement entitled ENERGY DATA EXCHANGE PLATFORM PILOT, effective on June 12, 2019, hereinafter referred to as “Original Agreement”; and

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

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

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

The term of this Agreement shall commence on June 12, 2019 and shall terminate on September 30, 2020 or a cap of 20,000 data transactions (“Term”), unless terminated earlier as set forth herein.

2. This Amendment shall be effective on May 5, 2020.

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

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

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

RECOMMENDED FOR APPROVAL

DocuSigned by:

7BC1D044BEEF49B...
Aimee Bailey, Director of Decarbonization and Grid Innovation Programs

RECOMMENDED FOR APPROVAL

DocuSigned by:

19C84C9C59124BD...
Don Eckert, Director of Finance and Administration

CONSULTANT NAME

UTILITYAPI, INC

DocuSigned by:

By: *Lynne Wander*

Name: Lynne Wander

Title: Chief operating officer

Date: 5/6/2020

SILICON VALLEY CLEAN ENERGY

AUTHORITY

A Joint Powers Authority

DocuSigned by:

By: *Girish Balachandran*

Name: Girish Balachandran

Title: Chief Executive Officer

Date: 5/6/2020

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY
AUTHORITY AND
UTILITYAPI, INC. FOR
ENERGY DATA EXCHANGE PLATFORM PILOT**

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

RECITALS:

- A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.
- B. Authority has launched an innovation pilot partnership program called Innovation Onramp in order to facilitate and support innovative research and the evaluation, testing, and implementation of innovative, emerging technologies and ideas, with the goal of accelerating decarbonization.
- C. Participant has submitted a pilot project proposal to the Innovation Onramp program, pursuant to which Participant proposes to provide a drop-in data exchange platform that third parties can use to request and download customer utility bill and usage data. (the "Project").
- D. Participant possesses the skill, experience, ability, background, training and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.
- E. Authority and Participant desire to enter into an agreement to carry out the Project upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

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

2. **SERVICES TO BE PERFORMED**

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

3. **COMPENSATION TO PARTICIPANT**

Participant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed two hundred and seventy-nine thousand dollars (\$279,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Participant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

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

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY**

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

8. **NON-DISCRIMINATION**

Participant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Participant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Participant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

A. General Indemnification. Participant shall, to the fullest extent allowed by law and without limitation of the provisions of this Agreement related to insurance, with respect

to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, demands, damages, losses, costs, and expenses of any nature whatsoever ("Claims"), including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of, pertaining to, or related to the performance of this Agreement by Participant or Participant's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation.

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

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

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

10. INSURANCE:

A. General Requirements. On or before the commencement of the Term of this Agreement, Participant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Participant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Chief Executive Officer." Participant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. Participant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Participant shall look solely to his/her/its insurance for recovery. Participant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Participant or Authority with respect to the services of Participant herein, a waiver of any right to subrogation which any such insurer of Participant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If Participant at any time during the Term should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Participant's name or as an agent of the Participant and shall be compensated by the Participant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Participant. Participant is advised to confer with Participant's insurance broker to determine adequate coverage for Participant.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

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

11. CONFLICT OF INTEREST

Participant warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Participant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Participant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. PROHIBITION AGAINST TRANSFERS

The Parties agree that the expertise and experience of Participant are material considerations for this Agreement. Participant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Authority. Any attempt to do so without such consent shall be null and void, and any assignee, sublessee, pledgee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. Consent to one assignment will not be deemed to be consent to any subsequent assignment. However, claims for money by Participant from Authority under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to Authority by Participant.

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

13. **SUBCONTRACTOR APPROVAL**

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

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

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

14. **REPORTS**

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

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

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

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

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

15. **RECORDS**

Participant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Participant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Participant receives final payment from Authority for all services required under this agreement.

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

16. **PARTY REPRESENTATIVES**

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

17. **CONFIDENTIAL INFORMATION**

A. Participant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all Confidential Information held by Authority or provided to Participant by Authority.

B. The term "Confidential Information" includes all information, documents, and materials owned by Authority or Participant, including technical, financial, business, or utility customers' personal information which is not available to the general public, as well as information derived from such information, which is furnished or made available

to Participant. Information received by Participant shall not be considered Confidential Information if: (i) it is or becomes available to the public through no wrongful act of Participant; (ii) it is already in the possession of Participant and not subject to any confidentiality agreement between the Parties; (iii) it is received from a third party without restriction for the benefit of Authority and without breach of this Agreement; (iv) it is independently developed by Participant; or (v) it is disclosed pursuant to a requirement of law, a duly empowered government agency, or a court of competent jurisdiction after due notice and an adequate opportunity to intervene is given to Authority, unless such notice is prohibited.

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

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

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

18. **DATA SECURITY**

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

19. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:
333 W. El Camino Real
Suite 290
Sunnyvale, CA 94087
Attention: Aimee Bailey

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

20. **TERMINATION**

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

Authority shall pay Participant for services satisfactorily performed up to the effective date of termination. If the termination is for cause, Authority may deduct from such payment the amount of actual damage, if any, sustained by Authority due to Participant's failure to perform its material obligations under this Agreement. Upon termination, Participant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Participant or given to Participant, in connection with this Agreement. Such materials shall become the property of Authority.

21. **COMPLIANCE**

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

22. **CONFLICT OF LAW**

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

23. **ADVERTISEMENT**

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

24. **WAIVER**

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

25. **INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by a written document signed by both Authority and Participant. In the event of a conflict between the terms of this Agreement and the exhibits hereto or Participant's proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and Participant's proposal, the exhibits shall control.

26. **AUTHORITY**

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

27. **INSERTED PROVISIONS**

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

28. **CAPTIONS AND TERMS**

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

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

RECOMMENDED FOR APPROVAL

DocuSigned by:

Aimee Bailey

7BC1D0448EEF49B...

Aimee Bailey

Director of Decarbonization and Grid Innovation Programs

PARTICIPANT

Utility API

DocuSigned by:

Lynne Wander

By:

DF8B33D64586468
Name: Lynne Wander

Title: Chief operating officer

Date: 7/22/2019

SILICON VALLEY CLEAN ENERGY AUTHORITY

A Joint Powers Authority

DocuSigned by:

Girish Balachandran

By:

5CA64B0AC4C24C3...
Name: Girish Balachandran

Title: Chief Executive Officer

Date: 7/22/2019

APPROVED AS TO FORM:

DocuSigned by:

Gregory W. Stepanicich

9E728D9E914F493...

Counsel for Authority

ATTEST:

DocuSigned by:

Andrea Pizano

D0029733BB004BA...

Authority Clerk

Exhibit A **Scope of Services**

The project is to deploy a data exchange platform for SVCE service territory, which would allow third parties to use to request and download customer utility bill and usage data. The overarching goal of the pilot is to demonstrate the potential of free, authorized access to standardized and automated energy usage data in accelerating the deployment of clean energy projects, while empowering customer choice and supporting local businesses. For the pilot, UtilityAPI will manage third party registration, data access authorizations, historical and ongoing data collection, and data cleaning and standardization to realize the data exchange platform. The platform includes an easy-to-use dashboard for small and local businesses, and a fully documented API for enterprise and app integration. On the back end, structured data stores and S3 buckets will be isolated for each utility and will not share resources, so only SVCE customer data is stored in a particular S3 bucket and structured data store.

Set-up:

Milestone 1: Pull in data from Calpine and successfully parse it into the structured storage format.

Milestone 2: Customers can authenticate themselves to load the dashboard and authorize

Milestone 3: Customers can see scope of authorizations, and revoke

Milestone 4: Changes are made to UtilityAPI settings page that allows third-parties to pull data

Milestone 5: SVCE-branded third party registration page

Milestone 6: Ready for Beta program

Milestone 7: Ready for launch

Launch, Operations & Support:

End of setup through a 6-month term:

Task 1: Launch & maintain platform

Task 2: Promotion activities

Marketing by SVCE

Marketing by UtilityAPI

Task 3: Ongoing support, including biweekly reporting and check in

Exhibit B
Schedule of Performance

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

Project Deliverables	Completion Date
Milestone 1: Pull in data from Calpine and successfully parse it into the structured storage format. This includes setting up a firewall rule to whitelist access to only Calpine/SVCE/UtilityAPI IPs, and deleting stale data in the SFTP server as part of the sync script.	August 15, 2019
Milestone 2: Customers can authenticate themselves to load the dashboard and authorize	September 30, 2019
Milestone 3: Customers can see scope of authorizations, and revoke	September 30, 2019
Milestone 4: Changes are made to UtilityAPI settings page that allows third-parties to pull data	October 15, 2019
Milestone 5: SVCE-branded third party registration	October 31, 2019
Milestone 6: Ready for Beta program	October 31, 2019
Milestone 7: Ready for launch	January 1, 2020
Launch, Operations & Support, Task 1 / Launch and maintain platform	Monthly for 6-month term starting at platform launch and beginning of software license
Launch, Operations & Support, Tasks 2 & 3 / Promotion activities & Ongoing support	Monthly for 6-month term starting at platform launch and beginning of software license

Exhibit C Compensation

The compensation to be paid to Participant under this Agreement for all services described in Exhibit “A” shall not exceed a total of two hundred and seventy-nine thousand dollars (\$279,000), as set forth below. Any work performed for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority. No reimbursable expenses are contemplated as a part of this Agreement.

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

<u>Project Deliverables</u>	<u>Completion Amount</u>
Deliverable 1: Pull in data from Calpine and successfully parse it into the structured storage format. This includes setting up a firewall rule to whitelist access to only Calpine/SVCE/UtilityAPI IPs and deleting stale data in the SFTP server as part of the sync script.	\$26,000
Deliverable 2: Customers can authenticate themselves to load the dashboard and authorize	\$13,000
Deliverable 3: Customers can see scope of authorizations, and revoke	\$13,000
Deliverable 4: Changes are made to UtilityAPI settings page that allows third-parties to pull data	\$26,000
Deliverable 5: SVCE-branded third party registration	\$13,000
Deliverable 6: Ready for Beta program	\$13,000
Deliverable 7: Ready for launch	\$13,000
Deliverable 8: Launch, Operations & Support, Task 1 / Launch and maintain platform	\$22,500 each month, not to exceed \$135,000 in aggregate over 6-month term
Deliverable 9: Launch, Operations & Support, Tasks 2 & 3 / Promotion activities & Ongoing support	\$4,500 each month, not to exceed \$27,000 in aggregate over 6-month term
Total	\$279,000

Invoicing

In order to request payment, Participant shall submit invoices to the Authority upon completion of each Deliverable, describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

Advances

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

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

Additional Services

Participant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority's Chief Executive Officer prior to commencement of any additional services. Participant shall submit, at the Chief Executive Officer's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit D
Insurance Requirements and Proof of Insurance

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

Participant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:** Statutory coverage as required by the State of California.
- (2) **Commercial General Liability:** Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:** Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability:** Professional liability insurance which includes coverage for the professional acts, errors and omissions of Participant in the amount of at least \$1,000,000.
- (5) **Cyber Coverage:** Cyber Coverage with an aggregate limit of liability of one million dollars (\$1,000,000.00).

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



Staff Report – Item 1e

Item 1e: Adopt Resolution Amending SVCE Conflict of Interest Code to Add Multiple Positions

From: Girish Balachandran, CEO

Prepared by: Kevin Armstrong, Administrative Services Manager

Date: 4/13/2022

RECOMMENDATION

Adopt Resolution 2022-12 amending the SVCE Conflict of Interest Code to add the positions of Audit Committee Member and Regulatory and Compliance Manager to the list of designated positions for filing.

BACKGROUND

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

At the September 8, 2021 Board meeting, the Board of Directors adopted Resolution 2021-22 approving the creation of a personnel system to insure equitable and uniform policies and procedures for administering personnel matters in compliance with applicable laws; designating the Chief Executive Officer (CEO) as Personnel Officer; and delegating authority to the CEO to carry out all duties necessary to implement the personnel system.

ANALYSIS & DISCUSSION

Two positions have been identified as needing to file since the last conflict of interest code was adopted in February 2022: Audit Committee Member and Regulatory and Compliance Manager. The role of Audit Committee Member had never included a person outside of SVCE's Board of Directors, until committee appointments made in February 2022 included a member of agency staff. With the appointment of Committee member Vickie Rahman of Gilroy, the position of Audit Committee Member needs to be added to SVCE's code.

The Regulatory and Compliance Manager position was created as part of the FY21-22 budget within the authority of the Personnel Officer.

SVCE staff and general counsel feel these positions should report financial interests in the proposed assigned disclosure categories based on the decisions he/she will be making:

Designated Position	Assigned Disclosure Category
Audit Committee Member	2
Regulatory and Compliance Manager	2

In accordance with the requirements of the Political Reform Act and the County of Santa Clara, a new conflict of interest code must be adopted by resolution which includes the newly created or identified positions as well as any changes to the existing Conflict of Interest Code. The attached resolution amends Appendix A to

Agenda Item: 1e**Agenda Date: 4/13/2022**

SVCE's code to reflect the addition of the two new positions identified above. The remainder of the Conflict of Interest Code has not been changed.

STRATEGIC PLAN

Not applicable.

ALTERNATIVES

None.

FISCAL IMPACT

There is no fiscal impact as a result of adding positions to SVCE's Conflict of Interest Code.

ATTACHMENT

1. Resolution 2022-12 Amending the Authority's Conflict of Interest Code to Add Multiple Positions

RESOLUTION NO. 2022-12

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE AUTHORITY'S CONFLICT OF INTEREST CODE TO ADD MULTIPLE POSITIONS

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

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

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

WHEREAS, the Board of Directors of the Authority has adopted a conflict of interest code, and has amended this code as appropriate due to changed circumstances, with the most recent code adopted by Resolution 2022-05; and

WHEREAS, the Board of Directors, after consultation with the County of Santa Clara as its code reviewing body, desires to amend the list of designated positions in Appendix A by amending multiple titles and adding multiple positions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Authority rescinds Resolution No. 2022-05 and adopts the following attached Conflict of Interest Code including its Appendices of Designated Positions and Disclosure Categories.

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

ADOPTED AND APPROVED this 13th day of April 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Alternate Director Armendariz				
City of Los Altos	Director Fligor				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Chua				
City of Monte Sereno	Director Ellahie				
City of Morgan Hill	Director Martinez Beltran				
City of Mountain View	Director Abe-Koga				
County of Santa Clara	Director Lee				
City of Saratoga	Director Walia				
City of Sunnyvale	Director Klein				

Chair

ATTEST:

Clerk

SILICON VALLEY CLEAN ENERGY AUTHORITY CONFLICT OF INTEREST CODE

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

The most current version of 2 Cal. Code of Regs. Section 18730 is available on the website of the Fair Political Practices Commission (<http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730.pdf>).

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

**SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE**

APPENDIX "A"

DESIGNATED POSITIONS

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Member of Board of Directors	1
Alternate Member of Board of Directors	1
<u>Audit Committee Member</u>	<u>2</u>
Chief Executive Officer	1
Chief Financial Officer & Director of Administrative Services	1
Finance and Administration Committee Member	2
General Counsel	1
Energy Services Manager	2
Administrative Services Manager	2
Associate Legislative Analyst	2
Associate Manager of Decarbonization & Grid Innovation Programs	2
Associate Power Analyst	1
Associate Power Resources Planner	1
Communications Manager	2
Director of Account Services & Community Relations	2
Director of Decarbonization & Grid Innovation Programs	2
Director of Power Resources	1
Director of Regulatory & Legislative Policy	2
Financial Analyst	2
Management Analyst	2

Manager of Decarbonization & Grid Innovation Programs	2
Policy Analyst	2
Power Analyst	1
Power Resources Manager	1
Power Resources Planner	1
Power Contracts & Settlements Manager	1
Power Settlements & Compliance Analyst	1
Principal Policy Analyst	2
Principal Power Analyst	1
Rates Manager	2
<u>Regulatory and Compliance Manager</u>	<u>2</u>
Senior Financial Analyst	2
Senior Government Affairs Manager	2
Senior Manager of Decarbonization & Grid Innovation Programs	2
Senior Manager of Public Sector Services	2
Senior Policy Analyst	2
Senior Power Analyst	1
Senior Power Resources Planner	1
Senior Rates Analyst	2
Senior Regulatory Analyst	2
Senior Risk Manager	2
Consultant	3
Newly Created Position	*

* Newly Created Position

A newly created position that makes or participates in the making of governmental decisions that may foreseeably have a material effect on any financial interest of the

position-holder, and which specific position title is not yet listed in the Authority's conflict of interest code is included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular newly created position, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008.)

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

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

SILICON VALLEY CLEAN ENERGY AUTHORITY CONFLICT OF INTEREST CODE

APPENDIX "B"

DISCLOSURE CATEGORIES

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

Category 1: Persons in this category shall disclose:

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

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

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

Category 3: Each Consultant, as defined for purposes of the Political Reform Act and applicable regulations¹, shall disclose pursuant to the broadest disclosure category in the Authority's conflict of interest code subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such a written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of

¹ As defined in FPPC Regulation 18700.3, "consultant" means an individual who (1) makes governmental decisions, such as whether to approve a rate, rule, or regulation; to issue, deny, suspend, or revoke any permit, license, application, certificate or similar authorization; to adopt or approve a plan, design, report, study; or to adopt or approve policies, standards, or guidelines for the Authority; (2) serves in a staff capacity with the Authority, and in that capacity participates in making governmental decisions by providing information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review; or (3) performs the same or substantially all the same duties for the Authority that would otherwise be performed by an individual holding a designated position in this Code.

disclosure requirements. The Chief Executive Officer's written determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.



Staff Report – Item 1f

Item 1f: Authorize the Chief Executive Officer to Execute Amendment to Agreement with Joint Venture Silicon Valley to Add Convening Support for a Building Electrification Stakeholder Group

From: Girish Balachandran, CEO

Prepared by: Justin Zagunis, Director of Decarbonization and Grid Innovation
Zoe Elizabeth, Manager of Energy Services

Date: 4/13/2022

RECOMMENDATION

Staff recommends that the SVCE Board of Directors authorize the Chief Executive Officer to execute the second amendment to SVCE’s agreement with Joint Venture Silicon Valley (JVSV), extending the term of the agreement to March 31, 2023, amending the not to exceed amount to \$138,000, and amending the scope of services.

BACKGROUND

In 2019, SVCE contracted with JVSV to provide administrative and coordination support to facilitate Silicon Valley Transportation Electrification Clearinghouse (“SVTEC”). Due to the success of SVTEC, the agreement with JVSV was amended in 2020 to extend services.

ANALYSIS & DISCUSSION

The proposed second contract amendment would expand the scope of work to include supporting a similar network to SVTEC focused on building electrification. JVSV will work with SVCE to launch a building electrification focused working group in spring 2022, and will help host ongoing quarterly meetings.

