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, December 14, 2022
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

Teleconference Meeting
Webinar:
https://cityofcupertino.zoom.us/j/95749634616

Telephone (Audio Only):
US: +1 669-900-6833
Webinar ID: 957 4963 4616

In accordance with California Government Code Section 54953(e), in consideration of the Coronavirus (COVID-19), members of the Silicon Valley Clean Energy Board of Directors and staff have the option to participate in this meeting by teleconference.

Members of the public may also attend this meeting in person, or 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 participating remotely and 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.

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

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

AGENDA

Call to Order

Roll Call

Adoption of Resolutions Commending Director Gibbons, Ellahie, Fligor, and Willey, and Alternate Directors Larsson and Sayoc for Their Dedicated Service to SVCE

Public Comment on Matters Not Listed on the Agenda

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

Consent Calendar (Action)

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

1b) Receive October 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) Adopt Resolution Establishing SVCE E-ELEC ("Electric Home") Generation Rate for Residential Customers, to Correspond with New PG&E Rate

1e) Acknowledge Additional Meeting Expenses with Pisenti & Brinker, LLP for Past Financial Audits

1f) Executive Committee Report

1g) Closing Report of the 2022 Ad Hoc Committee of the Board to Address Legislative and Regulatory Response to Industry Transition

1h) California Community Power Report

1i) Additional Committee Reports

Regular Calendar

2) CEO Report (Discussion)

3) Approve 2023 Legislative Policy Platform and Identify Focus Areas for the 2023 Legislative Ad Hoc Committee (Action)

4) Adopt Resolution to Increase SVCE's Generation Rate Discount, and Dedicate Funding for an Electrification Discount Rate and Multifamily Direct-Install Program (Action)

5) Update on Hybrid Meeting Requirements Following Termination of Emergency Order (Discussion)

6) SVCE Information Update on 2023 SVCE Board Elections (Discussion)

7) Hybridization of Gas Peaking Fleet (Presentation)

8) New Construction Reach Code Update (Presentation)

Board Member Announcements and Direction on Future Agenda Items

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

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

Report from Closed Session

Adjourn

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333 W El Camino Real
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SVCE
GLOSSARY OF TERMS

BTM – Behind the Meter – Customer-sited resources which connect to the distribution system on the customer's side of the utility's meter. See also "DER".

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 unit of power generation 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.

EE – Energy Efficiency

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

FERC – Federal Energy Regulatory Commission – Independent federal agency that regulates the interstate transmission of electricity, natural gas and oil. The CAISO is subject to FERC jurisdiction.

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.

MMT – Million Metric Tonnes – Common unit of measurement in regulatory and policy space for California's GHG emissions.

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

NERC – Noth American Electric Reliability Corporation – Non-profit regulatory authority whose mission is to assure the reliability and security of the grid.

NRDC – Natural Resources Defense Council

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

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

MWh – Megawatt-hour – measure of energy

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

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

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

PCC3 – RPS Portfolio Content Category 3 – Unbundled REC

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

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

1305 (Statutes of 1997).

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

Pnode – Pricing Node – In the CAISO optimization model, it is a point where a physical injection or withdrawal of energy is modeled and for which a LMP is calculated.

PPA – Power Purchase Agreement – A contract used to purchase the energy, capacity and attributes from a renewable resource project.

PRM – Planning Reserve Margin – Additional level of procurement required in the RA program above the expected peak requirement to account for variability in supply (e.g. plant outages) and demand (e.g. extreme weather). Currently set at 15%.

PSPS – Public Safety Power Shutoff – An event in which the IOUs purposely turn off segments of the grid due to high risk of ignition and wildfires.

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 to contribute their share of system reliability. Today LSEs must procure no less than 115% of the peak hour load. In 2023 and 2024, this will increase to 116% and 117% respectively. Beginning in 2025 a new RA program will be implemented requiring LSEs show capacity to meet their hourly reliability needs, the "PRM" adder is still undetermined.

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 energy supply made up of a collection of an aggregation of distributed energy resources (DERs), such as smart EV chargers, smart thermostats, building energy management systems, battery storage systems, solar PV and smart inverters.

WECC – Western Electricity Coordinating Council - WECC promotes bulk power system reliability and security in the Western Interconnection, which covers most of the western United States. WECC is the Regional Entity responsible for compliance, monitoring and enforcement and oversees reliability planning and assessments.

RESOLUTION NO. 2022-31

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING CHAIR LIZ GIBBONS FOR HER PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HER DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE CITY OF CAMPBELL

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

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

WHEREAS, Liz Gibbons played an important role as Mayor and Councilmember in the City of Campbell in promoting community clean energy in Santa Clara County and forming SVCEA with her City as a member; and

WHEREAS, the Campbell City Council appointed Liz Gibbons as its first representative on the Board of Directors of SVCEA; and

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

WHEREAS, Liz Gibbons established and led committees to provide advice, support and program input to SVCEA; and

WHEREAS, Liz Gibbons guided SVCEA to establish the SVCE Power Prepay Program resulting in savings of approximately $3.5 million per year; and

WHEREAS, Liz Gibbons supported authorizing $17 million in additional program funding to "double down" on decarbonization programs to further reduce carbon emissions; and

WHEREAS, Liz Gibbons contributed to SVCEA celebrating five years of providing carbon-free electricity to residents and businesses; and

WHEREAS, Liz Gibbons educated others in the American Institute of Architects on decarbonizing the built environment and shared SVCEA's mission; and

WHEREAS, Liz Gibbons helped establish reach codes in the City of Campbell, and led community decarbonization efforts by ensuring all 13 SVCE communities evaluate reach codes in the 2022 cycle; and

WHEREAS, Liz Gibbons voted to maintain a carbon-free power mix, and exceed the state-mandated GHG-free targets; and

WHEREAS, Liz Gibbons put in the hard work over years to gain an understanding of the intricacies of the energy business, to the extent that staff wanted her on the staff team; and

WHEREAS, Liz Gibbons had a unique ability to blend getting into the details when necessary and being strategic when necessary; and

WHEREAS, the CEO and staff of SVCE will miss the excellent curated articles Liz Gibbons would send to them on topics ranging from office layout for a hybrid workforce to embodied carbon in construction materials; and

WHEREAS, while serving on the board of SVCEA, Liz Gibbons voted for electricity rates that saved Campbell customers more than $4.16 million on their energy bills.

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

ADOPTED AND APPROVED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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				

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Vice Chair

ATTEST:

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Secretary

RESOLUTION NO. 2022-32

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING DIRECTOR JAVED ELLAHIE FOR HIS PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HIS DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE CITY OF MONTE SERENO

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

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

WHEREAS, Javed Ellahie played an important role as Mayor and Councilmember in the City of Monte Sereno in promoting community clean energy in Santa Clara County; and

WHEREAS, the Monte Sereno City Council appointed Javed Ellahie as its representative on the Board of Directors of SVCEA; and

WHEREAS, Javed Ellahie participated in multiple committees to provide advice, support and program input to SVCEA; and

WHEREAS, Javed Ellahie supported authorizing $17 million in additional program funding to "double down" on decarbonization programs to further reduce carbon emissions; and

WHEREAS, Javed Ellahie voted to approve contracts for new long duration energy storage projects which will support statewide grid resiliency; and

WHEREAS, Javed Ellahie supported establishing reach codes in the City of Monte Sereno, and led community decarbonization efforts by ensuring all 13 SVCE communities evaluate reach codes in the 2022 cycle; and

WHEREAS, Javed Ellahie contributed to SVCEA celebrating five years of providing carbon-free electricity to residents and businesses; and

WHEREAS, Javed Ellahie voted to maintain a carbon-free power mix, and exceed the state-mandated GHG-free targets; and

WHEREAS, Javed Ellahie will be missed by the CEO and staff of SVCEA for his quick thinking on the dais, ability to rapidly understand complex issues, forward thinking on the innovations sweeping the energy industry, applying his legal acumen to various challenges faced by the agency; and

WHEREAS, while serving on the board of SVCEA, Javed Ellahie voted for electricity rates that saved Monte Sereno customers more than $344,000 on their energy bills.

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

ADOPTED AND APPROVED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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:

Secretary

RESOLUTION NO. 2022-33

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

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

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

WHEREAS, Neysa Fligor played an important role as Mayor and Councilmember in the City of Los Altos in promoting community clean energy in Santa Clara County; and

WHEREAS, the Los Altos City Council appointed Neysa Fligor as its representative on the Board of Directors of SVCEA; and

WHEREAS, Neysa Fligor participated in multiple committees to provide advice, support and program input to SVCEA; and

WHEREAS, Neysa Fligor supported authorizing $17 million in additional program funding to "double down" on decarbonization programs to further reduce carbon emissions; and

WHEREAS, Neysa Fligor voted to approve $2 million in funding for new community electrification engagement programs; and

WHEREAS, Neysa Fligor supported reach codes in the City of Los Altos, and led community decarbonization efforts by ensuring all 13 SVCE communities evaluate reach codes in the 2022 cycle; and

WHEREAS, Neysa Fligor contributed to SVCEA celebrating five years of providing carbon-free electricity to residents and businesses; and

WHEREAS, Neysa Fligor voted to maintain a carbon-free power mix, and exceed the state-mandated GHG-free targets; and

WHEREAS, the CEO and staff of SVCEA will miss Neysa Fligor's quick grasp of complex issues, her ability to look around the next bend in a strategic manner, her concise statements from the dais, her leadership in supporting reach codes, and her indefatigable energy; and

WHEREAS, while serving on the board of SVCEA, Neysa Fligor voted for electricity rates that saved Los Altos customers more than $2.6 million on their energy bills.

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

ADOPTED AND APPROVED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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				

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Chair

ATTEST:

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Secretary

RESOLUTION NO. 2022-34

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

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

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

WHEREAS, Jon Willey played an important role as Councilmember in the City of Cupertino in promoting community clean energy in Santa Clara County; and

WHEREAS, the Cupertino City Council appointed Jon Willey as its representative on the Board of Directors of SVCEA; and

WHEREAS, Jon Willey supported authorizing $17 million in additional program funding to "double down" on decarbonization programs to further reduce carbon emissions; and

WHEREAS, Jon Willey voted to approve $2 million in funding for new community electrification engagement programs; and

WHEREAS, Jon Willey encouraged reach codes in the City of Cupertino, and led community decarbonization efforts by ensuring all 13 SVCE communities evaluate reach codes in the 2022 cycle; and

WHEREAS, Jon Willey supported $3 million in electric bill relief to income-qualified, CARE/FERA customers in response to the impacts of the coronavirus pandemic; and

WHEREAS, Jon Willey contributed to SVCEA celebrating five years of providing carbon-free electricity to residents and businesses; and

WHEREAS, Jon Willey voted to maintain a carbon-free power mix, and exceed the state-mandated GHG-free targets; and

WHEREAS, the CEO and staff of SVCEA will miss Jon Willey's ability to ask the broad questions, his passion to preserve the planet as a better place for his children; and

WHEREAS, while serving on the board of SVCEA, Jon Willey voted for electricity rates that saved Cupertino customers more than $4.54 million on their energy bills.

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

ADOPTED AND APPROVED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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				

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Chair

ATTEST:

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Secretary

RESOLUTION NO. 2022-35

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

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

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

WHEREAS, Gustav Larsson played an important role as Councilmember in the City of Sunnyvale in promoting community clean energy in Santa Clara County; and

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

WHEREAS, Gustav Larsson served on the Risk Oversight Committee and invested hours each month reviewing and discussing complex energy risk management strategies; and

WHEREAS, Gustav Larsson was a Legislative and Regulatory Responses to Industry Transition Ad Hoc Committee member and provided advice, support and guidance to SVCEA; and

WHEREAS, Gustav Larsson voted to approve SVCEA's participation in the California Community Choice Financing Authority (CCCFA), making SVCEA a founding member; and

WHEREAS, Gustav Larsson encouraged reach codes in the City of Sunnyvale; and

WHEREAS, Gustav Larsson contributed to SVCEA celebrating five years of providing carbon-free electricity to residents and businesses; and

WHEREAS, the CEO and staff of SVCEA will miss Gustav Larsson's incisive and helpful questions during his time on the Board and the Risk Oversight Committee, his conciseness in delivering his communications with maximum efficiency, his amenable demeanor in every situation; and

WHEREAS, while serving on the board of SVCEA, Gustav Larsson voted for electricity rates that saved Sunnyvale customers more than $23.63 million on their energy bills.

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

ADOPTED AND APPROVED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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:

____
Secretary

RESOLUTION NO. 2022-36

RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY COMMENDING DIRECTOR MARICO SAYOC FOR HER PROMOTION OF COMMUNITY CLEAN ENERGY IN SANTA CLARA COUNTY AND HER DEDICATED SERVICE ON THE BOARD OF DIRECTORS OF THE AUTHORITY ON BEHALF OF THE TOWN OF LOS GATOS

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

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

WHEREAS, Marico Sayoc played an important role as Mayor and Councilmember in the Town of Los Gatos in promoting community clean energy in Santa Clara County; and

WHEREAS, the Los Gatos Town Council appointed Marico Sayoc as its representative on the Board of Directors of SVCEA; and

WHEREAS, Marico Sayoc served on the SVCEA Legislative Ad Hoc Committee and provided advice, support and guidance to SVCEA; and

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

WHEREAS, Marico Sayoc supported reach codes in the Town of Los Gatos; and

WHEREAS, Marico Sayoc contributed to SVCEA celebrating five years of providing carbon-free electricity to residents and businesses; and

WHEREAS, while serving on the board of SVCEA, Marico Sayoc voted for electricity rates that saved Los Gatos customers more than $3.84M on their energy bills.

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

ADOPTED AND APPROVED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				

City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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:

Secretary

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, November 9, 2022
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

Pursuant to State of California Gov't Code Section 54953 (e) the meeting was conducted via teleconference with an option for members of the Board of Directors and staff to participate in person.

DRAFT MINUTES

Call to Order:
Chair Gibbons called the Regular Meeting to order at 7:05 p.m.

Roll Call
Present:
Liz Gibbons (Chair), Campbell
George Tyson (Vice Chair), Los Altos Hills
Jon Robert Willey, Cupertino
Neysa Fligor, Los Altos
Rob Rennie, Los Gatos
Evelyn Chua, Milpitas
Javed Ellahie, Monte Sereno
Margaret Abe-Koga, Mountain View
Tina Walia, Saratoga
Larry Klein, Sunnyvale
Otto Lee, Santa Clara County

Absent:
Zach Hilton, Gilroy
Yvonne Martinez Beltran, Morgan Hill

Chair Gibbons, Vice Chair Tyson, Director Abe-Koga, Director Willey and Director Walia attended in person; all other Directors attended via teleconference.

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

Consent Calendar

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.