The budget would increase by \$50,000 to cover this expansion and the timeline would be extended by one quarter to 3/31/2023.

FISCAL IMPACT

There is no fiscal impact as these funds were approved and budgeted for as part of the Building Electrification Joint Action Plan.

ATTACHMENTS

1. Second Amendment to Agreement with Joint Venture Silicon Valley
2. First Amendment and Original Agreement with Joint Venture Silicon Valley

SECOND AMENDMENT TO AGREEMENT WITH JOINT VENTURE SILICON VALLEY

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and JOINT VENTURE SILICON VALLEY entered into that certain agreement entitled Convening Support for Silicon Valley Transportation Electrification Clearinghouse and Regional Electric Vehicle Leadership Recognition Programs Services, effective on October 23, 2020, hereinafter referred to as “Original Agreement”; and

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

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

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

The term of this Agreement shall commence on November 1, 2020, and shall terminate on March 31, 2023, unless terminated earlier as set forth herein.

2. COMPENSATION section of Original Agreement shall be amended to read as follows:

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed one hundred thirty-eight thousand dollars and no/100 (\$138,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

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

Task 3

In this task, Joint Venture Silicon Valley (JVSV) will help develop and provide convening support for a Building Electrification (BE) Stakeholder Group (herein, group).

JVSV will work with SVCE to refine the group’s mission and scope, identify key organizations and networks essential to building electrification in Silicon Valley, engage a select set of those organizations to participate in the working group and launch the group in spring 2022 / Q4 of FY 21/22. Thereafter JVSV will help host ongoing quarterly meetings of the group, working group meetings, and up to two larger building electrification forums annually with key stakeholders (e.g. a forum for elected officials). We will work collaboratively with SVCE staff to prepare for meetings and carry out actions, including assisting at, and providing synthesis for, meetings; and identifying next steps and follow-up actions.

Throughout the year we will support SVCE and the stakeholder group members to understand the technical, legal, and financial challenges of building electrification, including:

- identifying and cataloging successful BE case studies,

- creating a repository of funding program and financing information,
- collecting and analyzing BE policies, and
- developing, organizing, and facilitating working group meeting and or stakeholder meetings that are outside of the quarterly working group.

4. EXHIBIT B SCHEDULE OF PERFORMANCE section of Original Agreement shall be amended to read as follows:

TASK	BEGIN	END
SVTEC Support	November 2020	March 2023
Manage Ongoing Quarterly SVTEC Meetings	November 2020	March 2023
Provide Ongoing Support to SVTEC	November 2020	March 2023
Recognition Program Support	November 2020	March 2023
Building Electrification (BE) Support	April 2022	March 2023

5. EXHIBIT C SCHEDULE OF COMPENSATION section of Original Agreement shall be amended to read as follows:

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of one hundred thirty-eight thousand dollars and no/100 (\$138,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority

Original Agreement

Task	Estimated Budget
Silicon Valley Transportation Electrification Clearinghouse Support	
Manage Ongoing Quarterly SVTEC Meetings	\$20,000
Provide Ongoing Support to SVTEC	\$20,000
Recognition Program Support	
Provide on-going Regional Recognition implementation support	\$8,000
Total	\$48,000

First Amendment

Task	Estimated Budget
Silicon Valley Transportation Electrification Clearinghouse Support	
Manage Ongoing Quarterly SVTEC Meetings	\$40,000
Provide Ongoing Support to SVTEC	\$40,000
Recognition Program Support	
Provide on-going Regional Recognition implementation support	\$8,000
Total	\$88,000

Second Amendment

Task	Estimated Budget
Silicon Valley Transportation Electrification Clearinghouse Support	
Manage Ongoing Quarterly SVTEC Meetings	\$40,000
Provide Ongoing Support to SVTEC	\$40,000
Recognition Program Support	
Provide on-going Regional Recognition implementation support	\$8,000
Building Electrification (BE)	\$50,000
Total	\$138,000

6. This Amendment shall be effective on April 14, 2022.
7. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
8. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

RECOMMENDED FOR APPROVAL

Zoe Elizabeth, Manager of Energy Services

RECOMMENDED FOR APPROVAL

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
JOINT VENTURE SILICON VALLEY

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

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

FIRST AMENDMENT TO AGREEMENT WITH JOINT VENTURE SILICON VALLEY

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and JOINT VENTURE SILICON VALLEY entered into that certain agreement entitled Convening Support for Silicon Valley Transportation Electrification Clearinghouse and Regional Electric Vehicle Leadership Recognition Programs Services, effective on October 23, 2020, hereinafter referred to as “Original Agreement”; and

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

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

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

The term of this Agreement shall commence on November 1, 2020, and shall terminate on December 31, 2022, unless terminated earlier as set forth herein.

2. COMPENSATION section of Original Agreement shall be amended to read as follows:

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed eighty-eight thousand dollars and no/100 (\$88,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

3. Exhibit B SCHEDULE OF PERFORMANCE section of Original Agreement shall be amended to read as follows:

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

TASK	BEGIN	END
SVTEC Support	November 2020	December 2022
Manage Ongoing Quarterly SVTEC Meetings	November 2020	December 2022
Provide Ongoing Support to SVTEC	November 2020	December 2022
Recognition Program Support	November 2020	September 2021

4. Exhibit C COMPENSATION section of Original Agreement shall be amended to read as follows:

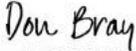
The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of eighty-eight thousand dollars and no/100 (\$88,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority

Task	Estimated Budget
Silicon Valley Transportation Electrification Clearinghouse Support	
Manage Ongoing Quarterly SVTEC Meetings	\$40,000
Provide Ongoing Support to SVTEC	\$40,000
Recognition Program Support	
Provide on-going Regional Recognition implementation support	\$8,000
Total	\$88,000

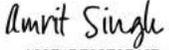
- 5. This Amendment shall be effective on October 1, 2021.
- 6. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
- 7. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

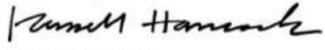
RECOMMENDED FOR APPROVAL

DocuSigned by:

25AB666D5413484...
 Don Bray, Director of Account Services & Community Relations

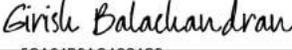
RECOMMENDED FOR APPROVAL

DocuSigned by:

A88F1DF92E8F467...
 Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
JOINT VENTURE SILICON VALLEYENTER

DocuSigned by:

 By: _____
 Name: Russ Hancock
 Title: President & Chief Executive Officer
 Date: 9/16/2021

SILICON VALLEY CLEAN ENERGY
AUTHORITY

A Joint Powers Authority
DocuSigned by:

 By: _____
 Name: Girish Balachandran
 Title: Chief Executive Officer
 Date: 9/16/2021

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
JOINT VENTURE SILICON VALLEY
FOR
CONVENING SUPPORT FOR SILICON VALLEY TRANSPORTATION
ELECTRIFICATION CLEARINGHOUSE AND REGIONAL ELECTRIC VEHICLE
LEADERSHIP RECOGNITION PROGRAMS SERVICES**

THIS AGREEMENT, is entered into this 18th day of November, 2019, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and JOINT VENTURE SILICON VALLEY, a 501 (c)(3) nonprofit organization whose address is 100 W San Fernando St., Suite 310, San Jose, CA 95113 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

RECITALS:

A. Authority is an independent public agency duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") with the power to conduct its business and enter into agreements.

B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement pursuant to the terms and conditions described herein.

C. Authority and Consultant desire to enter into an agreement for convening and program launch support upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on 18 November 2019, and shall terminate on 31 October 2020, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

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

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed forty-eight thousand dollars and no/100 (\$48,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

Consultant and Authority agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

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

7. **NO RECOURSE AGAINST CONSTITUENT MEMBERS OF AUTHORITY.**

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

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liabilities, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of or related to the negligence or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors in the performance of this Agreement, except where caused by the sole or active negligence or willful misconduct of Authority or its members, officers, officials, agents, employees and volunteers. Such costs and expenses shall include reasonable attorneys' fees of counsel of Authority's choice, expert fees and all other costs and fees of litigation. The acceptance of the services provided by this Agreement

by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the services or termination of this Agreement.

10. **INSURANCE:**

A. General Requirements. On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Chief Executive Officer." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

B. Subrogation Waiver. Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her/its insurance for recovery. Consultant hereby grants to Authority, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or Authority with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of Consultant may acquire against Authority by virtue of the payment of any loss under such insurance.

C. Failure to secure or maintain insurance. If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, Authority shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. Additional Insured. Authority, its members, officers, employees and volunteers shall be named as additional insureds under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. Sufficiency of Insurance. The insurance limits required by Authority are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

F. Maximum Coverage and Limits. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be the minimum coverage and limits specified in this Agreement, or the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

11. **CONFLICT OF INTEREST**

Consultant warrants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried

by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

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

14. **REPORTS**

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

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

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

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

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

15. **RECORDS**

Consultant shall maintain complete and accurate records with respect to costs, expenses, receipts and other such information required by Authority that relate to the performance of services under this Agreement, in sufficient detail to permit an evaluation of the services and costs. All such records shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of Authority or its designees at all proper times, and gives Authority the right to examine and audit same, and to make transcripts therefrom as

necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a minimum period of five (5) years after Consultant receives final payment from Authority for all services required under this agreement.

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Russell Hancock shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

A. Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all Confidential Information held by Authority or provided to Consultant by Authority. Consultant shall exercise the same standard of care to protect such Confidential Information as a reasonably prudent consultant would use to protect its own proprietary or confidential information.

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

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

D. Upon termination or expiration of this Agreement, Consultant shall, at Authority's direction, either return or destroy all such Confidential Information and shall so certify in writing. Notwithstanding the foregoing, Consultant may retain copies of the Confidential Information and any related materials (i) to the extent required to comply with applicable legal and regulatory requirements, or (ii) that are retained in any backup tapes or other archival media; provided, however, all retained Confidential Information and related materials shall remain subject to the terms, conditions, and obligations of this Agreement, and any Confidential Information and related materials retained in any backup tapes or archival media shall be overwritten or destroyed in the regular course of business when such backup tapes or archival media are recycled for further use or destroyed.

E. The obligations of this provision will survive termination or expiration of this Agreement.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:

333 W. El Camino Real
Suite 290
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO CONSULTANT:

Russell Hancock
Joint Venture Silicon Valley
100 West San Fernando Street, Suite 310
San Jose, CA 95118

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be not less than 10 days) and according to the requirements set forth in Authority's written notice of default, and in addition to any other remedy available to the Authority by law, the Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer shall also have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) calendar days' prior written notice to Consultant as provided herein. Upon receipt of any notice of termination, Consultant shall immediately discontinue performance.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority.

20. **COMPLIANCE**

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

21. **CONFLICT OF LAW**

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

22. **ADVERTISEMENT**

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

23. **WAIVER**

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

24. **INTEGRATED CONTRACT**

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

25. **AUTHORITY**

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

26. **INSERTED PROVISIONS**

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

27. **CAPTIONS AND TERMS**

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

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

RECOMMENDED FOR APPROVAL

DocuSigned by:
Aimee Bailey
7BC1D044BEEF49B...
Aimee Bailey
Director of Decarbonization and Grid Innovation

RECOMMENDED FOR APPROVAL

DocuSigned by:
Don Eckert
10C84G9C69134BD...
Don Eckert
Director of Decarbonization and Grid Innovation

CONSULTANT NAME

JOINT VENTURE SILICON VALLEY

By: *Russell Hancock*
251244FA4CF7425...

Name: Russell Hancock

Title: CEO

Date: 11/20/2019

SILICON VALLEY CLEAN ENERGY

AUTHORITY

A Joint Powers Authority

By: *Girish Balachandran*
5CA64B9AC4C24C3...

Name: Girish Balachandran

Title: Chief Executive Officer

Date: 11/20/2019

Exhibit A **Scope of Services**

Overview

In this engagement, Consultant will provide convening support for the Silicon Valley Transportation Electrification Clearinghouse (SVTEC) and Regional Electric Vehicle Leadership Recognition Programs of Authority, as detailed in the accompanying schedule.

Per Task 1, Consultant will work with Authority to quickly launch the SVTEC working group, then conducting quarterly meetings for the remainder of the contract term. Consultant will work collaboratively to build out the working group and the larger list of key contacts throughout the year, cross-pollinating between the SVTEC and Recognition program efforts as appropriate to grow both. Consultant will prepare for meetings and carry out actions with Authority staff and other consultants on the EVI Plan team; assisting at and providing synthesis of meetings; and identifying next steps and follow-up actions. As a further component of the SVTEC task, Consultant will also help Authority pursue proposals from grant writing firms; ultimately signing a qualified firm that will advance the EVI Plan and its various component programs.

Per Task 2, Consultant will work with Authority to shape and execute the Recognition program in a way that, first, highlights the leaders who have already taken bold steps to install EV infrastructure. Consultant will help develop program materials, seek out and support applicants, and work with other consultants on the team and Authority staff to provide support and promotion to these front-runners and then to a larger pool, including those who pledge to take action. Consultant will also develop a survey and database for tracking EVI deployment. A centerpiece of this task will be a Recognition Event, which Consultant will produce in consultation with Authority (tentatively scheduled for June). Consultant will offer models for similar events, follow Authority's preferences, and provide support for all aspects of the program.

Task 1: SVTEC Support

The SVTEC will be a working group that will help accelerate EV and EVI deployment across Authority service territory. The focus will be on sharing information and leadership among stakeholders – best practices, opportunities, and available funding. SVTEC will bring together member community staff, Authority staff, and key leaders from relevant private and public sector organizations.

Authority intends its role to be the facilitator and organizer of SVTEC, as well as the initial funding entity. Authority will also take on tasks that it is best suited for, as it hears from SVTEC members, such as interfacing with state and regional agencies like Pacific Gas and Electric to streamline interconnection processes.

Authority expects the SVTEC meetings to consist of 20-30 people. These key stakeholders will include staff representation from:

- Authority member agencies

- Large local employers and businesses
- EV companies
- EVI companies
- Other relevant regional agencies and organizations

The SVTEC will be made up of a much larger list of contacts in these industries, likely 75-100 people, that receive messages and information. Only a subset will typically attend a meeting. The consultant will assist SVCE in developing this full contact list and managing it on an ongoing basis as it changes over time.

The goal is to support the key stakeholders in the group speaking with one another to share what they have learned from their own activities and successes. The stakeholders will also be encouraged to collectively work on ideas and strategies to address key challenges or pursue new opportunities in EVI (such as deployment in underserved communities). Authority will also work to compile information and alleviate problems that are brought up by the group. The group will also identify external funding sources and opportunities to pursue jointly or individually.

Finally, a central component of this program will be providing a grant writing firm to help SVTEC members pursue several (4-6) high-leverage grant opportunities each year. Consultant will help Authority monitor opportunities and manage the grant writing firm to do so.

SVTEC will also interface with the Recognition program in a variety of ways. The funding secured through SVTEC may be made available to Recognition program participants. Best practices developed by SVTEC stakeholders may be shared with Recognition program participants. Consultant will identify synergies and assist with cross-pollination and information/value sharing.

Task 1.1. Launch First SVTEC Meeting

Consultant will:

- Work with Authority to launch the first SVTEC meeting – targeting a November/December 2019 meeting.
- Work with Authority to identify key stakeholders to engage in SVTEC, based in part on attendance in previous EVI workshops, and create a contact list.
- Manage all logistics related to holding the meeting, including but not limited to: date and time selection, site selection and reservation, attendee invites and RSVPs, food/drink procurement, meeting materials, etc.
- Work with Authority to develop an agenda and prepare presentation materials as needed (Authority envisions a 2-hour meeting with time for peer sharing).
- Assist in setting up meeting onsite.
- Assist Authority with its facilitation role at the meetings.
- Undertake any additional actions required to make the first SVTEC meeting a success.

Deliverables for Task 1.1: Successful first SVTEC meeting in November/December 2019.

Task 1.2. Support Authority in Securing Grant Writing Firm

Consultant will:

Work with Authority in preparing a solicitation for a grant writing firm. Help review responses, as needed. Ensure that Authority considers all critical components when signing a contract with the firm

Deliverables for Task 1.2: Signed contract with a grant writing firm.

Task 1.3. Manage Ongoing, Quarterly SVTEC Meetings

Consultant will:

With all of the same actions listed in Task 1.1, work with Authority to hold quarterly meetings on an ongoing basis. Much of the kickoff work from Task 1.1 can be re-used, but some of the logistics and agenda work will need to recur for each meeting.

Deliverables for Task 1.3: Quarterly SVTEC meetings for the duration of the contract.

Task 1.4. Provide Ongoing Support to SVTEC

Consultant will:

- Summarize information provided in meetings and through direct communications (such as best practices, challenges, or opportunities).
- Disseminate the summarized information among SVTEC members and with Recognition program participants, as needed.
- Keep SVTEC aware of relevant funding opportunities and other programs.
- Leverage Consultant's expertise, as needed, to help inform SVTEC discussions.
- Work with Authority to determine how SVCE can best support the issues that arise from SVTEC stakeholders.
- Connect SVTEC stakeholders to one another and keep Authority aware of engagement.
- Track completed, in progress, and intended activities.
- Support Authority's management of the grant writing firm.
- Connect SVTEC activities with the Recognition program, and vice versa.
- Provide recommendations on how to improve SVTEC.

Deliverables for Task 1.4: Information compilation, review, and dissemination. Facilitation of SVTEC group outside of meetings. Connect SVTEC to other Authority activities.

Task 2: Recognition Program Support

The Regional EV Leadership Recognition ("Recognition") program will support numerous organizations throughout Authority service territory with their efforts to deploy more EVI. These organizations may not be key EVI stakeholders, as in the SVTEC, but rather organizations that are simply trying to take more action and install EVI. The focus will be on providing information on incentives and strategies, recognizing accomplishments, and accelerating action through pledges.

Authority's role will, again, be as an organizer, facilitator of discussion, and funder. Authority will help shape the program and keep it running, though much of the benefit to participants is intended

to come from the opportunity for peer learning. Authority will also work on the annual recognition event and will lead the data collection efforts to help grow the understanding of existing and growing EVI deployment at workplaces.

The Recognition program will at first focus on organizations that have successfully deployed EVI, to create a stable of peers and best practices. The program will attempt to cause new, additive deployment through the structure of an “EV Pledge.” The EV Pledge will ask organizations to take certain actions, including: creating an internal action team or relevant stakeholders, submitting an official pledge to the program, create an EVI implementation plan, and report on progress in meeting its goals. In return, the organizations will be granted access to the peer learning, technical assistance, and other resources provided by SVTEC.

Finally, a central component of this program will be providing technical assistance to Recognition program participants – including curated best practices, peer sharing, and tailored support for their sites and projects. This would include pursuit of available incentives. A separate technical assistance consultant will be selected and funded by Authority to undertake these specific activities. Consultant will help Authority monitor engagement, guide participants to resources, and manage the technical assistance consultant.

The Recognition program will interface with SVTEC in a variety of ways. The funding secured through SVTEC may be made available to Recognition program participants. Best practices developed by SVTEC stakeholders may be shared with Recognition program participants. The support consultant, supporting both programs, will be expected to identify synergies and assist with cross-pollination and information/value sharing.

Task 2.1. Develop and Launch the Regional EV Leadership Recognition Program

Consultant will:

- Work with Authority to complete the development of the Recognition program.
- Included in the expected development work are the following: program marketing materials, steering committee roles and membership, recognition criteria, and the survey mechanism for assessing existing EVI deployment.
- Recruit first organizations to make up the “success stories” and develop initial best practices, with input from SVTEC.
- Work with the selected technical assistance consultant to establish lines of communication, processes, and materials.
- Work with Authority to launch the Recognition program to a full or limited audience, and market to begin receiving applications for the program.

Deliverables for Task 2.1: Completed program development, creation of marketing materials, development of best practices, and program launch in January 2020.

Task 2.2. Manage Application Process

Consultant will:

Manage the application process of possible program participants. Respond to inquiries by prospective and current applicants. Screen applications for completeness and applicability, then inform Authority of recommendations. Review EV Pledges. Work with applicants to ameliorate applications, as needed. Secure all necessary paperwork and authorizations. On-board selected applicants into the program.

Deliverables for Task 2.2: Ongoing support for applicants.

Task 2.3. Manage Program Participants

Consultant will:

Work with Authority to ensure that participants are successful within the Recognition program. Connect participants with relevant resources. Track EV Pledges and efforts to meet them. Continue to develop best practices and identify “stars” to consider for annual recognition.

Deliverables for Task 2.3: Ongoing support for program participants, and identifying stars and best practices.

Task 2.4. Survey EVI Deployment

Consultant will:

Work with Authority to gather data on EVI deployment at participant sites (new through the program and existing). Use lessons learned to help Authority refine its estimates of deployed EVI in its territory and implications for EV adoption. Frequency of analysis to be determined.

Deliverables for Task 2.4: Regularly-updated database of known and projected EVI at workplaces and other organizations.

Task 2.5. Support Annual Recognition Event

Consultant will:

- Provide logistical support for Authority’s annual recognition event to acknowledge those organizations that are “stars” and/or have completed their pledges.
- Authority is currently targeting a June 2020 date for this event.
- Work with Authority to identify non-participant groups and entities to invite.
- Manage all logistics related to holding the event, including but not limited to: date and time selection, site selection and reservation, attendee invites and RSVPs, food/drink procurement, event materials, etc.
- Work with Authority to develop an agenda and prepare presentation materials as needed.
- Help set up event onsite.
- Support Authority in its facilitation role at the event.
- Undertake any additional actions required to make the annual recognition event a success.
- These actions must occur in support of each annual event.

Deliverables for Task 2.5: Successful annual recognition events.

Exhibit B
Schedule of Performance

Please see attached detailed spreadsheet for Exhibit B, incorporated by reference herein.

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

Silicon Valley Transportation Electrification Clearinghouse Support	Begin	Complete
1. Launch First SVTEC Meeting	November	December
2. Support SVCE in Securing Grant Writing Firm	December	August
3. Manage Ongoing Quarterly SVTEC Meetings	January	October
4. Provide Ongoing Support to SVTEC	November	October
Recognition Program Support	Begin	Complete
1. Develop and Launch Regional EV Leadership Recognition Program	November	January
2. Manage Application Process	February	October
3. Manage Program Participants	February	October
4. Survey EVI Deployment	February	October

Exhibit C
Compensation

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of FORTY-EIGHT THOUSAND dollars (\$48,000), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	Estimated Budget
Silicon Valley Transportation Electrification Clearinghouse Support	
Launch First SVTEC Meeting	\$7,500
Support SVCE in Securing Grant Writing Firm	\$3,500
Manage Ongoing Quarterly SVTEC Meetings	\$9,000
Provide Ongoing Support to SVTEC	\$2,500
Recognition Program Support	
Develop and Launch Regional EV Leadership Recognition Program	\$9,000
Manage Application Process	\$4,000
Manage Program Participants	\$1,500
Survey EVI Deployment	\$2,500
Support Annual Recognition Event	\$8,500
Total	\$48,000

Rates

Personnel	Title	Hourly
Kara Gross	Director	\$150
Melinda Chacon	Administrative Support Staff	\$50

Invoices

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

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority.

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority's Chief Executive Officer prior to commencement of any additional services. Consultant shall submit, at the Chief Executive Officer's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit D**Insurance Requirements and Proof of Insurance**

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

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:**
Statutory coverage as required by the State of California.
- (2) **Liability:**
Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:**
Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.



Staff Report – Item 1g

Item 1g: Receive Q1 2022 Decarbonization Programs Update

From: Girish Balachandran, CEO

Prepared by: Justin Zagunis, Director of Decarbonization and Grid Innovation Programs

Date: 4/13/2022

RECOMMENDATION

Staff recommends the Board receive and accept the Q1 2022 Update of the Decarbonization Strategy & Programs Roadmap.

BACKGROUND

To achieve its mission to reduce dependence on fossil fuels by providing carbon-free, affordable and reliable electricity and innovative programs for the community, SVCE established a decarbonization strategy and programs roadmap (abbreviated as "Roadmap"). In December 2018, the Board approved the Roadmap, and since that time, staff have been working on implementation.

ANALYSIS & DISCUSSION

Attachment 1 is the most recent quarterly update, covering January through March 2022. The quarterly update includes a table with a summary of updates and next steps for each initiative.

STRATEGIC PLAN

This item supports SVCE's 2021-2022 Strategic Plan Goal 8, to "coordinate development of decarbonization strategy, lead design of local policy and programs, and support program deployment," to support achieving energy and transportation GHG reductions of 30% from the 2015 baseline by 2021, 40% by 2025, and 50% by 2030.

FISCAL IMPACT

Accepting the Q1 2022 Update of the Decarbonization Strategy & Programs Roadmap has no fiscal impact.

ATTACHMENTS

1. Decarbonization Strategy & Programs Roadmap – Q1 2022 Update

Decarbonization Strategy & Programs Roadmap

Q1 2022 Update

April 13, 2022 BOD Meeting

Sector	Program	Q1 2022 Activities	Q2 2022 Outlook
Power Supply	C&I Clean Power Offerings Develop, market and sell additional SVCE power offerings to address large C&I customers seeking to buy clean power at competitive rates	<ul style="list-style-type: none"> Finalized contract language in conjunction with customer for 24x7 carbon-free offering. Sent contract for 24x7 carbon-free offering to large commercial customer, pending signatures Sent completed EcolInvest contract language to large commercial customer, pending signatures 	<ul style="list-style-type: none"> Execute contract for EcolInvest for large commercial customer Execute contract for 24x7 carbon-free offering with large commercial customer Continue detailed operational work for billing and tracking of 24x7 carbon-free Continue detailed design work for GreenPrime Direct offering and pilot terms
	Reach Codes Provide model energy code supportive of all-electric design and EV infrastructure to member agencies along with consultant support	<ul style="list-style-type: none"> Kicked off 2022 Reach Codes cycle Held four regional workshops Held 1:1 meetings with all Board Directors Held 1:1 meetings with all MAWG members 	<ul style="list-style-type: none"> Continue outreach Support code customization
Built Environment	All-Electric Showcase Grants Provide incentives for all-electric buildings and share case studies about them and the professionals involved in their design	<ul style="list-style-type: none"> (COMPLETED) 	<ul style="list-style-type: none"> (COMPLETED)

<p>FutureFit Heat Pump Water Heaters Provide incentives for electric heat pump water heaters and service panel upgrades to residents using natural gas currently</p>	<ul style="list-style-type: none"> Phase 2 (approved by Board in 2020) launched July 2020 and currently has 368 reservations processed, 170 project completions, 42 main panel upgrades Surpassed original goal of 160 projects and funded with additional budget Combined 272 HPWHs installed to date between phase 1 and phase 2 	<ul style="list-style-type: none"> Phase 2 – continue to promote program Continue work towards absorbing program into FutureFit Homes and Buildings (FFHB) umbrella program
<p>Streamlining Community-Wide Electrification Benchmark and streamline member agency’s permitting and inspection processes to identify barriers and opportunities to electrification</p>	<ul style="list-style-type: none"> Held first Tiger Team meeting to discuss 2022 initial workplan Attended TECH HPWH 1-Day Permitting Pilot Stakeholder meetings Attended CEC’s webinar on developing CalAPP program 	<ul style="list-style-type: none"> Continue to monitor TECH pilot and CalAPP program Continue to refine workplan
<p>Building Decarb Joint Action Plan Develop a joint action plan with member agencies to prioritize strategies and programs to advance building decarbonization</p>	<ul style="list-style-type: none"> (COMPLETED) 	<ul style="list-style-type: none"> (COMPLETED)
<p>Resilience at Community Facilities Increase the individual and collective capacity of SVCE and our member agencies to reduce adverse impacts of power outages.</p>	<ul style="list-style-type: none"> Five jurisdictions have allocated all of their grant funds; eight jurisdictions have funds remaining Finalized energy resilience framework 	<ul style="list-style-type: none"> Continue to execute member agency capital project grant agreements on a rolling basis. Launch decision-support tool Release resilience framework Host training webinars
<p>FutureFit Fundamentals Provide financial relief to contractors by expanding their knowledge of electrification technologies</p>	<ul style="list-style-type: none"> Resumed outreach to local contractors notifying them about the program Continue to discuss and implement partnerships with San Jose and Milpitas on outreach and translations Updated the enrollment process and transitioned the content to a new platform for an easier web usability 	<ul style="list-style-type: none"> Continue to engage industry groups and stakeholders Expand outreach and marketing for the program Translate the course videos and content to provide the course in Spanish, Vietnamese and Traditional Chinese
<p>CRCR Bill Relief Provide immediate bill relief to residential CARE/FERA customers, and to qualifying small business customers</p>	<ul style="list-style-type: none"> (COMPLETED) 	<ul style="list-style-type: none"> (COMPLETED)

	<p>FutureFit Homes & Buildings Provide comprehensive assistance to SVCE customers in navigating and accessing the many existing and forthcoming, non-SVCE led energy programs providing financial assistance for building decarbonization and energy efficiency.</p>	<ul style="list-style-type: none"> • Reviewing SMUD scoping research to inform program design, including incentive roadmap. • Continued conversations with TECH, BayREN, CCAs on BE plans & incentives 	<ul style="list-style-type: none"> • Finalizing program scope & roll-out plan. • Begin implementing initial program elements.
	<p>Regional Coordination SVCE will initiate regular regional stakeholder convenings to coordinate program alignment across building decarbonization workstreams.</p>	<ul style="list-style-type: none"> • No activities in Q1 	<ul style="list-style-type: none"> • May begin coordination & design efforts
	<p>Accessible Financing Assess feasibility of financing mechanisms to unlock equitable financing for energy efficiency and electrification across the region, particularly for low-income communities.</p>	<ul style="list-style-type: none"> • Submitted LOI for TECH tariff on-bill pilot, expressing interest in working with PCE to plan for TOB pilot • Attending TECH TOB pilot planning meetings • Supporting development of joint PCE-SVCE CCA TOB proposal to the CPUC Clean Energy Finance Proceeding 	<ul style="list-style-type: none"> • Supporting CCA TOB proposal submitted to CPUC Clean Energy Finance proceeding in Spring 2022 • Continuing to attend TECH TOB pilot planning meetings • Continuing to track financing options for BE/TE
	<p>Local Policy to Decarbonize Existing Buildings Assess and support potential policy levers Member Agencies can explore to mitigate emissions from existing buildings.</p>	<ul style="list-style-type: none"> • Initial research and evaluating how this fits in with Reach Codes. 	<ul style="list-style-type: none"> • Additional funds approved as part of “doubling down” on programs. • Program design will continue through Q2 Of 2022
	<p>Feasibility Assessment for Natural Gas Phase Out By 2045 Carry out a feasibility assessment to identify technical, legal and economic barriers and opportunities for phasing out natural gas service by 2045, in the SVCE service territory.</p>	<ul style="list-style-type: none"> • Work to begin in FY22 	<ul style="list-style-type: none"> • Work to begin in FY22
Mobility	<p>EV Infrastructure Strategy & Plan Develop a near- to mid-term strategy for EV infrastructure and a set of program implementation plans</p>	<ul style="list-style-type: none"> • (COMPLETED) 	<ul style="list-style-type: none"> • (COMPLETED)

Mobility	<p>California Electric Vehicle Infrastructure Project (CALeVIP) Work with California Energy Commission to launch a regional CALeVIP project</p>	<ul style="list-style-type: none"> Year 2 funding for L2 chargers delayed from December 2021 to Feb-Mar this year Year 2 funding processing by program vendor Confirmed multifamily participation met required target (25% of L2 funds) 	<ul style="list-style-type: none"> Continue reviewing year 2 applications Track progress of projects
	<p>Priority Zone DCFC Competitive application to receive an additional incentive (on top of CALeVIP) for DCFC in “priority zones” that support nearby SVCE-designated multifamily housing clusters</p>	<ul style="list-style-type: none"> Finalized updated design for a new solicitation round for DCFC Begin work on updated materials for launch 	<ul style="list-style-type: none"> Open the updated program and evaluate applications for projects
	<p>MUD & S/M Workplace Technical Assistance Technical assistance and help applying for pertinent CALeVIP rebates for charging at multifamily housing and small and medium workplace properties</p>	<ul style="list-style-type: none"> Targeted 973 customers for technical assistance and completed 22 site assessments since launch Continued outreach to additional properties 	<ul style="list-style-type: none"> Conduct on-going outreach – 2nd round of targeted sites Continue to develop site assessments Continue to connect customers to relevant rebates and incentive opportunities Incorporate incentive program into outreach
	<p>MUD Charging Incentives Develop incentive program for EV charging at hard-to-reach multifamily properties</p>	<ul style="list-style-type: none"> Design stage of MUD EV charging incentive program targeting multifamily properties that have participated in technical assistance program 	<ul style="list-style-type: none"> Launch MUD EVI incentive program for eligible properties
	<p>Fleet Electrification Grants Competitive application for SVCE’s fleet electrification planning support and funding for site upgrades. Targeting a broad set of fleet types, to create widely applicable fleet electrification planning templates</p>	<ul style="list-style-type: none"> Began reviewing possible vendors associated with PCE solicitation 	<ul style="list-style-type: none"> Participate in PCE solicitation, determine if SVCE will want to “piggyback” on contract Take next steps to make a selection and get a contract in place

	<p>Silicon Valley Transportation Electrification Clearinghouse (SVTEC) Regional group of key stakeholders focused on information sharing, solving critical issues and attracting external funding to the SVCE community in support of EV infrastructure deployment.</p>	<ul style="list-style-type: none"> Tracked emerging funding opportunity for EV charging and MUD properties and evaluated partnership opportunities Continue to hold meetings with EVSE companies to develop permitting and interconnection initiatives 	<ul style="list-style-type: none"> Continue to hold quarterly meetings Further develop and continue to execute regional initiatives aimed at reducing soft costs of EVI deployment Host March meeting featuring Bloomberg’s State of the EV market presentation
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Energy Efficiency & Grid Integration</p>	<p>GridShift: EV Charging Managed EV charging app that optimizes charging to reduce associated costs and emissions. In-app “events” support additional emission reductions and load flexibility</p>	<ul style="list-style-type: none"> Launched Chevrolet, BMW integrations Continued running the “low-carbon events” season, which will run through May 2022 Conducted additional marketing and outreach - now at 350 active participants 	<ul style="list-style-type: none"> Promote GridShift: EV Charging, support expansion of eligible vehicles and chargers Roll out new app features for smart charging Marketing push in April/May timeframe
	<p>Other Virtual Power Plant Programs Support “virtual power plants” made up of cloud-based aggregations of customer-sited resources to support grid integration and monetize value from connected, controllable loads</p>	<ul style="list-style-type: none"> By way of background, SVCE joined EBCE, PCE and Silicon Valley Power in the joint issuance of an RFP for resource adequacy from behind-the-meter solar and storage systems in Q4 2019. Staff executed a contract with Sunrun in Q3 2020. Provided marketing support and had project management discussion this quarter. Continued Sunrun program support, and track program participation and installs Exploring options for additional VPP program(s) and/or a local DER marketplace 	<ul style="list-style-type: none"> Plan to continue Sunrun program support, and track program participation and installs Work on next steps for additional VPP program(s) and/or a local DER marketplace
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Education & Outreach</p>	<p>Customer Resource Center (eHub) Develop online customer resource center to enable engagement, education and action related to clean electricity, EVs and home electrification.</p>	<ul style="list-style-type: none"> Ran a promotion for induction cooktops in which customers can get \$50 off induction cooktops through the Appliances Assistant Delivered email campaigns focused on: <ul style="list-style-type: none"> The basis of home electrification and delivered customized messaging to customers who live in multifamily homes and single-family homes Benefits of electric cars and the emissions and cost savings they provide 	<ul style="list-style-type: none"> Launch the ‘Go Electric’ Earth Day Sweepstakes to help provide electrification education Continue tracking engagement metrics 126,194 Unique eHub Engagements since launching in September 2020 to March 2022 Metrics January 1 - March 31, 2022: <ul style="list-style-type: none"> 3,917 unique visits to the SVCE eHub webpages 2,268 unique visits to the EV Assistant tool

		<ul style="list-style-type: none"> ○ Benefits of induction cooking and reminding customers about the promotion 	<ul style="list-style-type: none"> ○ 504 unique visits to the Solar+Battery Assistant tool ○ 17,086 unique visits to the Appliances Assistant tool <p><i>Note: Engagements are driven largely by marketing campaigns delivered within the quarter. Distribution of metrics will vary.</i></p>
	<p>Community Engagement Grants Partner with local organizations in hard-to-reach customer segments to promote SVCE offerings and programs</p>	<ul style="list-style-type: none"> ● Future launch date TBD; on-hold due to COVID-19 	<ul style="list-style-type: none"> ● Explore possibility of reviving program as part of the programs equity framework development
	<p>Portable Batteries for Medical Baseline Customers Pilot program to deploy ~50 portable batteries to qualified customers who rely on power for medical equipment</p>	<ul style="list-style-type: none"> ● Approved to purchase batteries through Goal Zero online purchasing portal ● Evaluating devices and battery options 	<ul style="list-style-type: none"> ● Finalize contract with regional agency to serve as program administrator ● Purchase batteries ● Develop program advertising materials and outreach strategies ● Launch the program
Innovation	<p>Innovation Partners Engage with key strategic partners to participate in the local innovation ecosystem and provide a voice for SVCE customers and the decarb mission</p>	<ul style="list-style-type: none"> ● No activities for Q1 	<ul style="list-style-type: none"> ● No planned activities for Q2
	<p>Innovation Onramp Provide small grants to support innovation through pilot projects with external partners</p>	<ul style="list-style-type: none"> ● Wrap-up of 2 major mobility-focused pilots, with additional SVCE funds supporting the companies' work in our territory. ● Ongoing management of previous cycles' pilots. ● Team decided not to host sixth call for applications (originally schedule for spring 2022) based on staff resource constraints 	<ul style="list-style-type: none"> ● Ongoing management of previous cycles' pilots ● Planning for potential fall application call



Staff Report – Item 1h

Item 1h: Receive 2022 New Construction Reach Codes and Existing Building Policy Update

From: Girish Balachandran, CEO

Prepared by: Don Bray, Director of Account Services and Community Relations
Zoe Elizabeth, Manager of Energy Services

Date: 4/13/2022

RECOMMENDATION

Staff requests that the Board of Directors receive an update from the Account Services and Community Relations team on New Construction Reach Codes and Existing Building Electrification Policies.