1a) Approve Minutes of the October 12, 2022, Board of Directors Meeting

1b) Receive September 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) Approve Fleet Electrification Planning Agreement with Optony Inc. for SVCE Fleet Electrification Technical Assistance Program
1e) Amending Program for SVCE Support of Electric Vehicle Charging in Affordable Housing Developments

1f) Approve Scholarship Funds for 2023 Empower SV Short-Film Competition

1g) Adopt Resolution Approving SVCE Complimentary Ticket or Pass Distribution Policy Pursuant to FPPC Regulation 18944.1

1h) Adopt Resolution Authorizing the Chief Executive Officer to Negotiate and Execute Contracts up to $300,000 for Recruiting Purposes for 180 Days

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

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

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

<u>Regular Calendar</u>

2) CEO Report (Discussion)

CEO Girish Balachandran addressed the following in his CEO report:

- Introduction of new Senior Regulatory Advisor, Citlalli Sandoval, who provided brief welcome comments;
- Preparation for a discussion with the Executive Committee regarding the Brown Act and Governor Newsom's executive order expiring on February 28, 2023;
- An invitation for the Board of Directors to attend the Rabbitbrush solar plus storage project ribbon cutting ceremony on November 30, 2022;
- The 2022-23 customer-focused Strategic Workplan, noting hard copies would be mailed to Directors and Alternates; and
- Announcement of a reception to recognize the service of SVCE's outgoing board members on December 14, 2022 at 5:30 p.m. in Cupertino Community Hall.

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

Amrit Singh, CFO and Director of Administrative Services, introduced Michael Berwanger of PFM Financial Advisors and provided a presentation with a request for the Board of Directors to authorize the CEO to execute or approve prepay agreements. Areas of discussion in the presentation included a recap of the prepay goal and structure, and board-authorized parameters for execution of the deal. CFO and Director of Administrative Services Singh noted staff was requesting the Board of Directors give approval with the ability for the CEO to make any minor clarifying modification to contracts as necessary, and the Board's authorization would be subject to the following parameters:

1. The Bonds, issued by CCCFA, will not be guaranteed obligations of SVCE but will be limited obligations of CCCFA payable solely from the revenues and other amounts pledged under the Indenture as the Trust Estate, including amounts owed by SVCE under the Power Supply Contract.

2. The aggregate principal amount of the Bonds shall not exceed $1,000,000,000.

3. The energy savings to SVCE under the Power Supply Contract for the initial Reset Period, including the Annual Refund (as defined in the Power Supply Contract), shall be at least 8 percent.

CFO and Director of Administrative Service Singh responded to board member questions.

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

MOTION: Director Chua moved and Director Ellahie seconded the motion to adopt Resolution 2022-30 authorizing the CEO to execute the Power Supply Contract with the CCCFA and execute or approve the related supporting agreements to enable SVCE to enter an approximately 30-year energy prepayment transaction with authority to make any minor clarifying modifications to the contracts and agreements as necessary that do not change the intent or economics of the transaction.

The motion carried unanimously with Director Hilton and Director Martinez Beltran absent.

4) Community Resilience Program Update (Presentation)

Zoe Elizabeth, Deputy Director of Decarbonization Programs and Policy, and Jessica Cornejo, Program Specialist – Policy & Government Initiatives, provided a presentation on the Community Resilience Program, which included background information on the program, grant status of member agency projects, and options for ongoing support.

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

5) New Construction Reach Code Update (Presentation)

Zoe Elizabeth, Deputy Director of Decarbonization Programs and Policy, presented a PowerPoint presentation providing a status update on reach code efforts.

Board members thanked staff for their work and support. Director Abe-Koga noted there was interest in identifying changes that could be done mid-cycle and noted City of Mountain View staff would be reaching out to SVCE staff on what options would be possible.

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

Board Member Announcements and Future Agenda Items

Chair Gibbons announced she attended the American Institute of Architects' Monterey Design Conference, and had a very engaging conversation on electrification of the built environment.

Director Fligor thanked CEO Balachandran and Sr. Government Affairs Manager Bena Chang for participating in the League of California Cities Peninsula Division resiliency climate change event.

<u>Adjourn</u>
Chair Gibbons adjourned the meeting at 7:58 p.m.

ATTEST:

____
Andrea Pizano, Board Secretary

TREASURER REPORT

Fiscal Year to Date
As of October 31, 2022

(Preliminary & Unaudited)

Issue Date: December 14, 2022

Table of Contents

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

Financial Highlights for the month of October 2022:

> SVCE operations resulted in a change in net position of $10.6 million for the month of October and fiscal-year-to-date (FYTD).

> Retail GWh sales for the month landed -4.9% below budget.

> FYTD operating margin of $12.6 million or ~35.1% is below budget expectations of 38.7% operating margin for the fiscal year to date.

> FYTD Power Supply costs are 6.9% above budget.

> SVCE is investing ~92.6% of available funds generating FYTD investment income of $67.7 thousand.

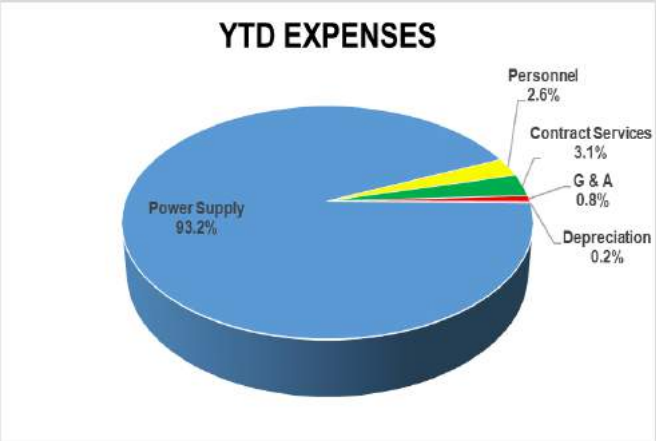
Change in Net Position	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Actual	10,608	-	-	-	-	-	-	-	-	-	-	-	10,608	115,441

Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Energy & REC's	18,322												18,322	
Wholesale Sales	(976)												(976)	
Capacity	4,101												4,101	
CAISO Charges	(538)												(538)	
NEM Expense	204												204	
Charge/Credit (IST/Net Rev)	2,104												2,104	
Net Power Costs	23,218	-	-	-	-	-	-	-	-	-	-	-	23,218	325,296

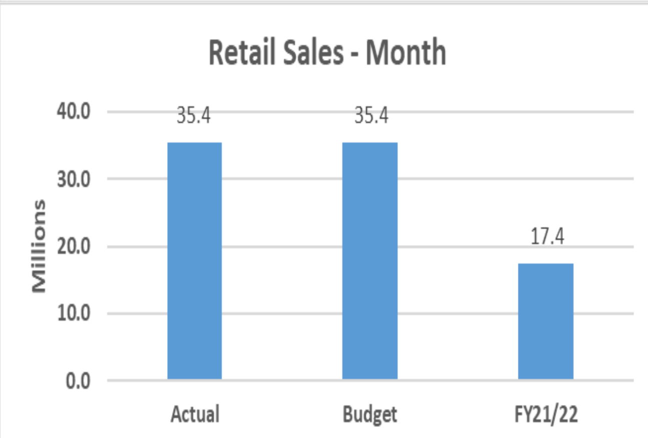
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Capital Expenditures	34												34	200
Energy Programs	73												73	15,007

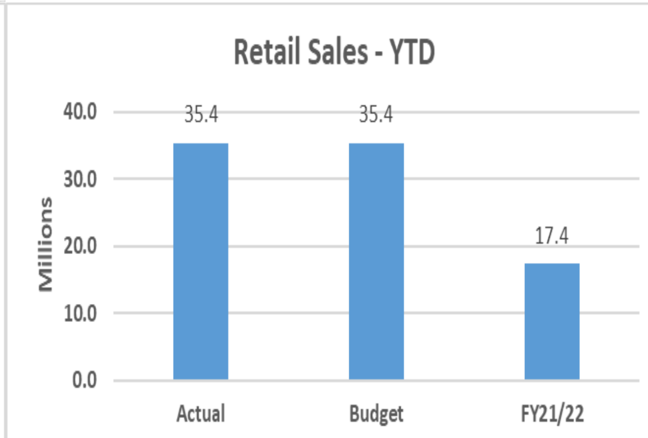
Load Statistics - GWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Retail Sales Actual	299												299	
Retail Sales Budget	315	308	331	336	295	309	290	313	340	358	369	342	3,907	3,907

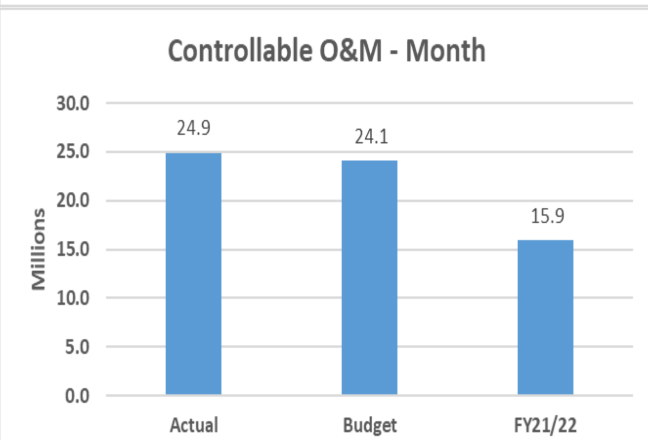
** The financial results in this report are preliminary and subject to change pending closing of the books for the fiscal year. Any potential changes are not expected to be significant.*

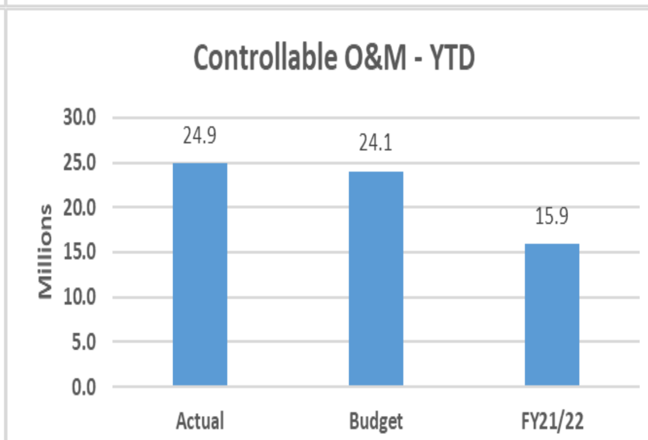


Other Statistics and Ratios	
Working Capital	$227,989,867
Current Ratio	5.5
Operating Margin	34.4%
Expense Coverage Days	208
Long-Term Debt	$0
Total Accounts	277,714
Opt-Out Accounts (Month)	74
Opt-Out Accounts (FYTD)	74
Opt-Up Accounts (Month)	(3)
Opt-Up Accounts (FYTD)	(3)









SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION
As of October 31, 2022

ASSETS		
Current Assets		
Cash & Cash Equivalents	$	207,950,955
Accounts Receivable, net of allowance		39,800,361
Market settlements receivable		208,192
Accrued Revenue		19,768,137
Other Receivables		1,103,459
Prepaid Expenses		1,440,461
Deposits		8,792,179
Restricted cash		162,083
Total Current Assets		**279,225,827**
Noncurrent assets		
Capital assets, net of depreciation		381,224
Lease asset, net of amortization		1,284,000
Deposits		45,330
Total Noncurrent Assets		**1,710,554**
Total Assets		**280,936,381**
LIABILITIES		
Current Liabilities		
Accounts Payable		1,358,703
Accrued Cost of Electricity		35,121,982
Other accrued liabilities		1,334,354
User Taxes and Energy Surcharges due to other gov'ts		1,373,816
Supplier securit deposits		11,400,000
Lease liability		485,022
Total Current Liabilities		**51,073,877**
Noncurrent Liabilities		
Supplier security deposits		7,031,250
Lease liability		869,574
Total noncurrent liabilities		7,900,824
Total Liabilities		58,974,701
NET POSITION		
Net investment in capital assets		381,224
Restricted for security collateral		162,083
Unrestricted (deficit)		221,418,373
Total Net Position	**$**	**221,961,680**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2022 through October 31, 2022

OPERATING REVENUES	
Electricity Sales, Net	$ 35,283,024
GreenPrime electricity premium	133,572
Other income	2,250
TOTAL OPERATING REVENUES	**35,418,846**
OPERATING EXPENSES	
Cost of Electricity	23,218,378
Contract services	774,560
Staff compensation and benefits	656,536
General & Administrative	200,337
Depreciation	50,510
TOTAL OPERATING EXPENSES	**24,900,321**
OPERATING INCOME(LOSS)	**10,518,525**
NONOPERATING REVENUES (EXPENSES)	
Interest Income	91,459
Financing costs	(2,428)
TOTAL NONOPERATING REVENUES (EXPENSES)	**89,031**
CHANGE IN NET POSITION	10,607,556
Net Position at beginning of period	211,354,124
Net Position at end of period	**$ 221,961,680**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2022 through October 31, 2022

CASH FLOWS FROM OPERATING ACTIVITIES	
Receipts from customers	$ 56,485,863
Other operating receipts	11,798,840
Payments to suppliers for electricity	(25,651,041)
Payments for other goods and services	(863,125)
Payments for staff compensation and benefits	(601,807)
Tax and surcharge payments to other governments	(982,924)
Net cash provided (used) by operating activities	**40,185,806**
CASH FLOWS FROM INVESTING ACTIVITIES	
Interest income received	91,459
Net change in cash and cash equivalents	40,277,265
Cash and cash equivalents at beginning of year	167,835,773
Cash and cash equivalents at end of period	**$ 208,113,038**
Reconciliation to the Statement of Net Position	
Cash and cash equivalents (unrestricted)	$ 207,950,955
Restricted cash	162,083
Cash and cash equivalents	**$ 208,113,038**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)
October 1, 2022 through October 31, 2022

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

Operating Income (loss)	$ 10,518,525
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	50,510
(Increase) decrease in net accounts receivable	15,862,857
(Increase) decrease in energy settlements receivable	(208,192)
(Increase) decrease in other receivables	(1,021,745)
(Increase) decrease in accrued revenue	4,543,667
(Increase) decrease in prepaid expenses	(462,533)
(Increase) decrease in current deposits	11,772,942
Increase (decrease) in accounts payable	317,032
Increase (decrease) in accrued cost of electricity	(845,330)
Increase (decrease) in accrued liabilities	65,804
Increase (decrease) in energy settlements payable	(87,550)
Increase (decrease) in taxes and surcharges due to other governments	(320,181)
Net cash provided (used) by operating activities	**$ 40,185,806**

SILICON VALLEY CLEAN ENERGY AUTHORITY
BUDGETARY COMPARISON SCHEDULE
October 1, 2022 through October 31, 2022