BACKGROUND

In 2019, SVCE offered technical support to member jurisdictions that were evaluating options for amending the state’s 2020 building code. Eleven of SVCE’s jurisdiction’s passed reach codes applying to the 2019 building code. These reach codes (with the exception of those passed by Morgan Hill and Campbell) will expire 12/31/2022.

Staff is in the process of supporting member agencies with core technical assistance and supportive elements, to adopt, renew, or enhance these codes. In addition, staff is in the process of developing resources that will support policies for existing building electrification.

An initial update was provided to the Board of Directors at the March 9, 2022 board meeting.

ANALYSIS & DISCUSSION

In an effort to continue communications with the Board of Directors on reach codes, staff has summarized the 2022 state building code key electrification updates, reviewed the new construction reach code update process and key milestones, and provided an overview of the process for assessing existing building policy options in the attached presentation.

STRATEGIC PLAN

These efforts support SVCE’s Strategic Plan Goal 8, “coordinate development of decarbonization and resilience strategy, lead design of local policy and programs, and support program deployment.”

FISCAL IMPACT

N/A

ATTACHMENTS

1. 2022 New Construction Reach Codes and Existing Building Policy Update Presentation

2022 New Construction Reach Codes and Existing Building Policy Update

Key Milestones, Resources and Next Steps
April 2022



SVCE's 2022 Building Electrification Policy Goals Status Update

Staff made a presentation to the Board in March and this presentation is a status update

- A. summarize the 2022 state building code key electrification updates
- B. review new construction reach code update process and key milestones
- C. overview of the process for assessing existing building policy options

- 1) Adopt, extend, or enhance, **reach codes for new construction** for all 13 member agencies
- 2) Develop and pilot **policies to electrify existing buildings**

For purposes of this discussion, "reach code" refers to energy code amendments, municipal ordinance amendments, and/or zoning code amendments (EV charging)



Activities are underway.

New construction reach code updates

- ✓ 2022 model reach code options drafted for buildings and EV charging
- ✓ thirteen individual meetings held with all Board Directors and alternates
- ✓ thirteen individual meetings with agency staff
- ✓ four public workshops held in February
- presentations to SCC City Managers and Cities Association scheduled for April
- jurisdiction-specific outreach events scheduled for Gilroy and Monte Sereno

Existing buildings

- ✓ local government staff kick-off workshop held
- ✓ \$6M in funding for policy experimentation program and permit simplification approved
- technical feasibility analysis of policy options

Today's presentation:

- summarize the 2022 state building code key electrification updates
- review new construction reach code update process and key milestones
- overview of the process for assessing existing building policy options

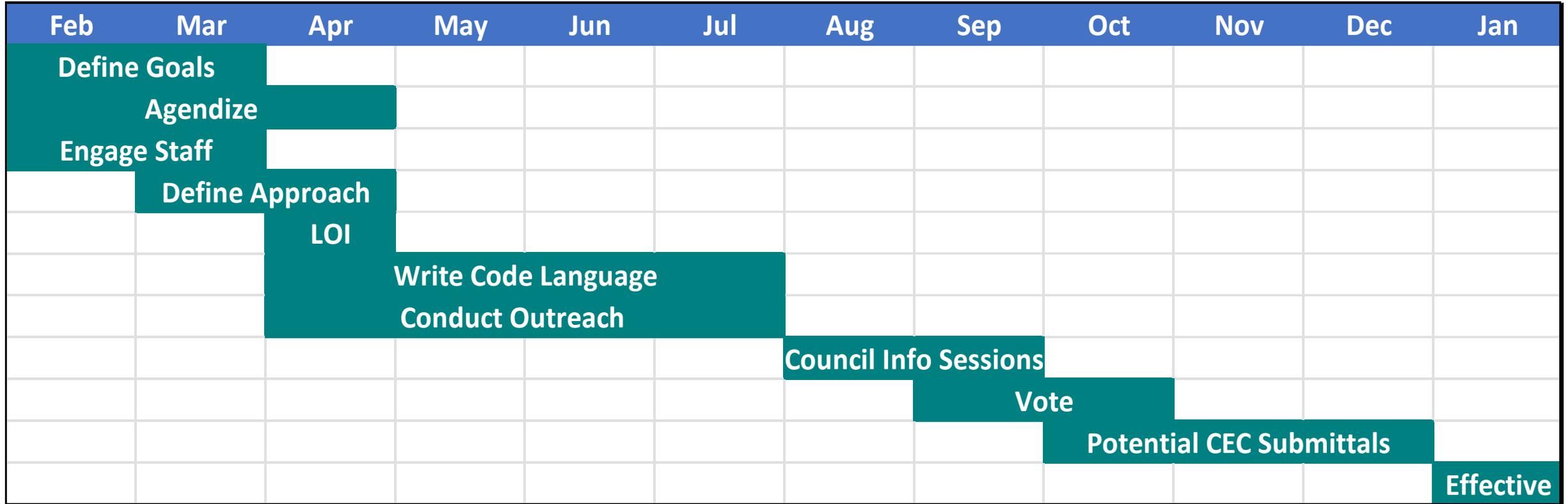


New Construction Reach Code (Part 6)

- Heat pumps are prescribed for:
 - Residential HVAC
 - Nonresidential – most include one or both of water heating and HVAC, depending on building type
- Residential
 - Performance credit for all-electric buildings
 - Higher ventilation rate for gas stoves
 - Pre-wiring required for residential dwellings
 - Energy storage readiness
- Nonresidential - Solar PV and Battery Storage required



Member Agency Reach Code Tasks and Milestones



Goals and Approach Defined
 Reach Codes Agendized
 City Manager LOI Signed
 Staff Responsibilities Defined

Proposed Code language complete
 Outreach conducted
 Council informed

Final code language complete
 Vote complete, same meeting as state
 code adoption
 Documentation done



How we are identifying opportunities for decarbonizing existing buildings.

Existing buildings are the greatest challenge and opportunity for local decarbonization efforts.

- 1. Our consultants are assessing which electrification measures are no-cost or low cost.**
 - Example: all-new AC should be bi-directional (heat pump)
- 2. Staff is designing incentive programs to off-set the incremental costs of electrification.**
 - Example: incentives for heat pump water heaters
- 3. Staff is identifying the key stakeholder groups we need to engage.**
 - Example: contractors, tenant organizations, etc.
- 4. Consultants are compiling examples of action elsewhere.**
 - Example: Piedmont, Denver, Sacramento



In Summary . . .

- Most jurisdiction must re-up their Reach Codes for them to remain in effect (Morgan Hill and Campbell are exceptions).
- Immediate next steps: define goals & approach, engage staff, agendize.
- Decarbonization of existing buildings is both the greatest challenge and opportunity for local action.
- We are here to help
- **Your action matters – thank you!**



APPENDIX



SVCE's 2022 Building Electrification Policy Goals



- 1) Adopt, extend, or enhance, **reach codes for new construction** for all 13 member agencies
 - building electrification
 - EV charging infrastructure
 - for most, a **strict timeline** v/v new 2022 code



- 2) Develop and pilot **policies to electrify existing buildings**
 - e.g. new AC must be bidirectional (heat pump), lower remodel triggers
 - **strategic** timelines

For purposes of this discussion, "reach code" refers to energy code amendments, municipal ordinance amendments, and/or zoning code amendments (EV charging)



Local action is pushing California forward.

Most local reach codes still exceed the 2022 state code and we can't lose momentum

- The upswell of reach code adoption across California spurred the State to move faster on electrification.
- Continued local action will help ensure we maintain momentum.
- New construction remains the most cost-effective and practical time to electrify.



We are here to help.

Zoe Elizabeth – project manager
Zoe.Elizabeth@svcleanenergy.org

Bena Chang – legislative engagement
Bena.Chang@svcleanenergy.org

Tony Eulo – city staff engagement
Anthony.Eulo@svcleanenergy.org

Don Bray – strategic advisor
Don.Bray@svcleanenergy.org

Farhad Farahmand – technical consultant
FFarahmand@trccompanies.com

Pam Leonard – communications and marketing
Pamela.Leonard@svcleanenergy.org

Peter Mustacich – SVCE technical lead
Peter.Mustacich@svcleanenergy.org



Staff Report – Item 1i

Item 1i: Executive Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: George Tyson, Chair of the Executive Committee

Date: 4/13/2022

At the March 25, 2022 Executive Committee meeting, the committee received an update on potential plans for the return to in-person SVCE board/committee meetings, and heard an update on the Member Agency Energy Resilience Grant.

CEO Girish Balachandran announced a celebration of SVCE's 5-year anniversary would be held in association with the City of Cupertino's Earth and Arbor Day festival on Saturday, April 23, and noted staff was working on a reorganization plan.

Administrative Services Manager Kevin Armstrong presented on the current state of in-person Brown Act meetings, pending legislation that could affect Brown Act teleconferencing requirements, and preparation for the possible return of stricter meeting requirements. Committee members discussed how SVCE staff could assist Directors and Committee members in remote meetings, work with member agency staff to secure a public meeting location if needed, and a proposed timeline for testing a hybrid (in-person and remote) meeting. There was no objection from the committee to hold a hybrid meeting for the May 13, 2022 Board of Directors meeting, and the idea will be presented to the Board of Directors for consideration.

Manager of Energy Services Zoe Elizabeth provided a status update on Community Energy Resilience Grant applications and projects, outlining the grant, allocated funds by member agency, available funds by member agency, and next steps for staff.

Materials from the March 25, 2022 meeting can be found here: [SVCE Executive Committee Meeting Materials, 3/25/22](#)

The next meeting of the Executive Committee will be April 22, 2022 at 11:30 a.m.; materials will be posted no later than 72 hours in advance of the meeting.



Staff Report – Item 1j

Item 1j: Finance and Administration Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 4/13/2022

No report as the Finance and Administration Committee has not met since December 16, 2021.

The next meeting of the Finance and Administration Committee is to be determined; materials will be posted no later than 72 hours in advance of the meeting.



Staff Report – Item 1k

Item 1k: **Audit Committee Report**

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 4/13/2022

No report as the Audit Committee has not met since March 3, 2022.

The next meeting of the Audit Committee is anticipated for early August and will be determined by Audit Committee member availability; materials will be posted no later than 72 hours in advance of the meeting.



Staff Report – Item 11

Item 11: Legislative and Regulatory Response to Industry Transition 2022 Ad Hoc Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 4/13/2022

No report as the Legislative and Regulatory Ad Hoc Committee has not met since March 3, 2022.

The next meeting of the Legislative and Regulatory Ad Hoc Committee is to be determined based on member availability and legislative needs.



Staff Report – Item 1m

Item 1m: California Community Power Report

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Date: 4/13/2022

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, March 16, 2022.

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, 3/16/22](#)

The next meeting of the board will be April 20, 2022 at 1:00 p.m.; meeting materials can be found on the CC Power website: <https://cacomunitypower.org/meetings/>

ATTACHMENTS:

CA Community Power Board Meeting Summary from Interim General Manager Timothy Haines, March 16, 2022

California Community Power

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

TO: CC Power Board of Directors **DATE:** 3/17/2022
FROM: Tim Haines – Interim General Manager
SUBJECT: **Report on CC Power Board of Directors Meeting – March 16, 2022**

The CC Power Board of Directors held its regularly scheduled meeting on Wednesday, March 16, 2022, 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.** None.
- **Public Comment.** None.
- **Consent Calendar** - The Board unanimously approved the following items:
 - Minutes of the Regular Board Meeting held on January 19, 2022
 - Minutes of the Special Board Meeting held on February 25, 2022
 - Resolution 22-03-01 Reconsideration 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
- **General Manager's Report.**
 - **Update on LDS/FCR Projects:** Interim GM Haines provided the Board with the schedule to complete final execution of the Board approved agreements and the statue of Participant approvals.
 - **Update on FPPC Conflict of Interest Code:** Interim GM Haines informed the Board that CC Power General Counsel is reviewing FPPC feedback to the proposed code and expects to have a 45-day public review version available at the next Board meeting.
- **Update on Firm Clean Resources Request for Offers:** Interim General Manager presented the staff recommendations to accept the 2021 Treasurer's Report, to fund CC Power insurance, and reallocate the budgeted charges incurred in the negotiations of the Long Duration Storage contracts with Onward and Tumbleweed. Following the presentation, the Board considered and approved:
 - Resolution 22-03-02 Acknowledgement of Receipt and Review of the 2021 Treasurer's Report and
 - Resolution 22-03-03 Approval of Updated 2022 Budget Allocation Adjustments.

A Joint Powers Agency whose members are:

Central Coast Community Energy | CleanPowerSF | East Bay Community Energy | MCE | Peninsula Clean Energy | Redwood Coast Energy Authority | San José Clean Energy | Silicon Valley Clean Energy | Sonoma Clean Power | Valley Clean Energy



Staff Report – Item 2

Item 2: CEO Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Girish Balachandran, CEO

Date: 4/13/2022

REPORT

SVCE Staff Update

Nupur Hiremath will join the SVCE team on April 11, 2022, as Manager of Decarbonization and Grid Innovation Programs. She will work on deploying decarbonization programs across SVCE's portfolio in support of the double down and other planned initiatives. Prior to SVCE, Nupur served for seven years as an Environmental Programs Manager at the City of Sunnyvale, leading the development and implementation of the City's climate action plan, with a focus on energy efficiency and electrification programs. She also worked at an environmental consulting firm for nine years on federal policy development and research on climate change impacts on urban areas. Nupur holds a B.S. in Biochemistry from Davidson College and a Master of Public Administration degree from Columbia University.

SVCE Celebrating Five Years of Power

Since 2017, SVCE has been providing carbon-free power to our residents and businesses. Please join us at a special booth at the Cupertino Earth and Arbor Day Festival on Saturday, April 23, at 10400 Torre Ave., Cupertino to celebrate our five years of service.

Personnel Officer Update

For the past month, SVCE has a couple updates of note. First, the Decarbonization and Grid Innovations (DGI) Program team welcomed Nupur Hiremath earlier this week as a new manager on the team, focusing on transportation and mobility programs. Secondly, on the Regulatory and Legislative team, SVCE has extended an offer to a new Regulatory and Compliance manager, who will be starting at the end of April, and will be introduced next month. On the benefits side, staff have implemented the increase to monthly benefit premium coverages, and have begun to evaluate additional benefit changes to be brought forward with the upcoming annual budget proposal.

Overshadowing these additions and changes, however, is the larger structural re-organization effort that we are implementing. This Monday, April 11th, marks the cutover date, as SVCE has instituted a number of reporting changes. Several staff from the Account Services and Community Relations (ASCR) team have begun to operate under the DGI structure, and several (currently vacant) regulatory positions within the Legislative & Regulatory team have been moved over to Monica's Power team. With these changes, we recognize a need for new team names, to reflect newly-evolved structures and communicate new foci. Early ideas have included the Customer Care and Communications team, the Energy Policy, Planning, Procurement, and Operations (E3PO) and Decarbonization Programs, Policy, Deployment, and Data. Rest assured, staff is hoping to find new names that don't tie all our tongues in knots.

Our admin team will be preparing a new org chart as soon as all the dust settles, to be followed shortly by a concerted effort to fill vacant positions, beginning with a broad recruitment for a new, full-time Director of ASCR /

Agenda Item: 2**Agenda Date: 4/13/2022**

Customer Care, allowing Don Bray to fully transition to his new special projects role. We look forward filling vacancies across all teams in the coming months.

As part of this larger re-organization several positions have been re-classified across the new teams. Foremost among those changes is the promotion of Monica Padilla to Chief Operating Officer, overseeing the combined E3PO group. Within her team, we are also elevating the roles of Charles Grinstead and Zakary Liske, each of whom will be taking on Senior Manager titles. On the DGI and Admin teams, we are promoting Zoe Elizabeth and Kevin Armstrong to the newly-created Deputy Director level, in recognition of the scope of their efforts on behalf of SVCE. Finally, we are also promoting Rebecca Fang to the Senior Data Analyst level, in acknowledgment of her ongoing stewardship of SVCE data.

CEO Agreements Executed

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

- 1)** MRG, Amendment: Organizational Team Training Services, not to exceed \$69,575, extends time through 3/31/23
- 2)** MRW, Amendment: IRP Development Services, additional scope of work and redistributed funds
- 3)** Capital Projects Grant – City of Los Altos Hills, Capital Projects Grant, not to exceed \$50,582, 3/8/22 – 12/31/22
- 4)** School of Thought, Agreement: Marketing and Advertising Services, not to exceed \$300,000, 3/9/22 – 2/29/24. Approved by the SVCE Board at the 3/9/22 Board of Directors meeting.
- 5)** Pick My Solar, Amendment: Solar Marketplace Program, no new funds, 3/19/22 – 3/20/23



CEO Power Supply Agreements Executed

Transaction	Counterparty Name	Execution/Effective Date	Transaction Type	Product	Start Date	End Date	Notional Value	Link
1	Central Coast Community Energy	2/17/2022	Purchase	Import Allocation Rights	9/1/2022	9/30/2022	\$30,000.00	Transaction 2
2	Central Coast Community Energy	2/17/2022	Sale	Import Allocation Rights	9/1/2022	9/30/2022	\$15,000.00	Transaction 1
	Morgan Stanley	3/8/2022	Purchase	Resource Adequacy	9/1/2022	9/30/2022	\$990,000.00	

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
- Presentation to the Cities Association's Legislative Action Committee, *Energy and Decarbonization-Related Legislative Landscape and Issues*, March 10th
- Participated in California Community Choice Financing Authority Board of Directors Special Meeting, March 11th
- Attended Slate Ribbon Cutting event, March 15th
- CC Power Board Meeting, March 16th, report included on the Consent Calendar

ATTACHMENTS

1. Decarb & Grid Innovation Programs Update, April 2022
2. Account Services & Community Relations Update, April 2022
3. Legislative and Regulatory Update, April 2022
4. Agenda Look Ahead, April – August 2022
5. Board Action Requested, April 2022 Update

DECARBONIZATION & GRID INNOVATION PROGRAMS UPDATE

APRIL HIGHLIGHTS



SVTEC Meeting Looks at Future Programs & Current Markets

In the quarterly Silicon Valley Transportation Electrification Clearinghouse (SVTEC) meeting hosted by SVCE, representatives from BloombergNEF led a discussion on the current outlook of electric vehicles (EVs) and the state of the market. In addition, SVCE presented on the new funding allocated toward EV programs through the "Program Double-Down" and led a discussion to encourage feedback and comments on how to shape these future programs to further increase EV adoption and accessibility for multifamily residents.