	FYTD	FYTD	Variance		FY 2022-23	FY 2022-23
OPERATING REVENUES	**Actual**	**Budget**	**$**	**%**	**Budget**	**Remaining Budge**
Energy Sales	$35,638,062	$35,332,289	$305,773	1%	$482,930,000	$447,291,938
Green Prime Premium	133,572	77,918	55,654	71%	931,000	797,428
TOTAL OPERATING REVENUES	**35,771,634**	**35,410,207**	**361,427**	**1%**	**483,861,000**	**448,089,366**
ENERGY EXPENSES						
Power Supply	23,218,378	21,721,923	1,496,455	6.9%	325,296,000	302,077,622
Operating Margin	**12,553,256**	**13,688,284**	**(1,135,028)**	**-8%**	**158,565,000**	
OPERATING EXPENSES						
Data Management	265,853	284,375	(18,522)	-7%	3,413,000	3,147,147
PG&E Fees	98,200	122,500	(24,300)	-20%	1,470,000	1,371,800
Salaries & Benefits	656,536	1,002,034	(345,498)	-34%	12,024,000	11,367,464
Professional Services	282,658	675,094	(392,436)	-58%	8,016,000	7,733,342
Marketing & Promotions	34,948	80,150	(45,202)	-56%	862,000	827,052
Notifications	29,856	10,938	18,918	173%	131,000	101,144
Lease	42,307	43,750	(1,443)	-3%	525,000	482,693
General & Administrative	190,005	112,761	77,244	69%	1,857,000	1,666,995
TOTAL OPERATING EXPENSES	**1,600,363**	**2,331,602**	**(731,239)**	**-31%**	**28,298,000**	**26,697,637**
OPERATING INCOME/(LOSS)	**10,952,893**	**11,356,682**	**(403,789)**	**-4%**	**130,267,000**	**119,314,107**
NON-OPERATING REVENUES						
Other Income	2,250	4,167	(1,917)	-46%	50,000	47,750
Investment Income	91,459	40,643	50,816	125%	592,000	500,541
TOTAL NON-OPERATING REVENUES	**93,709**	**44,810**	**48,899**	**109%**	**642,000**	**548,291**
NON-OPERATING EXPENSES						
Financing	-	250	(250)	-100%	3,000	3,000
CAPITAL EXPENDITURES, TRANSFERS, & OTHER						
Capital Outlay	33,863	16,667	17,196	103%	200,000	166,137
Transfer to Programs Fund	9,765,000	9,765,000	-	0%	9,765,000	-
Nuclear Allocation	1,900,000	1,900,000	-	0%	1,900,000	-
Customer Bill Relief	355,038	300,000	55,038	18%	3,600,000	3,244,962
TOTAL OTHER USES	**12,053,901**	**11,981,667**	**72,234**	**1%**	**15,465,000**	**3,411,099**
NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE	**-$1,007,299**	**-$580,425**	**-$426,874**	**74%**	**$115,441,000**	

SILICON VALLEY CLEAN ENERGY AUTHORITY
PROGRAM FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2022 through October 31, 2022

REVENUE & OTHER SOURCES:	**BUDGET**	**ACTUAL**	**ADOPTED BUDGET REMAINING**	**ACTUAL/ ADOPTED BUDGET**
Transfer from Operating Fund	$ 11,665,000	$ 11,665,000	$ -	100.0%
EXPENDITURES & OTHER USES:				
Program expenditures	15,007,082	73,045	14,934,037	0.5%
Net increase (decrease) in fund balance	**$ (3,342,082)**	**$11,591,955**		
Fund balance at beginning of period		28,536,229		
Fund balance at end of period		$40,128,184		

CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2022 through October 31, 2022

REVENUE & OTHER SOURCES:	**BUDGET**	**ACTUAL**	**ADOPTED BUDGET REMAINING**	**ACTUAL/ ADOPTED BUDGET**
Transfer from Operating Fund *	$ -	$ -	$ -	
EXPENDITURES & OTHER USES:				
Program expenditures *	3,119,875	-	3,119,875	
Net increase (decrease) in fund balance	**$ (3,119,875)**	**0**		
Fund balance at beginning of period		7,982,993		
Fund balance at end of period		$7,982,993		

SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING FUND
BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2022 through October 31, 2022

Net Increase (decrease) in available fund balance per budgetary comparison schedule	$	(1,007,299)
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position		
Subtract depreciation expense		(50,510)
Subract program expense not in operating budget		(73,045)
Add back GASB 87 expenses not in operating budget		39,547
Add back transfer to Program fund		11,665,000
Add back capital asset acquisition		33,863
Change in Net Position		**10,607,556**

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2022 through October 31, 2022

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	$ 35,283,024												$ 35,283,024
Green electricity premium	$ 133,572												133,572
Other Income	$ 2,250												2,250
Total operating revenues	35,418,846	-	-	-	-	-	-	-	-	-	-	-	35,418,846
OPERATING EXPENSES													
Cost of electricity	23,218,378												23,218,378
Staff compensation and benefits	656,536												656,536
Data manager	265,853												265,853
Service fees - PG&E	98,200												98,200
Consultants and other professional fees	410,507												410,507
General and administration	200,337												200,337
Depreciation	50,510												50,510
Total operating expenses	24,900,321	-	-	-	-	-	-	-	-	-	-	-	24,900,321
Operating income (loss)	10,518,525	-	-	-	-	-	-	-	-	-	-	-	10,518,525
NONOPERATING REVENUES (EXPENSES)													
Interest income	91,459	-	-	-	-	-	-	-	-	-	-	-	91,459
Financing costs	(2,428)	-	-	-	-	-	-	-	-	-	-	-	(2,428)
Total nonoperating revenues (expenses)	89,031	-	-	-	-	-	-	-	-	-	-	-	89,031
CHANGE IN NET POSITION	**$ 10,607,556**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 10,607,556**

SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2022 through October 31, 2022

Return on Investments	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	YTD Total
	$91,459	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$91,459

Portfolio Invested

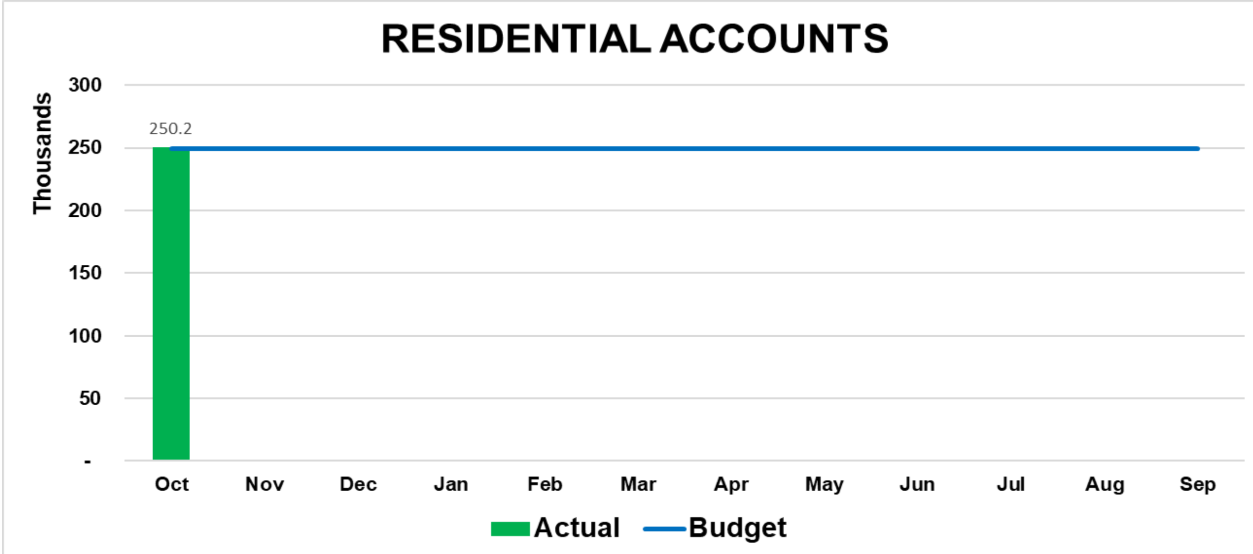
*Average daily portfolio available to invest**	172,316,490
Average daily portfolio invested	159,489,912
% of average daily portfolio invested	92.6%