Additional Support for Permit Simplification

On March 9, SVCE Board Members approved an additional budget of \$3 million to support the Permit Simplification Program. In response, staff has begun developing an initial work plan outlining SVCE's activities to support efficient permitting and inspection processes for building retrofits and EV infrastructure across member agencies. Support includes identifying best practices, promoting educational resources, providing technical assistance, and establishing online permit data tracking methods for all relevant permit types.

In addition, SVCE staff will also monitor state-led permitting programs such as the TECH Permitting Pilot and the CA Automated Permit Processing Program.



FutureFit Fundamentals Contractor Training

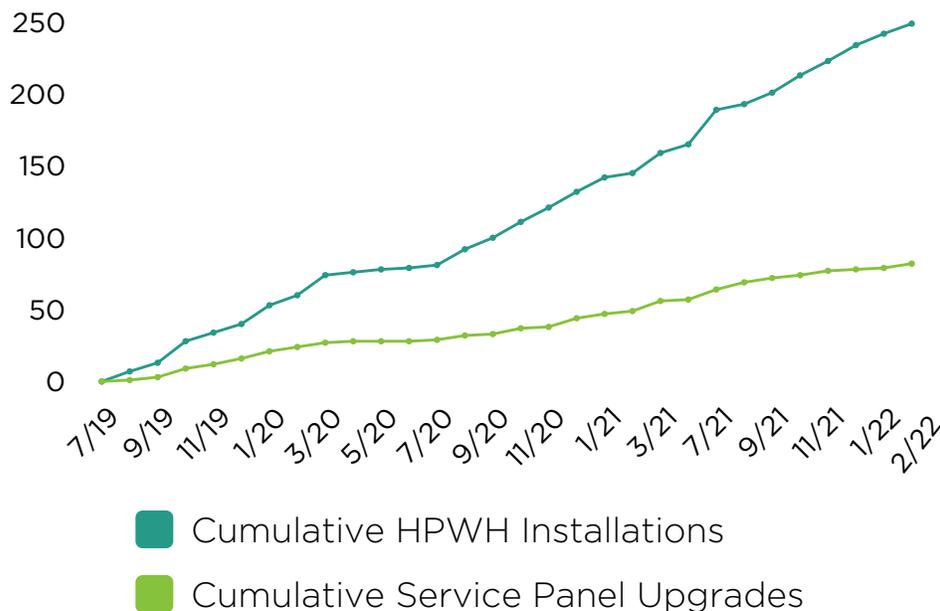
The SVCE FutureFit Fundamentals Contractor Training Program has been transitioned to a new online training platform to further increase the navigation, usability and accessibility of the course. We are pleased to begin enrolling new contractors in the course and resume outreach to local stakeholders, contractors and communities.

ONGOING METRICS

APRIL 2022

Heat Pump Water Heater

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

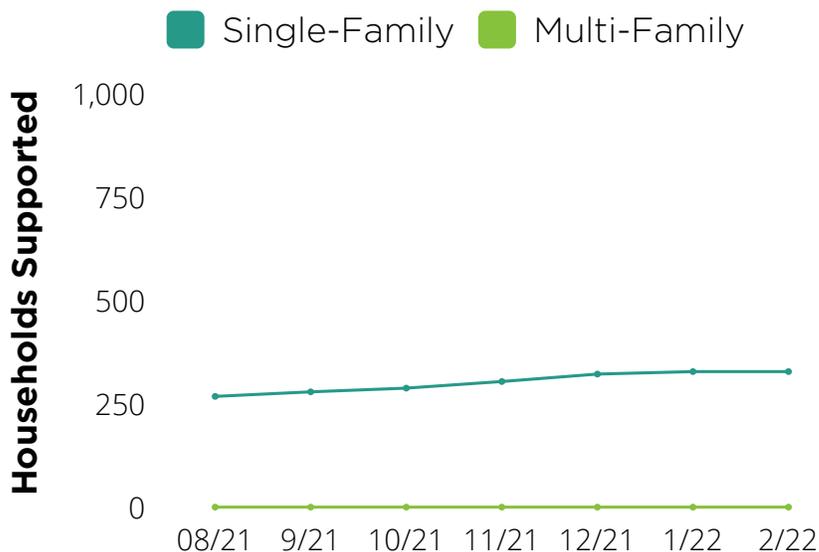


Funding: \$1.15M
Goal: 220 HPWH by 2022



Lights On Silicon Valley

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



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



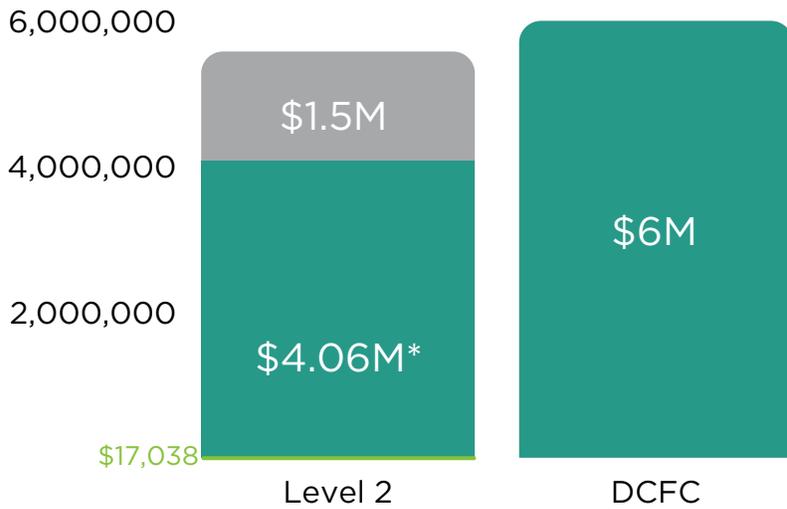
ONGOING METRICS

APRIL 2022

CALeVIP

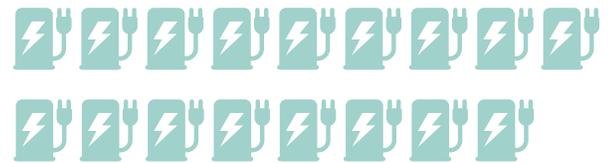
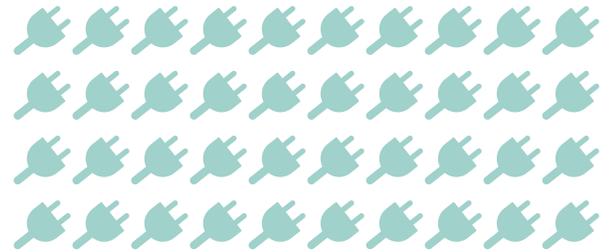
Provide incentives for electric vehicle (EV) chargers as part of a regional program

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



- Reserved
- Waitlisted
To be released in future years
- Installed

*\$1.5M of the reserved funding is under a final review and validation.

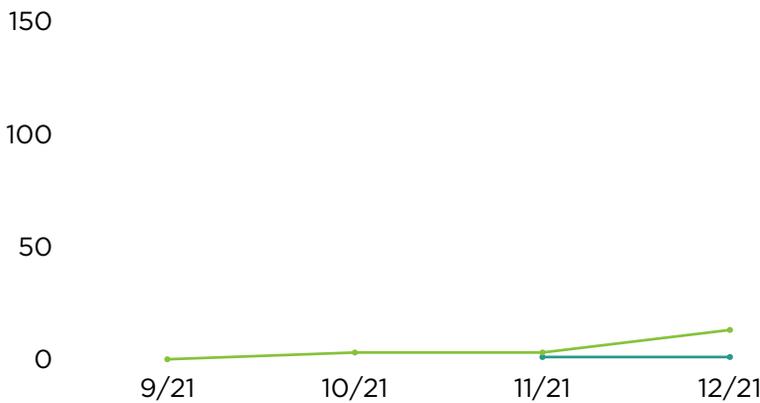


- = 25 Level 2 Installations
- = 5 DCFC Installations

FutureFit Fundamentals

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

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



- Participants
- Installations



- = 5 Participants Complete Course

PROGRAMS AT A GLANCE

APRIL 2022

[Click for More Information](#)



Active



In Development



Complete

POWER SUPPLY

- **C&I Clean Power Offerings**

BUILT ENVIRONMENT

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

MOBILITY

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

GRID INTEGRATION

- Virtual Power Plant

EDUCATION OUTREACH

- Customer Resource Center (eHub)
- Community Engagement Grants

INNOVATION

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



1. Outreach Events & Sponsorships

Spring 2022 is turning out to be the much-anticipated return of outdoor festivals. SVCE is excited to get back to connecting with customers in person to share our electrification resources.

Date	Time	Description	Location
March 16	6 – 7 PM	Milpitas Energy and Environmental Sustainability Commission Meeting – <i>presentation</i>	Virtual
March 26	11 AM – 2 PM	Tesla Owners Club Silicon Valley – <i>presentation and tabling</i>	San Bruno
March 26	11 AM – 2 PM	Mountain View Multicultural Festival – <i>sponsor and tabling</i>	Mountain View
March 28	12 – 1 PM	Cupertino-Fremont-Sunnyvale Council of PTAs – <i>presentation</i>	Virtual
March 28	6 – 7 PM	Climate Reality Project Silicon Valley Chapter Meeting – <i>presentation</i>	Virtual
April 9	11 AM – 3 PM	Sunnyvale Ride Into Earth Month – <i>tabling</i>	Sunnyvale Community Center



Mountain View Multicultural Festival – March 26, 2022

1. Outreach Events & Sponsorships

Spring 2022 is turning out to be the much-anticipated return of outdoor festivals. SVCE is excited to get back to connecting with customers in person to share our electrification resources.

Date	Time	Description	Location
April 9	10 AM – 4 PM	Saratoga Blossom Festival – <i>tabling</i>	Computer History Museum
April 13	7 PM	Santa Clara County Cities Association Meeting – <i>presenting</i>	Virtual
April 14	9:30 AM – 12 PM	Santa Clara County City Managers Association Meeting - <i>presentation</i>	Hybrid, San Jose City Hall
April 19	12 – 1:15 PM	Sunnyvale Rotary Club Meeting – <i>presentation</i>	Sunnyvale Elks Club
April 19	8 AM – 5 PM	American Institute of Architects Symposium – <i>sponsoring, tabling & presenting</i>	Computer History Museum
April 21	5:30 – 6:30 PM	BayREN Ask an Energy Expert Earth Day Event – <i>presenting</i>	Virtual

1. Outreach Events & Sponsorships Continued

Date	Time	Description	Location
April 23	11 AM – 3 PM	Cupertino Earth & Arbor Day & SVCE 5-Year Anniversary – <i>sponsoring, tabling & presenting</i>	Cupertino Library
April 23	11 AM – 3 PM	Mountain View Earth Day – <i>sponsoring and tabling</i>	Mountain View Senior Center
April 23	11 AM – 3 PM	Milpitas Resilience Project Ribbon Cutting – <i>presenting and tabling</i>	Milpitas Senior and Community Center
April 24	10 AM – 3 PM	Los Gatos Earth Day – <i>tabling</i>	Los Gatos
April 24	10 AM – 3 PM	AAUW Morgan Hill Community Earth Day Festival – <i>tabling</i>	Morgan Hill Community Outdoor Lawn and Amphitheater
April 27	3:30 – 7 PM	Saratoga Arbor Day – <i>tabling</i>	Kevin Moran Park

2. Customer Participation

	Participation Rate	Overall Participation Rate
Residential	96.38%	96.39%
Commercial	96.447%	

3. Member Agency Working Group March Update

The recent MAWG meeting was held virtually on March 24, 2022, and was attended by 10 different agencies and organizations with a total of 25 participants.

The following agenda items were presented and discussed:

- General SVCE Updates & 5-Year Anniversary Announcement
- Clean Power Update
- BayREN: Connecting the Dots Between Housing and Energy
- Community Energy Resilience Program – Grant Pathways
- Reach Codes Update
- Double Down Program Involvement

4. Customer Communications

Silicon Valley Clean Energy sent letters and emails to customers on income-qualified programs and to those in arrears about financial assistance for their energy bills.

- Letter to ~30,000 CARE & FERA customers announcing \$12.50 on-bill credits will be applied automatically each month between April and November 2022 as part of \$3M in rate relief approved by the board
- Letter sent to ~4,900 number of eligible customers to notify them that California Arrearage Payment Program (CAPP) bill credits were applied to their energy bills

4. Customer Communications

Silicon Valley Clean Energy sent informational and compliance letters and emails to two of our most engaged customer groups – 100% Renewable GreenPrime and Solar Net Energy Metering (NEM) Customers.

- More than 3,100 GreenPrime customers received a letter or email containing the GreenPrime Prospective Product Content Label for 2022 in compliance with the Green-e® certifications
- This year's letter to NEM customers who receive an annual check payment for excess solar generated will also inform them of the updated SVCE NEM cashout rate and available electrification programs. This is expected to go to approx. 2,700 customers throughout April and May.

5. Latest SVCE News

- [SV Clean Energy Sets 2022 Electric Generation Rates, Press Release, 02-28-22](#)
- [California Community Power Members Approve Second Lithium-Ion Long-Duration Energy Storage Contract, Press Release, 03-07-22](#)
- [Justin Zagunis Appointed New Director of Decarbonization and Grid Innovation Programs at SV Clean Energy, Press Release, 03-10-22](#)
- [Central Coast Community Energy and Silicon Valley Clean Energy Commemorate Powering on First New Renewable Energy Project, Press Release, 03-16-22](#)
- [Local Energy Agency Receives Clean Financial Audit, Press Release, 03-24-22](#)



6. Media

- [EmPowering Event](#), *The Mercury News Community Briefs Campbell, Cupertino, Milpitas, Saratoga, Sunnyvale*, 02-27-22
- [Happy birthday, community choice](#), *New Times SLO*, 03-03-22
- [Onward Energy to develop 400-MWh energy storage project for California CCAs](#), *Solar Power World*, 03-07-22
- [California Community Power Members Approve Second Lithium-Ion Long-Duration Energy Storage Contract](#), *Utility Dive*, 03-07-22
- [Quick Bites: Energy News Roundup](#), *Energy News Data*, 03-11-22
- [Goldman Sachs Renewable Power Announces Operation of One of California's Largest Integrated Solar and Energy Storage Projects](#), *Associated Press*, 03-15-22
- [Goldman Sachs unit cuts ribbon on large solar-plus-storage plant in California](#), *list.solar*, 03-16-22
- [California solar + storage project powering Bay Area Rapid Transit and Stanford now online](#), *Solar Power World*, 03-16-22

6. Media

- [Goldman Sachs Solar+Energy Storage Project Begins Operations with Five California PPAs](#), *Solar Industry Magazine*, 03-16-22
- [Goldman Sachs California Solar and Energy Storage Project Launched](#), *Smart Energy Decisions*, 03-16-2022
- [Commercial operation begins for one of California's largest solar + storage projects](#), *Solar Builder*, 03-17-22
- [Goldman Sachs activates 390MW solar, 561MWh storage in California](#), *PV Magazine*, 03-17-22
- [California Community Choice Aggregators Approve Long-Duration Energy Storage Contract](#), *America Public Power Association*, 03-18-22
- [Los Gatos mayor running for California Assembly](#), *The Mercury News*, 03-18-22
- [Slate Solar-Plus-Storage Project Comes On Line in Kings County](#), *Energy News Data*, 03-18-22
- [Span raises \\$90M to make smart panels the gateway to home electrification](#), *Canary Media*, 03-22-22
- [Stanford transitions to 100 percent renewable electricity as second solar plant goes online](#), *Stanford News*, 03-24-22
- [Central Coast Community Energy teams with others for clean energy](#), *The Monterey Herald*, 03-29-22

SVCE Legislative and Regulatory Update

April 13, 2022



Regulatory Update:

1. Provider of Last Resort

Legislative Update:

1. Bill Position Matrix
2. Reviewing Legislation
 1. SB 881 (Min)
 2. SB 1158 (Becker)
3. Legislative Timeline
4. CalCCA Lobby Day
5. Federal Update – President’s Budget Proposal



Regulatory Update



Provider of Last Resort (POLR)

CPUC proceeding to pro-actively develop rules and regulations for a POLR should a CCA fail

POLR

Opening comments filed 3/28.

- PG&E advocating for Insurance Pool proposal
 - May create cost/risk shifts amongst CCAs
 - SCE and SDG&E have not supported yet, but may in reply comments
- Many parties pushing for stronger financial monitoring of CCAs
- General consensus that some update of Financial Security Requirements is appropriate
- Simultaneously, legislation (SB 1287) is under consideration which may increase FSR

Next steps: Reply comments due 4/15



Legislative Update



SVCE Legislative Positions Matrix

Bill	Summary	SVCE Position (Legislative Program Policy)	Status	Impact to SVCE
AB 1814 (Grayson)	Adds CCAs as eligible program administrators for CPUC's Transportation Electrification Program	Support (Climate Mitigation/Clean Energy Funding)	Died	
SB 833 (Dodd)	Creates grant program for local government community resiliency plans and to expedite permitting for distributed energy resources.	Support (Climate Mitigation/Clean Energy Funding)	Senate Appropriations Committee	
SB 1112 (Becker)	Creates statewide tariff on bill financing structure for decarbonization investments.	Support (Fuel Switching and Electrification)	Senate Energy Committee	
SB 1100 (Cortese)	Establishes a process for removing individuals who are willfully interrupting meetings	Support (per Board direction)	Senate Judiciary Committee	
AB 1944 (Lee)	Allows legislative body members to participate in meetings from private locations and without publishing private addresses on meeting notices.	Support (per Board direction)	Assembly Local Government Committee	



SVCE Legislative Positions Matrix

Bill	Summary	SVCE Position (Legislative Program Policy)	Status	Impact to SVCE
SB 881 (Min)	Allows the CPUC to require LSE procurement to “achieve a diverse, balanced, and reliable statewide portfolio.” Allows the CPUC to assess penalties and additional procurement.	Oppose Unless Amended (CCA Procurement Authority)	Senate Appropriations Committee	
SB 1393 (Archuleta)	Would require CEC approval for electrification upon retrofit ordinances if the jurisdiction does not have exemptions for 1) technical infeasibility, 2) cost effectiveness, 3) negative impacts on low/moderate income consumers, 4) adverse impacts on skilled and trained workforce, and 5) increases in costs for electricity ratepayers.	Oppose (Fuel Switching and Electrification)	Senate Government and Finance Committee	



Additional Legislation

SVCE is actively reviewing the following bills:

Bill	Summary	SVCE Position (Legislative Program Policy)	Status
SB 1158 (Becker)	Changes the Power Source Disclosure report to require LSEs to report hourly electricity purchases. Requires the CPUC to assess whether reporting demonstrates "adequate progress" towards GHG targets.	Reviewing	Senate Energy Committee
SB 1287 (Bradford)	Updates Provider of Last Resort Financial Security Requirement to at least \$500,000 and increases incremental procurement costs from 6 months to 12 months.	Reviewing	Senate Energy Committee



Key State Legislative Milestones

- ~~1/3: Legislature reconvenes~~
- ~~1/10: Governor submits budget~~
- ~~1/31: Deadline to move 2-year bills out of first house~~
- ~~2/18: Bill introduction deadline~~
- 4/29: Deadline for policy committees to move fiscal bills to fiscal committees
- 5/6: Deadline for nonfiscal bills to move to the floor
- 5/20: Deadline for fiscal committees to move bills to floor
- 5/27: Last day for bills to pass out of first house
- 6/15: Budget deadline
- 8/12: Fiscal Committees to move bills to floor
- 8/31: Last day for each house to pass bills
- 9/30: Governor deadline to sign bills



April CalCCA lobby day highlights key issues



Themes

- Budget Surplus Opportunity
- Challenges
 - Transmission
 - Workforce
 - Affordability
- Senate leadership focused on reaching existing targets/setting interim targets



President's 2023 Proposed Budget Clean Energy Highlights

President released his budget proposal on 3/28/22. This is his opening statement on funding priorities, and will be subject to Congressional approval

Program	President's Proposed Funding
Offshore Wind: Funding to identify more wind development areas.	\$213 million
Solar Manufacturing: Funding to the Dept. of Energy to build domestic capacity in solar supply chains.	\$200 million
ARPA-E: \$700m to expand Advanced Research Projects Agency-Energy's programs to address gaps in adaptation, mitigation and climate resiliency	\$700 million
Clean Energy Projects: weatherization, decarbonization, and electrifying low-income homes.	\$3 billion
Grid Deployment Office: focused on building out a grid to support clean energy projects.	\$90 million
Clean Energy Research: Funding for the Dept. of Energy to conduct research, development and demonstration (from bi-partisan infrastructure Act).	\$9 billion

APRIL 2022	MAY 2022	JUNE 2022	JULY 2022	AUGUST 2022
<p>Board of Directors, April 13</p>	<p>Board of Directors, May 11: Consent: Minutes February 2022 Treasurer Report Committee Reports</p> <p>Regular Calendar: TBD</p>	<p>Board of Directors, June 8: Consent: Minutes March 2022 Treasurer Report Committee Reports</p> <p>Regular Calendar: eHub Year 1 Recap & Survey Results Strategic Plan/Budget Kick-off Stress Test</p> <p>Special Closed Session: CEO Review discussion</p>	<p>No meeting</p>	<p>Board of Directors, August 10: Consent: Minutes April 2022 Treasurer Report Committee Reports</p> <p>Regular Calendar: Investment Policy Strategic Plan Budget</p>
<p>Executive Committee, April 22: TBD</p>	<p>Executive Committee, May 27: eHub Year 1 Recap & Survey Results Stress Test</p>	<p>Executive Committee, June 24: Investment Policy</p>	<p>No meeting</p>	<p>Executive Committee, August 26: TBD</p>
	<p>Finance & Administration Committee - TBD Chair/Vice Chair Selection Investment Policy Stress Test Intro</p>			

SVCE Board Action Requested - April Update

Date	Meeting Where Requested	Request/Comment	Comments	Department
2/9/2022	Board Meeting	As clean power supply projects come online, will oil and gas prices fluctuate less (Dir. Willey)	Staff has reached out to Director Willey and explained oil and natural gas prices are highly dependent on macroeconomic factors both domestically and globally.	All
8/11/2021	Board Meeting	Power Supply Contract with the California Community Choice Financing Authority. Note: Under discussion, Director Willey asked if it would be advantageous to have periodic check-ins to assure that the Board was satisfied with results. CEO Balachandran stated he would take that as an action item to the Finance Committee and bring it back to the Board for discussion.	Staff is keeping this in mind as we plan for future agenda items for the Finance and Administration Committee	Finance & Admin
5/12/2021	Board Meeting	Training request on how to manage a potential new working environment and check-in 6 months to 1 yr after implementation of a possible hybrid work structure	Staff will keep this in mind as the hybrid work structure is developed	Executive
3/3/2021	Audit Committee	SVCE liability insurance - is it a sufficient amount? (Alt. Dir. Wei)	Staff will consider this when looking at overall risk mitigation	Finance & Admin
8/28/2020	Executive Committee	Policy check regarding duration of contracts before they go back out to bid (Dir. Gibbons)	Purchasing Policy does not currently have a formal duration limit; will update Purchasing policy	Finance & Admin



Staff Report – Item 3

Item 3: Approve Plan to Conduct the May 2022 Board of Directors Meeting as a Hybrid Meeting

From: Girish Balachandran, CEO

Prepared by: Kevin Armstrong, Administrative Services Manager

Date: 4/13/2022

RECOMMENDATION

Staff requests the Board approve the recommendation to conduct the May 11, 2022 Board of Directors Meeting as a Hybrid Meeting, with the option to attend in-person at Cupertino Community Hall, or remote via Zoom.

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.

ANALYSIS & DISCUSSION

Staff continues to monitor the situation with both the Governor’s office and the Legislature as well as with the City of Cupertino, the longstanding host location of in-person SVCE Board of Directors meetings prior to COVID-19. The City of Cupertino has been closed for in-person public meetings during the omicron-variant surge, while Santa Clara County’s facial covering requirement has been in place. With the recent rescission of that facial covering requirement, Cupertino Community Hall is re-opening for in-person meetings starting in April.

Staff has been in communication with Cupertino staff and has an appointment scheduled during the first week of April to conduct a dry run of a hybrid meeting, in preparation for staff and Board members attending in person, while still providing the option of remote access to all attendees.

As the current allowance for remote meetings under AB361 relies on the continued declaration of a state of emergency, SVCE staff has begun to prepare for the possibility that the state of emergency is lifted, and the Brown Act’s standard teleconferencing and notification provisions return to force. These include the

Agenda Item: 3**Agenda Date: 4/13/2022**

requirement that remote locations be noticed, and that they be accessible and open to the public for full participation.

The state legislature is currently considering a bill (AB 1944) that would make relaxed noticing and attendance requirements permanent, once the bill is signed by the Governor and takes effect (either immediately, if urgent, or January 1, 2023, if non-urgent).

Should the state of emergency be rescinded before any permanent legislation takes effect, SVCE staff recommends that Board Members who wish to continue participating remotely do so from an accessible public location, such as the city hall or a community center operated by their member agency. To facilitate such participation, SVCE proposes reimbursing member agencies for any fees or staff time incurred in hosting Board members during their participation in SVCE meetings. SVCE staff envisions this mostly for evening Board meetings – for daytime Committee meetings that also fall under the Brown Act, we anticipate that finding a suitable remote location to attend from to be more feasible, and the SVCE office will also be available as needed.

SVCE will be sending out a short poll to all Directors and Alternate Directors during the latter weeks in April, to gauge interest in ongoing in-person attendance vs remote attendance, along with any location preferences. SVCE will then reach out to any identified member agencies to work out details and logistics around Board participation from community facilities.

Beyond May, SVCE will use the results of the poll to guide meeting planning throughout the remainder of 2022 and will revisit this discussion with the Board upon any change in the state of emergency or legislation around Brown Act meetings.

STRATEGIC PLAN

Not applicable.

ALTERNATIVES

The May 2022 Board of Directors meeting could be held fully remotely, with hybrid meetings resuming at a future time.

FISCAL IMPACT

There is a de minimus fiscal impact as a result of reimbursing member agencies for fees and staff time associated with hosting Board members for remote meetings.

ATTACHMENTS

The presentation for this item is posted to the SVCE website.



Staff Report – Item 4

Item 4: Clean Energy Procurement Informational Update

From: Girish Balachandran, CEO

Prepared by: Monica Padilla, Director of Power Resources

Date: 4/13/2022

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.



Silicon Valley Clean Energy
Board of Directors Meeting

April 13, 2022

Appendix A

Power Resource Contracts Executed by CEO

**IMPORT CAPABILITY TRANSFER
CONFIRMATION LETTER
BETWEEN
CENTRAL COAST COMMUNITY ENERGY
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY**

This confirmation letter including all appendices hereto (“Confirmation”) confirms the transaction between **Central Coast Community Energy**, a California joint powers authority (“Seller”) and **Silicon Valley Clean Energy Authority**, a California joint powers authority (“Buyer”), each individually a “Party” and together the “Parties”, dated as of February 17, 2022 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation, in the amounts described in this Confirmation (the “Transaction”). This Confirmation is governed by the terms and conditions of the WSPP Agreement effective as of August 12, 2021, along with any schedules and amendments thereto (collectively, the “Master Agreement”). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.” If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

**ARTICLE 1
TRANSACTION**

1.1 Product

Seller shall sell and transfer to Buyer, and Buyer shall purchase and receive from Seller, the Remaining Import Capability (the “Product”), at the Delivery Point in the amount of the Contract Quantity at the Contract Price for the Delivery Period.

1.2 Delivery Period and Term

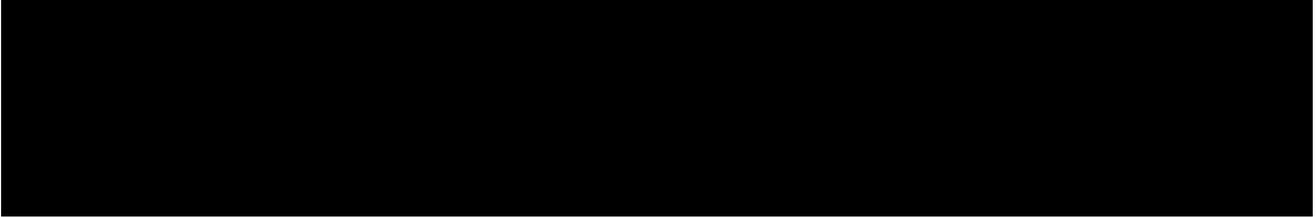
(a)



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

1.3 **Contract Quantity, Contract Price, and Delivery Point**

For the Delivery Period, Seller shall transfer the Product to Buyer in the amount as follows (the “Contract Quantity”), at the Contract Price, and for the following Delivery Point as specified in the Contract Quantity Table below:



ARTICLE 2 DELIVERY OBLIGATIONS

2.1 **Delivery**

Within three (3) Business Days from the Confirmation Effective Date, Seller shall transfer the Product to Buyer by registering the transfer with CAISO as a Bilateral Import Capability Transfer in the amount of the Contract Quantity for the applicable Contract Month, and completing any other action or documentation required by the CAISO to effect such transfer (the “Registration”).

2.2 **Buyer’s Re-Sale of Product**

Buyer may re-sell all or a portion of the Product acquired under this Confirmation.

ARTICLE 3 PAYMENT

3.1 **One-Time Payment**

Buyer shall make a One-Time Payment to Seller for the Product in accordance with Section 9 of the Master Agreement.

The One-Time Payment is calculated as follows:

$$\text{One-Time Payment} = \sum_n (A_i \times B_i \times 1,000)$$

where:

A = Contract Price (in \$/kW-month) for Contract Month *i*

B = Contract Quantity (in MW) transferred by Seller for Contract Month *i*

i = Each Contract Month

n = number of Contract Months

The One-Time Payment calculation shall be rounded to two decimal places.

3.2 **Offset Rights**

Either Party may offset any amounts owing to it for revenues, penalties, fines, costs reimbursement, or other payments pursuant to Section 9 of the Master Agreement against any future amounts it may owe to the other Party.

ARTICLE 4 CONFIDENTIALITY

Notwithstanding Section 30 of the Master Agreement, the Parties agree that:

- (a) This Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.);
- (b) both Parties may disclose the terms of this Confirmation to the CAISO to effectuate Seller's performance and the transfer of the Product and the Parties acknowledge that the CAISO may publicly disclose the transfer of the Product from Seller to Buyer in accordance with the CAISO Tariff promptly following Seller's performance; and
- (c) in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction, other than the Contract Price;

provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Authority or the CAISO to further disclose such information.

ARTICLE 5 COLLATERAL REQUIREMENTS

Notwithstanding any provision in the WSPP Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.

ARTICLE 6 GENERAL PROVISIONS

6.1 **Governing Law**

Section 24 of the WSPP Agreement is deleted and replaced with the following: "This WSPP Agreement and any Confirmation shall be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflicts of law."

6.2 **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. 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.

6.3 **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.

6.4 **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 its 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..

Acknowledged and agreed to as of the Confirmation Effective Date.

CENTRAL COAST COMMUNITY ENERGY, a California joint powers authority

By: DocuSigned by:
Tom Habashi
69C253774488497...

Name: Tom Habashi

Title: Chief Executive Officer

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: DocuSigned by:
Girish Balachandran
5CA64B9AC4C24C3...

Name: Girish Balachandran

Title: CEO

Approved as to form:

By: DocuSigned by:
Brian Kimball
52E93BDFCEC04E0...

Name: Brian Kimball

Title: General Counsel

APPENDIX A DEFINED TERMS

“Agreement” has the meaning set forth in the introductory paragraph of this Confirmation.

“Bilateral Import Capability Transfer” is the transfer of Remaining Import Capability from one Market Participant (as defined in the CAISO Tariff) to another, as described in the CAISO Tariff.

“Branch Group” means the branch group name used by the CAISO to represent the location of an Intertie with a Maximum Import Capability.

“Buyer” has the meaning set forth in the introductory paragraph of this Confirmation and shall have the same meaning as “Purchaser” under the Master Agreement.

“CAISO” means the California Independent System Operator Corporation, or any successor entity performing the same functions.

“CAISO Tariff” means the California Independent System Operator Corporation Tariff, Business Practice Manuals (BPMs), Operating Agreements, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by FERC, if applicable.

“Confirmation” has the meaning set forth in the introductory paragraph of this Confirmation.

“Confirmation Effective Date” has the meaning set forth in the introductory paragraph of this Confirmation.

“Contract Month” means the month during the Delivery Period as set forth in the Contract Quantity Table in Section 1.3.

“Contract Price” has the meaning set forth in the Contract Quantity Table in Section 1.3.

“Contract Quantity” has the meaning set forth in the Contract Quantity Table in Section 1.3.

“CPUC” means the California Public Utilities Commission.

“Delivery Period” has the meaning set forth in Section 1.2(a).

“Delivery Point” has the meaning set forth in the Contract Quantity Table in Section 1.3.

“Governmental Authority” means any: (a) federal, state, local, municipal or other government; (b) governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (c) court or governmental tribunal.

“Intertie” has the meaning set forth in the CAISO Tariff.

“Master Agreement” has the meaning set forth in the introductory paragraph of this Confirmation.

**IMPORT CAPABILITY TRANSFER
CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CENTRAL COAST COMMUNITY ENERGY**

This confirmation letter including all appendices hereto (“Confirmation”) confirms the transaction between **Silicon Valley Clean Energy Authority**, a California joint powers authority (“Seller”) and **Central Coast Community Energy**, a California joint powers authority (“Buyer”), each individually a “Party” and together the “Parties”, dated as of February 17, 2022 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation, in the amounts described in this Confirmation (the “Transaction”). This Confirmation is governed by the terms and conditions of the WSP Agreement effective as of August 12, 2021, along with any schedules and amendments thereto (collectively, the “Master Agreement”). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.” If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

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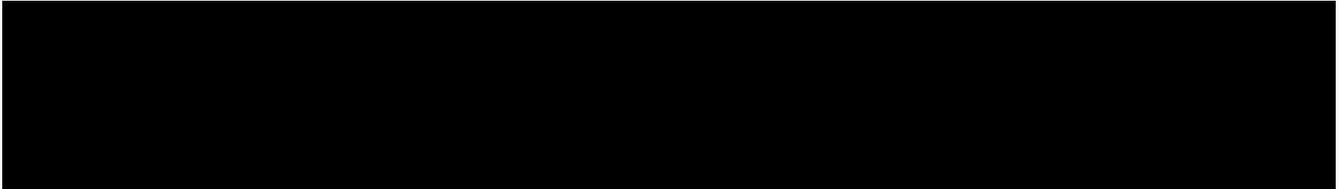
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i = Each Contract Month

n = number of Contract Months

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- (c) in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction, other than the Contract Price;

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Acknowledged and agreed to as of the Confirmation Effective Date.

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

By: DocuSigned by: Girish Balachandran
5CA64B9AC4C24C3...
Name: Girish Balachandran
Title: CEO

CENTRAL COAST COMMUNITY ENERGY, a California joint powers authority

By: DocuSigned by: Tom Habashi
69C253774488497...
Name: Tom Habashi
Title: Chief Executive Officer

Approved as to form:

By: DocuSigned by: Brian Kimball
52E93BDFCEC04E0...
Name: Brian Kimball
Title: General Counsel

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“Branch Group” means the branch group name used by the CAISO to represent the location of an Intertie with a Maximum Import Capability.

“Buyer” has the meaning set forth in the introductory paragraph of this Confirmation and shall have the same meaning as “Purchaser” under the Master Agreement.

“CAISO” means the California Independent System Operator Corporation, or any successor entity performing the same functions.

“CAISO Tariff” means the California Independent System Operator Corporation Tariff, Business Practice Manuals (BPMs), Operating Agreements, and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time to time and approved by FERC, if applicable.

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“Intertie” has the meaning set forth in the CAISO Tariff.

“Master Agreement” has the meaning set forth in the introductory paragraph of this Confirmation.

“Maximum Import Capability” has the meaning set forth in the CAISO Tariff.

“MW” means megawatt (or 1,000 kilowatts) of alternating current electric energy generating capacity.

“One-Time Payment” has the meaning set forth in Section 3.1.



“Product” has the meaning set forth in Section 1.1.