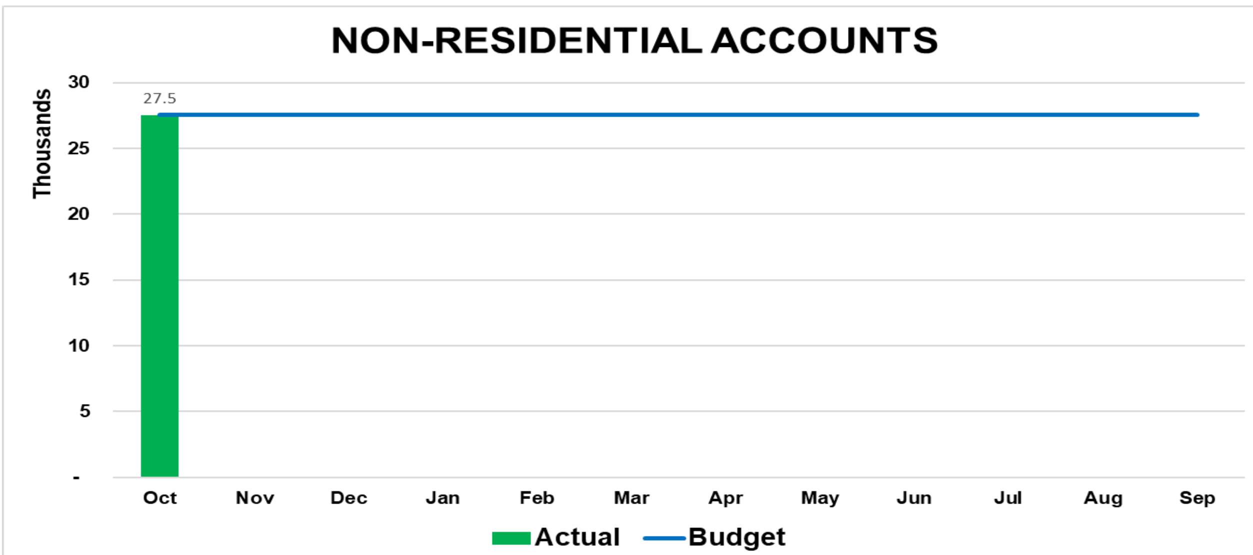
Detail of Portfolio

	Opening Rate	Current Rate	Carrying Value	Interest Earned
Money Market - River City Bank	1.26%	0.50%	$190,073,783	$67,742

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

CUSTOMER ACCOUNTS

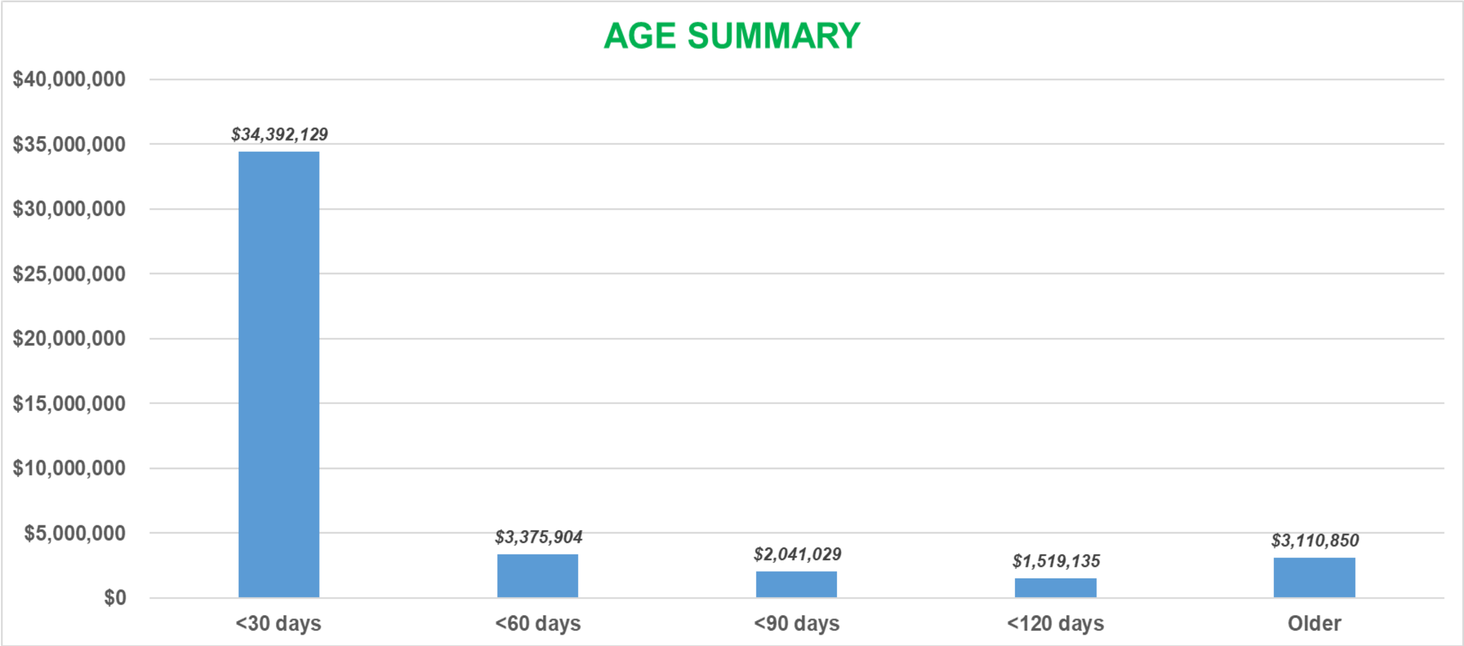




SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT

	October	November	December	January	February	March	April	May	June	July	August	September
0 to 30 days	77.4%											
31 to 60 days	7.6%											
61 to 90 days	4.6%											
91 to 120 days	3.4%											
Over 120 days	7.0%											

Accounts Receivable Days
34 Days
$44,439,047
TOTAL DUE
Bad Debt % (*Budget*)
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, General Counsel
Prepared by:	Trisha Ortiz, General Counsel
Date:	12/14/2022

RECOMMENDATION

To continue meetings to be held via teleconferencing pursuant to Government Code Section 54953(e), adopt the attached Resolution 2022-37 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).

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.

The list below identifies the board meeting dates and corresponding resolutions 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):

November 10, 2021: 2021-26;
December 8, 2021: 2021-27;
January 12, 2022: 2022-02;
February 9, 2022: 2022-03;
March 9, 2022: 2022-07;
April 13, 2022: 2022-11;
May 11, 2022: 2022-13;
June 8, 2022: 2022-14, and
August 10, 2022: 2022-18;
September 14, 2022: 2022-19;
October 12, 2022: 2022-22; and
November 9, 2022: 2022-27.

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(e). 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 December 9, 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 2022-37 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. 2022-37

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 December 9, 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 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				

City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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				

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Chair

ATTEST:

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Andrea Pizano, Board Clerk

Staff Report – Item 1d

Item 1d:	**Adopt Resolution Establishing SVCE E-ELEC ("Electric Home") Generation Rate for Residential Customers, to Correspond with New PG&E Rate**
From:	Girish Balachandran, CEO
Prepared by:	Peter Mustacich, Energy Services Lead Adam Selvin, Director of Energy Services and Community Relations Don Bray, Director of Strategic Development
Date:	12/14/2022

RECOMMENDATION

Adopt Resolution 2022-38 approving establishment of new SVCE E-ELEC "Electric Home" generation rate for residential customers, retroactively effective December 1, 2022, to correspond with new PG&E E-ELEC rate for residential customers.

BACKGROUND

As residential customers decarbonize their homes through electrification of fossil-fuel appliances, electricity consumption necessarily increases. In order to incentivize electrification and reduce associated potential on-bill impacts, PG&E created the new E-ELEC rate, also referred to as "Electric Home". This new opt-in, un-tiered residential rate mirrors the structure of PG&E's EV2 rate both in terms of seasonal variation and TOU periods, as well as eligibility: residential customers are eligible for E-ELEC if the customer uses electricity for either of 1.) electric vehicle charging, 2.) energy storage charging, or 3.) electric heat pumps (space and/or water heating).

The primary difference between E-ELEC and EV2 is the introduction of a fixed charge to reduce PG&E's transmission and distribution (T&D) volumetric rates. By introducing a $15 per month fixed charge, E-ELEC offers lower peak and partial-peak rates than EV2 (especially during the winter). For high volume electricity users, such as partially- or fully-electrified single-family homes, this is designed to recover fixed utility costs (e.g., infrastructure investments) without the over-charging which would occur for higher-usage customers using a traditional volumetric approach ($/kWh).

On December 1, 2022, PG&E introduced the first phase of the "Electric Home" or E-ELEC rate. This initial phase is not offered to NEM 1.0 and 2.0 customers, as PG&E has requested additional time to accommodate the technical administration of integrating NEM into the E-ELEC rate. Phase 2, which will introduce E-ELEC eligibility for NEM 1.0 and 2.0 residential customers, is scheduled for Q3 2023. PG&E has communicated that E-ELEC will be the default rate for all new single-family homes constructed after phase 2 is launched.

E-ELEC is available to CARE/FERA customers with qualifying technologies, who would then see a line item discount of 35 and 18 percent, respectively, on their bills. PG&E proposed to not allow medical baseline customers to participate in the new rate, consistent with their exclusion from the EV2 rate, as the medical baseline program is only compatible with tiered rate structures (where additional baseline amounts can be provided). A tiered rate, and baseline quantities, are missing from E-ELEC and EV2.

SVCE does not currently have corresponding E-ELEC generation rates in its detailed rate sheet and will need to create them in order to correctly bill newly enrolled or transitioning E-ELEC rate customers.

ANALYSIS & DISCUSSION

Eligibility and Rate Structure

E-ELEC is available to all residential customers using electricity for either of 1.) electric vehicle charging, 2.) energy storage charging, or 3.) electric heat pumps (space and/or water heating). Proof of equipment ownership is required when opting-in to the E-ELEC rate, generally in the form of serial number and/or equipment nameplate photo, and is submitted by the customer via PG&E's online enrollment platform.

E-ELEC is not currently available to NEM customers, however PG&E plans to release a "phase 2" update to E-ELEC in the summer of 2023 which will extend coverage to NEM 1.0 and 2.0 customers.

The E-ELEC rate is a voluntary (opt-in) non-tiered TOU-rate. There is no "baseline" and "above-baseline" tiers. TOU periods mirror the EV2-A, with off-peak from 12am-3pm, partial-peak from 3-4pm and 9-12am, and peak from 4-9pm every day.

The primary difference between the EV2-A rate and the new E-ELEC rate is the inclusion of a $15 per month fixed usage charge for E-ELEC customers.

Rate Design Methodology

The SVCE generation rates for E-ELEC will utilize the same methodology used to calculate all other SVCE rates. Each SVCE E-ELEC generation rate component (e.g. peak period price, off-peak price) will be discounted by SVCE's applicable generation discount (currently 1%) from the corresponding PG&E rate, inclusive of PCIA and franchise fee surcharges. This is the currently effective discount for SVCE's generation rates relative to PG&E, approved by the SVCE Board on March 9, 2022.

Timing and Approach for December 1, 2022 E-ELEC Rate Creation

If approved by the Board, the newly created E-ELEC rate will be added to the full list of currently approved SVCE rates. SVCE E-ELEC generation rates have been drafted using the methodology described above. Calpine is currently coding new billing processes needed for the E-ELEC rates (for use by SVCE and other CCAs). Once approved by SVCE, Calpine will load SVCE E-ELEC rates and execute testing. Calpine will then be able to bill customers retroactively for usage accrued under this rate as of December 1, 2022.

STRATEGIC PLAN

Rate setting is directly supported by SVCE Strategic Plan Goal 8 – Enact and maintain competitive service offerings for SVCE customers that deliver measurable economic and environmental benefits" and the accompanying measure, "Establish new rate program(s) to promote electrification, and matching of clean energy supply and demand."

If no corresponding SVCE E-ELEC rate is established, SVCE will not be able to effectively serve residential customers wishing to take service under the new E-ELEC rate.

FISCAL IMPACT

PG&E pricing for the E-ELEC rate does not allocate any portion of the monthly fixed charge to generation charges. Since this new fixed charge is intended to recover T&D investments while reducing T&D volumetric rates, it does not influence the generation charges. Peak time pricing for generation under the E-ELEC tariff is among the highest of any rate class and is expected to offset lower than average Off-Peak time pricing. Staff will be able to perform this analysis once the scope and usage patterns of customers subscribed under this rate are better known.

CONCLUSION

Staff requests that the Board approve creation of a new E-ELEC rate, to be priced at the current Board-approved discount level of 1% relative to PG&E's equivalent generation rate. Upon approval, this rate will be incorporated into SVCE's full list of approved rates.

ATTACHMENTS

1. Resolution 2022-38 Approving Establishing an E-ELEC ("Electric Home") Rate to Correspond with PG&E's New Rate
2. SVCE Residential Generation Rates and Generation Service Cost Comparison
3. Presentation – E-ELEC Rate Option for Residential Customers

SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2022-38

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY APPROVING ESTABLISHING AN E-ELEC ("ELECTRIC HOME") RATE TO CORRESPOND WITH PG&E'S NEW RATE

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

WHEREAS, at the February 9, 2022 Board of Directors Meeting, the Board adopted the policy that the Authority's customer generation rates for the default service will be 1% lower than Pacific Gas & Electric's generation rates in place as of March 2022; and

WHEREAS, on December 1, 2022, The Pacific Gas and Electric Company (PG&E) made available a new E-ELEC ("Electric Home") opt-in, non-tiered TOU-rate for residential customers; and

WHEREAS, in December 2022, in order to effectively serve residential customers wishing to take service under the new E-ELEC rate, the Board of Directors desire to grant the Chief Executive Officer the authority to establish a corresponding SVCE E-ELEC rate with generation rates 1% lower than PG&E's generation rates, and to make this rate retroactively effective December 1, 2022.

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

<u>Section 1.</u> The Chief Executive Officer is hereby authorized to create an E-ELEC ("Electric Home") rate corresponding with PG&E's new E-ELEC rate, with a generation rate discount of 1% as adopted by Resolution No. 2022-06.

<u>Section 2.</u> The Authority make the E-ELEC rate available retroactively to December 1, 2022, for all customers subscribed to the rate during this period. The Authority's adjusted electric generation rates shall be set forth in an updated 2023 Electric Generation Rates Schedule. The Chief Executive Officer shall provide a copy of the updated 2023 Electric Generation Rates Schedule to the Board of Directors at its first meeting after the 2023 SVCE electric generation rates are finalized.

PASSED AND ADOPTED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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				

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Chair

ATTEST:

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Andrea Pizano, Board Secretary

Silicon Valley Clean Energy

Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates[1]	SVCE Generation Service[2]	PG&E Generation Service[3]	Notes
E-1	Year-round	$ 0.12942	**$ 0.15022**	$ 0.15174	Rates applicable to all usage throughout the year
E-6	**Summer** (Jun-Sep)				
	SUMMER PEAK	$ 0.25760	**$ 0.27840**	$ 0.28121	3:00 p.m. to 8:00 p.m. Monday through Friday
	SUMMER PART-PEAK	$ 0.17550	**$ 0.19630**	$ 0.19828	12:00 p.m. to 3:00 p.m. AND 8:00 p.m. to 10:00 p.m. Monday through Friday, 5:00 p.m. to 8:00 p.m. Saturday and Sunday
	SUMMER OFF-PEAK	$ 0.10602	**$ 0.12682**	$ 0.12810	All other times including Holidays
	Winter (Oct-May)				
	WINTER PART-PEAK	$ 0.14290	**$ 0.16370**	$ 0.16535	5:00 p.m. to 8:00 p.m. Monday through Friday
	WINTER OFF-PEAK	$ 0.10943	**$ 0.13023**	$ 0.13155	All other times including Holidays
EV-A, EV-B	**Summer** (May-Oct)				
	SUMMER PEAK	$ 0.28932	**$ 0.31012**	$ 0.31325	2:00 p.m. to 9:00 p.m. Monday through Friday, 3:00 p.m. to 7:00 p.m. Saturday, Sunday and Holidays
	SUMMER PART-PEAK	$ 0.14728	**$ 0.16808**	$ 0.16978	7:00 a.m. to 2:00 p.m. and 9:00 p.m. to 11:00 p.m. Monday through Friday, except holidays
	SUMMER OFF-PEAK	$ 0.10137	**$ 0.12217**	$ 0.12340	All other hours
	Winter (Nov-Apr)				
	WINTER PEAK	$ 0.09680	**$ 0.11760**	$ 0.11879	2:00 p.m. to 9:00 p.m. Monday through Friday. 3:00 p.m. to 7:00 p.m. Saturday, Sunday and Holidays
	WINTER PART-PEAK	$ 0.07220	**$ 0.09300**	$ 0.09394	7:00 a.m. to 2:00 p.m. and 9:00 p.m. to 11:00 p.m. Monday through Friday, except holidays
	WINTER OFF-PEAK	$ 0.07220	**$ 0.09300**	$ 0.09394	All other hours