“Registration” has the meaning set forth in Section 2. 1.

“Remaining Import Capability” has the meaning set forth in the CAISO Tariff.

“SC” has the meaning set forth in the CAISO Tariff.

“Seller” has the meaning set forth in the introductory paragraph of this Confirmation.

“Tariff” means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time.

“Term” has the meaning set forth in Section 1.2(b).

“WSPP Agreement” is defined in the introductory paragraph hereof.

**CONFIRMATION LETTER
BETWEEN
MORGAN STANLEY CAPITAL GROUP INC.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY**

This confirmation letter (“Confirmation”) confirms the Transaction between Morgan Stanley Capital Group Inc. (“Morgan Stanley” or “Seller”) and Silicon Valley Clean Energy Authority, a California joint powers authority (“SVCE” or “Buyer”), each individually a “Party” and together the “Parties,” dated as of March 8, 2022 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product. This Transaction is governed by the EEI Master Power Purchase and Sale Agreement dated November 23, 2016, together with any and all exhibits, schedules or supplements thereto or incorporated therein by reference, each in force and effect from time to time between the Parties (collectively, the “Master Agreement”), as amended and supplemented by this Confirmation, under the following terms and conditions. The definitions and provisions contained in this Confirmation, the Master Agreement, the RA Rules (as defined herein), and in the tariffs and/or protocols of the California Independent System Operator (“CAISO”) as amended from time to time (the “CAISO Tariff” or the “Tariff”), shall apply to this Confirmation and are incorporated by reference; provided that, to the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder. Consistent with Section 2.2 of the Master Agreement, this Confirmation, together with all other transactions, confirmations and the Master Agreement, form a single integrated agreement between the Parties and are not separate contracts. This Confirmation supersedes and replaces any prior oral or written confirmation or agreement, including broker confirmations, regarding this Transaction.

**ARTICLE 1
PRODUCT 1**

1.1. Product 1 – Contract Price, Contract Quantity, Delivery Term and Delivery Point

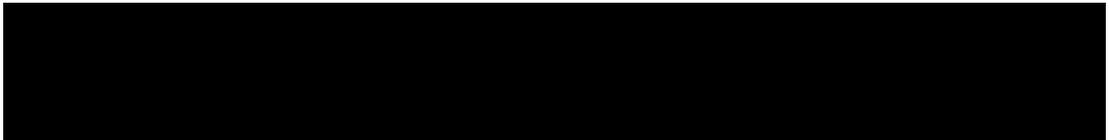
(a)



(b)

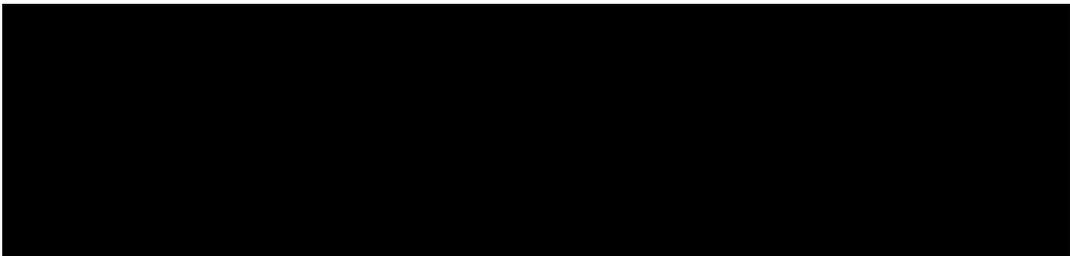


(c)



(d)

(e)



(f)

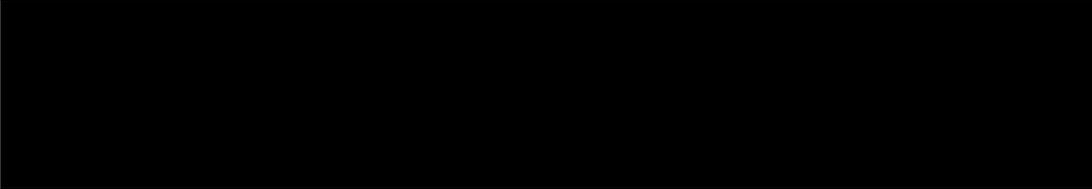
- (g) Contract Price (Product 1): The Contract Price is an aggregation of three components, as further described in Section 1.2(c).
- (h) Passage of Title: Seller represents and warrants that Seller holds the rights to the Product free and clear of all liens and encumbrances, and Seller agrees to convey and hereby conveys all such Product to Buyer free and clear of all liens and encumbrances as included in the delivery of the Product subject to the terms and conditions contained herein. As set forth in Section 10.3 of the Master Agreement, title and reporting rights to the Carbon Free Firm Energy shall pass from Seller to Buyer at the Delivery Point.
- (i) Transmission and Agreed Transmission Path: Under this Confirmation and pursuant to Section 10 of the WSPP Agreement, the agreed transmission path for deliveries to the Delivery Point will be from the Carbon Free Source (as listed in Exhibit A) to Big Eddy and Big Eddy to NOB (each, an “Agreed Transmission Path”).

For the purposes of Section 10 of the WSPP Agreement, “firm transmission” means Firm Transmission (as defined herein).

For the purposes of the Cap and Trade Regulations, the foregoing agreed upon transmission path shall constitute a “continuous physical transmission path” which shall provide for “direct delivery of electricity” (as such terms are defined in the Cap and Trade Regulations).

- (j) Seller Delivery Obligation. Seller shall deliver Carbon Free Firm Energy in the amount of the Hourly Contract Quantity from Carbon Free Source into the CAISO on behalf of Buyer without substituting electricity from another source, as evidenced by e-Tags, or such other format acceptable to Buyer. Deliveries shall be measured for each hour that the Carbon Free Firm Energy is delivered to the CAISO but shall not exceed the lesser of corresponding amounts shown on the e-Tags or meter data from the Carbon Free Source.
- (k) Reporting Requirements. Seller shall provide Buyer with all necessary documentation required to support and verify that delivery requirements have been met according to the Applicable Program, including but not limited to documentation demonstrating that the Carbon Free Source meets the CARB requirements of a Specified Source Facility, the Carbon Free Firm Energy is traceable to a specific generating facility, and that the electricity source claimed has been sold once and only once to a retail consumer.

1.2. Special Conditions – Product 1

- (a) Generally Accepted Utility Practice: All scheduling and tagging shall be in accordance with Generally Accepted Utility Practice.
- (b) External Resource: Energy delivered pursuant to this Confirmation will not be sourced from resources internal to the CAISO Balancing Authority Area.
- (c) 



The Capacity Fee shall be due and payable on the entire Hourly Contract Quantity of Carbon Free Firm Energy each hour (unless energy is not delivered due to an unexcused failure to deliver by Seller), not to exceed the Minimum Monthly Delivery Quantity during any calendar month. For greater certainty, the Parties hereby acknowledge and agree that Seller may deliver more than the Minimum Monthly Delivery Quantity hereunder (“Additional Monthly Quantity”) during any calendar month; provided however (A) no Capacity Fee shall be due and payable for any such Additional Monthly Quantity and (B) no Attributes Fee shall be payable for Additional Monthly Quantities in excess of 10,000 MWh. All other components of the Product 1 Contract Price shall be due and payable only on the quantity of energy delivered to the Delivery Point in each hour.

Notwithstanding and without limiting Section 4.2 of the Master Agreement, in determining the Sales Price there will be no obligation or requirement to attribute or include a value attributable to the capacity or the carbon free attributes.

- (d) Additional Seller Representations: Seller represents and warrants to Buyer as follows:
- (i) The facilities comprising the Carbon Free Source are each external to the CAISO Balancing Authority Area;
 - (ii) as of the Confirmation Effective Date, the capacity supporting energy to be delivered pursuant to this Confirmation is surplus to the expected capacity requirements of the Carbon Free Source’s host balancing authority area and is not committed to another balancing authority area (*i.e.* no double-counting);
 - (iii) throughout the Delivery Term, Seller will not commit the capacity necessary to support delivery of Carbon Free Firm Energy from the Carbon Free Source to a third party or other balancing authority area;
 - (iv) the Hourly Contract Quantity of Carbon Free Firm Energy sold to Buyer hereunder has been sold once and only once by Seller;
 - (v) throughout the Delivery Term, Carbon Free Firm Energy will be delivered to the Delivery Point using Firm Transmission on the last segment immediately preceding the CAISO balancing authority; and
 - (vi) throughout the Delivery Term, Seller’s firm energy obligation under Product 1 is and will be supported (backed) each hour by operating reserves (including required contingency reserves and sufficient balancing reserves) in the Carbon Free Source’s host balancing authority area necessary to ensure there is sufficient energy available for Seller to meet its obligation throughout the applicable operating hour.

For greater certainty, Seller's performance (and failure to perform) hereunder is and remains subject to the terms of the Product and the Master Agreement.

ARTICLE 2 PRODUCT 2

2.1. Product 2 – Scheduling Coordinator Services

- (a) Seller: Morgan Stanley Capital Group Inc.
- (b) Buyer: SVCE
- (c) Product 2: Scheduling Coordinator Services as described below for Carbon Free Firm Energy procured by Buyer as Product 1.

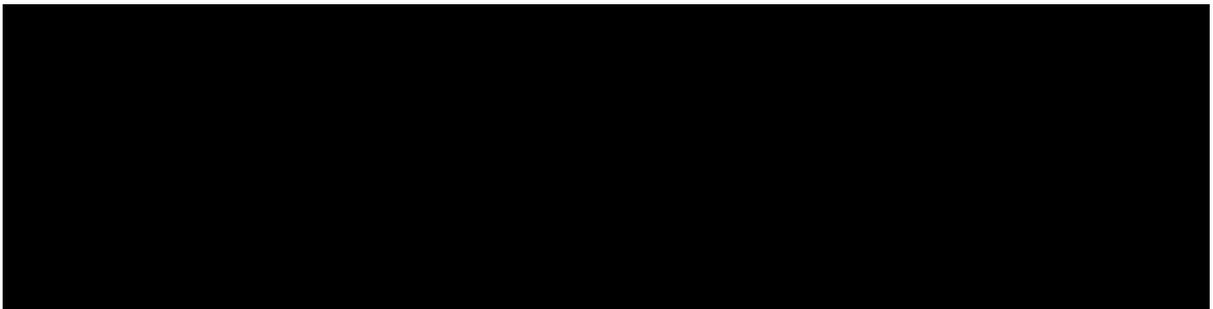
2.2. Overview

The purpose of Product 2 is for Morgan Stanley to perform the required scheduling coordinator functions for the "resource" (as such term is used by the CPUC in D. 20-06-028, the Carbon Free Firm Energy). Although D.20-06-028 required the Buyer to take responsibility for ensuring that energy associated with an import RA contract is bid into, and delivered to, the CAISO markets, the CPUC's decision also permitted the Buyer to designate another party to act on its behalf as a scheduling coordinator to bid and deliver the energy into the CAISO markets.

Morgan Stanley is a Scheduling Coordinator recognized by CAISO pursuant to the CAISO Tariff and has the requisite experience, skill and capability to perform the scheduling obligations assumed by it in providing the Scheduling Coordinator Services (as defined below). In providing the Scheduling Coordinator Services, Morgan Stanley will perform, and assume all costs, risks and liabilities associated with performing, the scheduling responsibilities defined below for the limited purpose of submitting Bid(s) and physically scheduling and delivering Buyer's Carbon Free Firm Energy procured as Product 1 from the Delivery Point to the Sink as required and contemplated by CPUC D.20-06-028 and the resource adequacy requirements established by CAISO pursuant to the CAISO Tariff.

2.3. Scheduling Coordinator Services

Morgan Stanley agrees to assume the scheduling functions required to schedule and deliver the Carbon Free Firm Energy purchased by Buyer as Product 1 at and from the Delivery Point to the Sink, being an Aggregated Pricing Node in the CAISO Balancing Authority Area, as set forth below ("Scheduling Coordinator Services"):



- (b) Working with CAISO and Buyer to set up a Resource ID associated with Morgan Stanley's SCID for purposes of undertaking the services in paragraph (a) above ("RA Resource ID"), which shall be set up as a CAISO system resource;
 - (c) Submitting a monthly and annual Supply Plan using the RA Resource ID for each month of the Delivery Term on or prior to the deadline in the CAISO Tariff;
 - (d) Undertaking all scheduling and tagging requirements in accordance with Generally Accepted Utility Practice from the Delivery Point to the Sink, including inserting the following in each NERC E-Tag:
 - (i) Morgan Stanley's Scheduling Coordinator PSE in the "physical path" at and from the Delivery Point to the Sink,
 - (ii) Buyer's PSE in the "market path" at the Delivery Point,
 - (iii) Buyer's PSE as the last PSE in the "physical path",
-
- (v) A CAISO Aggregated Pricing Node as the Sink; and
 - (e) performing such other ancillary requirements under the CAISO Tariff to give effect to the foregoing.

A sample NERC E-Tag is attached hereto as Exhibit B for informational purposes. Actual NERC E-Tags generated for deliveries hereunder may vary from the sample attached as Exhibit B due to changes in Carbon Free Source, CAISO or WECC tagging practices or otherwise as required to be consistent with Generally Accepted Utility Practice.

2.4.

2.5. **Buyer's Identifiers**

Buyer's SCID: LSVCE

Buyer's PSE: LSVCE

2.6. **Special Conditions – Product 2**

- (a) Resource Adequacy Plan: Buyer shall submit (or cause to be submitted) a monthly and annual Resource Adequacy Plan ("RA Plan"), as required by the CAISO Tariff, that

explicitly identifies the Delivery Profile hours as the temporal constraint/limitation and such RA Plan shall otherwise match the Supply Plan submitted by Morgan Stanley.

- (b) CAISO Acceptance/Rejection: Morgan Stanley shall be entitled to retain any and all revenues received from (and if prices are negative, liable for all payments to) CAISO as a result of CAISO accepting the Bid(s) (including Self-Schedule(s)) submitted by Morgan Stanley. If, in any hour of the Delivery Term, CAISO rejects the Bid(s) (including Self-Schedule) submitted by Morgan Stanley in the CAISO Day Ahead Market and Real-Time Market, then
- (i) if Morgan Stanley Self-Schedules or Bids in accordance with the Bidding Requirement, the Parties agree to treat such rejection by CAISO as Uncontrollable Force such that each Party shall be excused from their respective obligation to sell and deliver or purchase and receive the Carbon Free Firm Energy for that hour, and
 - (ii) if Morgan Stanley does not Bid in accordance with the Bidding Requirement, the Parties agree to treat such rejection by CAISO as a failure to deliver by Seller, no Capacity Fee shall be due for such hour, and, unless Seller is otherwise excused from its delivery obligations, Buyer shall be entitled to such remedies as are provided hereunder and in the Master Agreement.



ARTICLE 3 GENERAL PROVISIONS

3.1 Uncontrollable Force/Force Majeure

The Parties agree that Product 1 shall be subject to Uncontrollable Force and Product 2 shall be subject to Force Majeure. The Parties agree, for the purposes of Section 10 of the WSPP Agreement, Section 3.3 of the Master Agreement and the definition of Force Majeure, that:

- (a) any limitation, interruption or curtailment on the applicable Agreed Transmission Path, at the Delivery Point or from the Delivery Point to Sink by the transmission provider pursuant to the applicable OATT or transmission service contract (including CAISO pursuant to CAISO Tariff), by or at the direction of WECC or any applicable NERC-recognized regional reliability coordinator, including for unscheduled flow mitigation, planned outage(s) and full or partial de-rate(s), whether or not known or anticipated as of the Confirmation Effective Date, will be considered Uncontrollable Force and Force Majeure,
- (b) a limitation, interruption or curtailment described in paragraph (a) may result in Bid(s), schedule(s) or E-Tag(s) not being submitted or created, as applicable, for one or more hours depending on the timing and circumstances of the qualifying limitation, interruption or curtailment, Generally Accepted Utility Practice and requirements and practices pursuant to CAISO Tariff,

- (c) if and to the extent any of the events or circumstances described in paragraphs (a) and (b) above prevents (i) delivery of the Hourly Contract Quantity of Carbon Free Energy from the Carbon Free Source to Sink for any hour(s) of the Delivery Term or (ii) Bid(s), schedule(s) or E-Tag(s) being submitted or created, as applicable, by Morgan Stanley for any hour(s) of the Delivery Term, subject to Section 1.2(c), Morgan Stanley and Buyer shall be relieved of their obligation to sell and deliver or purchase and receive, respectively, the Carbon Free Firm Energy at the Delivery Point for such hour(s) and Morgan Stanley shall be relieved of its SC Services obligations for such hour(s), and
- (d) Morgan Stanley will use commercially reasonable efforts to communicate (verbally or electronically in writing, including via eTags) any limitations, interruptions or curtailments on the Agreed Transmission Path known prior to the day-ahead pre-scheduling deadline and advise as to what quantities, if any, of Carbon Free Firm Energy Morgan Stanley is able to deliver to Buyer during the affected hours.

3.2 Monthly Reporting

The Parties acknowledge that in each month of the Delivery Term non-delivery of energy can reasonably be expected from time to time as a result of, among other things, Uncontrollable Force (e.g. transmission limitations, interruptions and/or curtailments) and CAISO rejecting Bid(s) meeting the Bid Requirement, including during conditions of oversupply and congestion. For transparency, in addition to Buyer having delivery visibility through inclusion on all NERC E-Tags, Morgan Stanley will provide a monthly report that includes a lessor of analysis showing eTags, and meter readings from the Carbon Free Source.

3.3 Electricity Importer

As a result of the provision of Scheduling Services, Morgan Stanley will be the electricity importer into California for purposes of the Cap and Trade Regulations for the Carbon Free Firm Energy delivered pursuant to this Confirmation. The Parties acknowledge that Morgan Stanley will be responsible for satisfying any Compliance Obligation (as defined in the Cap and Trade Regulations) associated with the energy that is scheduled and imported into California pursuant to this Confirmation.

3.4 Confidentiality

Notwithstanding anything to the contrary in Section 10.11 of the Master Agreement, the Parties agree that either Party may disclose a copy of this Confirmation to a Governmental Authority if required or if requested by such Governmental Authority or for the purposes set forth in Section 3.5(b), provided such Party shall redact commercial terms (e.g. Contract Price) prior to disclosure or disclose the Confirmation confidentially to the Governmental Authority unless redactions or confidential treatment is not permitted by the Governmental Authority. Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

3.5 RA Requirements / Change in Law

- (a) The Parties acknowledge that Buyer has entered into this transaction to, among other things, use Product 1 toward meeting its RA Requirements. Buyer acknowledges that Seller makes no representation or warranty that Product 1 as procured by Buyer will be

eligible for or can be used or counted toward Buyer's resource adequacy obligations pursuant to the RA Requirements.

- (b) The Parties agree that either or both Parties may provide a copy of this Confirmation to the CPUC confidentially prior to the time required for Buyer's compliance filings to obtain the CPUC's guidance or advice as to the eligibility of Product 1 for meeting the RA Requirements, provided if Seller provides a copy it shall redact or exclude Buyer's name.
- (c) It is Buyer's sole responsibility to (i) ensure it has obtained sufficient intertie import capability at the Delivery Point such that it may use Product 1 toward its RA Requirements and (ii) determine the appropriate maximum cumulative capacity bucket(s).
- (d) If there is a Change in Law that (i) materially adversely changes or affects a Party's obligations hereunder or (ii) results in Buyer being unable to use Product 1 to meet its RA Requirements, the Parties shall work in good faith to try and revise this Confirmation, which may include changes to commercial terms, to appropriately address the material adverse change or effect or permit Buyer to be able to use Product 1 toward its RA Requirements. In the event the Parties cannot reach agreement on any such amendments to this Confirmation within 30 days' written notice from one Party following the Change in Law ("Negotiation Period"), then either Party may terminate this Confirmation within thirty (30) days after the Negotiation Period upon written notice to the other Party, which, subject to Section 3.8, shall be effective the next Business Day after such notice is received. Any termination in accordance with this paragraph shall be without liability of either Party to the other on the termination date as a result of such termination, *provided* for greater certainty each Party shall remain liable for any payments arising from performance (and non-performance) up to and including the termination date. Termination of this Confirmation pursuant to this paragraph shall not result in termination (or give rise to a right of termination) of any other transactions between the Parties *provided* that if multiple transactions between the Parties are similarly affected by the Change in Law the terminating Party must concurrently terminate all such transactions unless the other Party otherwise agrees.

3.6 **Seller Indemnification / Termination**

To the extent Seller fails to fulfill its obligations under this Confirmation and such failure is not excused under the terms of either Product, this Confirmation or the Master Agreement or caused by a failure to perform by Buyer or other third party contracting directly or indirectly with Buyer, then

- (a) Seller agrees to indemnify Buyer for any monetary penalties directly resulting from Seller's nonperformance hereunder as assessed against Buyer by the CPUC pursuant to the RA Requirements, but only to the extent such penalties being assessed could not be avoided by Buyer following notice from Seller of its nonperformance; and
- (b) in addition to Buyer's other remedies hereunder, if such failure meets all the criteria for a RA Termination Event, Buyer may terminate this Confirmation upon written notice to Seller, *provided* such notice is provided no later than two (2) Business Days after such RA Termination Event having occurred. If timely termination notice is provided to Seller, subject to Section 3.8, termination shall be effective the next Business Day after such notice is received. Any termination in accordance with this paragraph shall be without liability of either Party to the other on the termination date as a result of such termination, *provided*

for greater certainty each Party shall remain liable for any payments arising from performance (and non-performance) up to and including the termination date. Termination of this Confirmation pursuant to this paragraph shall not result in termination (or give rise to a right of termination) of any other transactions between the Parties.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize any such monetary penalties or the impact of any Seller non-performance; 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 such penalties.

3.7 Survival

To the extent this Confirmation is terminated by either Party as provided in Section 3.5 or 3.6 and Morgan Stanley, in performing its obligations hereunder, has submitted a monthly Supply Plan or has other binding obligations or commitments to CAISO that cannot be rescinded without Morgan Stanley incurring penalties or other charges, all applicable terms, conditions and provisions of this Confirmation shall survive termination until all binding obligations or commitments to CAISO as at the effective date of such termination have been fully performed, including, without limiting the generality of the foregoing, the purchase and sale of Carbon Free Firm Energy. For greater certainty, neither Party will make any further binding commitments to CAISO (e.g. no filing of monthly RA Plans or Supply Plans) after the effective date of termination.

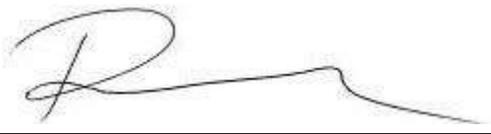
3.8 Relationship of the Parties

The Parties are independent contractors, and will not be deemed to be partners, joint venturers or agents of each other for any purpose. Nothing contained in this Confirmation will be construed to create a partnership, joint venture, agency or other relationship that may invoke fiduciary obligations between the Parties.

[Signatures appear on the following page.]

Acknowledged and agreed to as of the Confirmation Effective Date.

**MORGAN STANLEY CAPITAL GROUP
INC.**

Sign: 

Print: Brent Masucci

Title: Vice President

**SILICON VALLEY CLEAN ENERGY
AUTHORITY, a California joint powers
authority**

DocuSigned by:
Sign: 

Print: Girish Balachandran

Title: CEO

EXHIBIT A

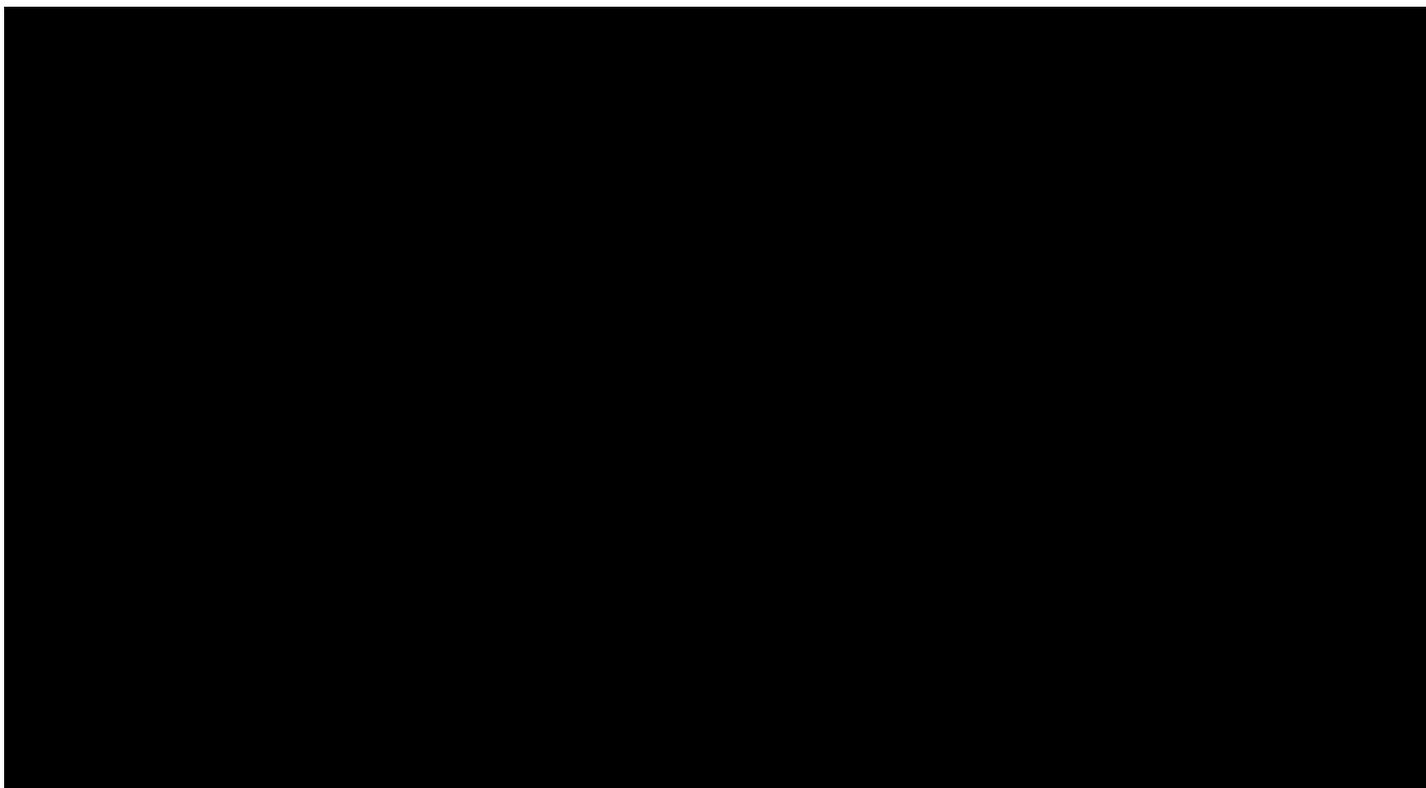


EXHIBIT B
SAMPLE NERC E-TAG

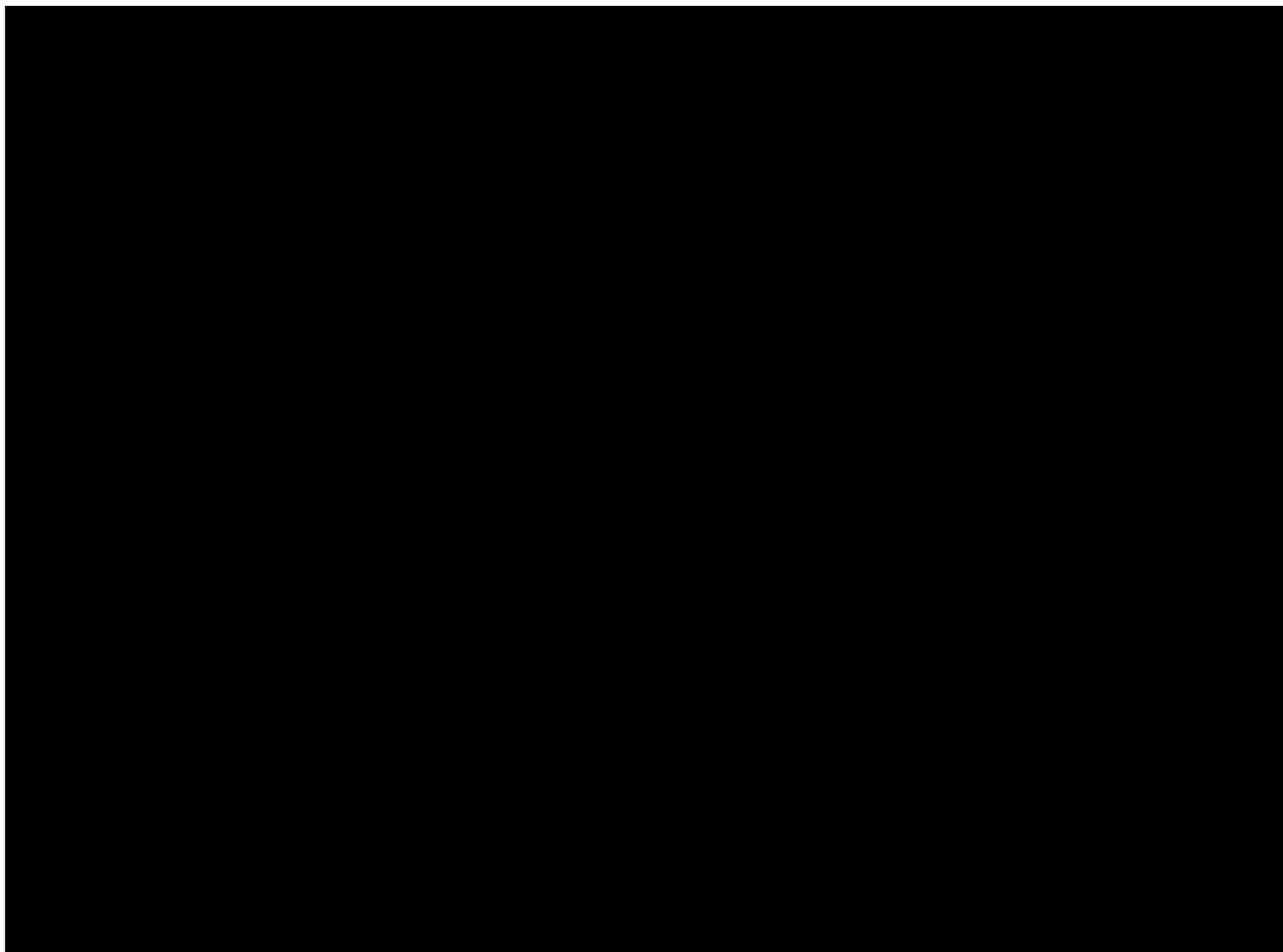


EXHIBIT C

DEFINITIONS

Capitalized terms not otherwise defined herein that are defined in the CAISO Tariff shall have the meanings ascribed thereto in the CAISO Tariff.

“AAH” or “Availability Assessment Hours” means the five consecutive hour period pre-defined by CAISO pursuant to the CAISO Tariff as the Availability Assessment Hours for resources providing system resource adequacy for the applicable month of the Delivery Term. The Parties acknowledge that, as of the Confirmation Effective Date, CAISO has determined the Availability Assessment Hours for resources providing system resource adequacy for the applicable months of the Delivery Term are hour ending (“HE”) 1700 through HE 2100 (5 hours per day), Monday through Friday (5 days per week), excluding Federal Holidays.

“Applicable Program” means the Cap and Trade Regulations or the PSD Regulations.

“Buyer”, as used in the Master Agreement, means Buyer.

“Cap and Trade Regulations” means the Mandatory Greenhouse Gas Emissions Reporting and California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations (California Code of Regulations Title 17, Subchapter 10, Articles 2 and 5 respectively).

“CARB” means the California Air Resources Bureau of the California Environmental Protection Agency.

“CAISO Tariff” means the FERC-approved electric tariff of the California Independent System Operator Corporation (“CAISO”) and any current applicable CAISO-published Operating Procedures and Business Practice Manuals, in each case as amended or supplemented from time to time.

“Change in Law” means any changes, revisions, additions or clarifications to or of (i) the RA Requirements by the CPUC, or (ii) the CAISO Tariff by CAISO, including CAISO changing the five consecutive hour period for the Availability Assessment Hours for any month of the Delivery Term such that it is no longer HE 1700 through HE 2100 (5 hours per day), Monday through Friday (5 days per week), excluding Federal Holidays, in either case occurring after the Confirmation Effective Date.

“CPUC Filing Guide” means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the RA Requirements.

“Federal Holidays” means legal public holidays as set forth in 5 USC § 6103(a).

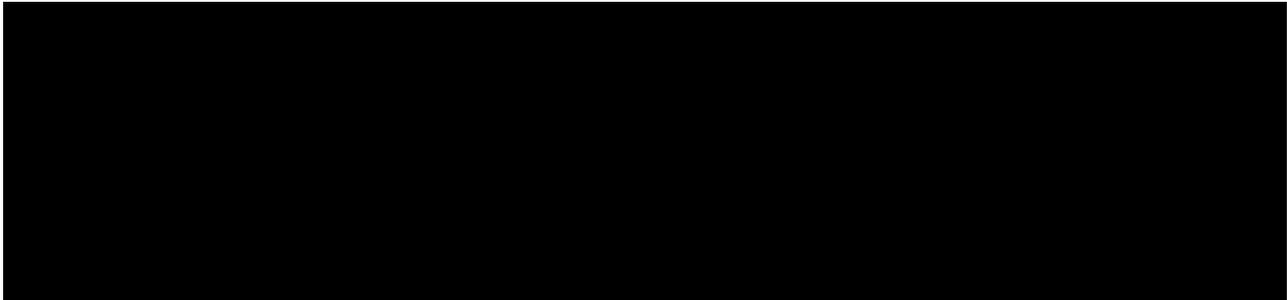
“Firm Transmission” means NERC Transmission Service Reservation Priority 7-F (firm point-to-point transmission), and includes conditional firm point-to-point transmission.

“Flat” means all Off-Peak and On-Peak hours (24x7).

“Generally Accepted Utility Practice” means a practice established by the Western Electricity Coordinating Council (“WECC”) or any successor regional reliability council, as such practice may be revised from time to time, or if no practice is so established, means a practice otherwise generally accepted in the WECC region.

“Governmental Authority” means any national, state, provincial or local government, any political subdivision thereof, or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity with authority over a Party or the subject matter of this Agreement, and includes, without limitation, the Federal Energy Regulatory Commission (“FERC”) and California Public Utilities Commission (“CPUC”).

“LMP Index” means, for any day of delivery, the day-ahead hourly Locational Marginal Price (“LMP”) at TH_NP15_GEN-APND (or any successor Aggregated Pricing Node for NP 15) (“NP 15 Trading Hub”) for the applicable hours of delivery as published by the CAISO. In the event the CAISO fails to publish the LMP for the NP 15 Trading Hub, such failure shall be addressed by the Parties in a manner consistent with the Master Agreement provisions applicable to Market Disruption Events. In the event the CAISO subsequently corrects the LMP for the NP15 Trading Hub, such correction shall be addressed by the Parties in a manner consistent with the Master Agreement provisions applicable to price corrections. Notwithstanding any other provision of this Confirmation or the Master Agreement, the LMP Index shall not be revised as a result of a correction to the LMP for the NP 15 Trading Hub made any time after 6 months from the end of the Delivery Term.



“NERC Holiday” means any day designated as a holiday by NERC.

“Off-Peak” means HE 0100 through HE 0600 and HE 2300 through HE 2400 PPT and all hours on (i) Sundays or (ii) any NERC Holiday.

“On-Peak” means HE 0700 through HE 2200 (16 hours per day) PPT, Monday through Saturday (6 days per week), excluding NERC Holidays.

“PSD Regulations” means the Power Source Disclosure Program regulations (California Code of Regulations Title 20, Division 2, Chapter 3, Article 5, Sections 1390 through 1394).

“RA Requirements” means (i) the resource adequacy requirements established for CPUC jurisdictional load serving entities by the CPUC pursuant to the CPUC’s currently effective or future decisions, resolutions, or rulings related to resource adequacy as applicable to system resource adequacy and the availability, eligibility and use of imports for system resource adequacy, including CPUC Decision 20-06-028 and (ii) CPUC Decision 20-06-031 solely for the purposes of the eligibility of Product 1 for an MCC Bucket category if specified in this Confirmation.

“RA Termination Event” means, for any Availability Assessment Hour in the Delivery Term, (i) Seller fails to (x) satisfy the Bidding Requirement or (y) deliver the Carbon Free Firm Energy to the Delivery Point, and in either case such failure is not excused pursuant to the terms hereof, *and* (ii) such unexcused failure by Seller is likely to cause Buyer to not (or no longer) be able to count Product 1 toward its RA Requirements.

“Scheduling Coordinator” has the meaning given in the CAISO Tariff.

“Self-Schedule” has the meaning given in the CAISO Tariff.

“Sink” means the final point of delivery for the energy, which shall be a point within the CAISO Balancing Authority Area.

“Specified Source Facility” means a power source registered by an electric power entity with CARB that is intended to be claimed in an Emissions Data Report pursuant to section 95111(g)(1) of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions in the state of California.