Silicon Valley Clean Energy

Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates[1]	SVCE Generation Service[2]	PG&E Generation Service[3]	Notes
EV-2A	**Summer** (Jun-Sep)				
	SUMMER PEAK	$ 0.19606	**$ 0.21686**	$ 0.21905	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	SUMMER PART-PEAK	$ 0.15180	**$ 0.17260**	$ 0.17434	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	SUMMER OFF-PEAK	$ 0.11107	**$ 0.13187**	$ 0.13320	All other hours
	Winter (Oct-May)				
	WINTER PEAK	$ 0.13976	**$ 0.16056**	$ 0.16218	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	WINTER PART-PEAK	$ 0.12739	**$ 0.14819**	$ 0.14969	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	WINTER OFF-PEAK	$ 0.10415	**$ 0.12495**	$ 0.12621	All other hours
E-ELEC	**Summer** (Jun-Sep)				
	SUMMER PEAK	$ 0.27501	**$ 0.29581**	$ 0.29880	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	SUMMER PART-PEAK	$ 0.17689	**$ 0.19769**	$ 0.19969	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	SUMMER OFF-PEAK	$ 0.13224	**$ 0.15304**	$ 0.15459	All other hours
	Winter (Oct-May)				
	WINTER PEAK	$ 0.11450	**$ 0.13530**	$ 0.13667	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	WINTER PART-PEAK	$ 0.09473	**$ 0.11553**	$ 0.11670	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	WINTER OFF-PEAK	$ 0.08152	**$ 0.10232**	$ 0.10335	All other hours

Silicon Valley Clean Energy

Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates[1]	SVCE Generation Service[2]	PG&E Generation Service[3]	Notes
E-TOU-B	**Summer** (Jun-Sep)				
	SUMMER PEAK	$ 0.24830	**$ 0.26910**	$ 0.27182	4:00 p.m. to 9:00 p.m. Monday through Friday
	SUMMER OFF-PEAK	$ 0.12647	**$ 0.14727**	$ 0.14876	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	$ 0.14336	**$ 0.16416**	$ 0.16582	4:00 p.m. to 9:00 p.m. Monday through Friday
	WINTER OFF-PEAK	$ 0.10495	**$ 0.12575**	$ 0.12702	All other times including Holidays
E-TOU-C	**Summer** (Jun-Sep)				
	SUMMER PEAK	$ 0.17872	**$ 0.19952**	$ 0.20154	4:00 p.m. to 9:00 p.m. everyday
	SUMMER OFF-PEAK	$ 0.12582	**$ 0.14662**	$ 0.14810	All other times
	Winter (Oct-May)				
	WINTER PEAK	$ 0.13044	**$ 0.15124**	$ 0.15277	4:00 p.m. to 9:00 p.m. everyday
	WINTER OFF-PEAK	$ 0.11557	**$ 0.13637**	$ 0.13775	All other times

Silicon Valley Clean Energy

Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates[1]	SVCE Generation Service[2]	PG&E Generation Service[3]	Notes
E-TOU-D	**Summer** (Jun-Sep)				
	SUMMER PEAK	$ 0.20786	**$ 0.22866**	$ 0.23097	5:00 p.m. to 8:00 p.m. Monday - Friday
	SUMMER OFF-PEAK	$ 0.10395	**$ 0.12475**	$ 0.12601	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	$ 0.16740	**$ 0.18820**	$ 0.19010	5:00 p.m. to 8:00 p.m. Monday - Friday
	WINTER OFF-PEAK	$ 0.13267	**$ 0.15347**	$ 0.15502	All other times including Holidays
GreenPrime			**+ $ 0.00800**		Same as applicable rate, with $0.008/kWh adder for 100% Renewable energy

[1] SVCE Generation Rates, without added PG&E fees, effective 12/1/2022

[2] SVCE Generation Service reflects our price for Generation, with added PG&E fees (PCIA and Franchise Fees), effective 12/1/2022

~~3~~ PG&E Generation service rate effective 12/1/2022

E-ELEC Rate Option for Residential Customers

Dec 14h, 2022

Don Bray, Director of Strategic Development
Peter Mustacich, Energy Services Lead

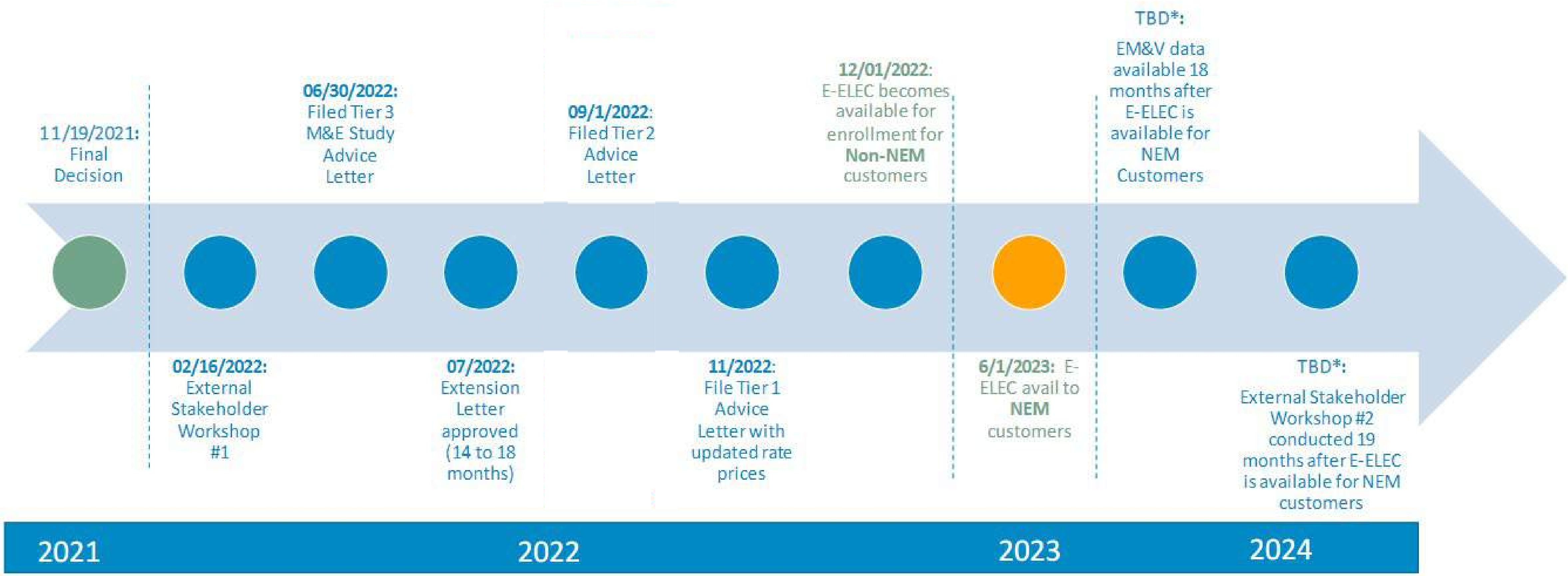
SILICON VALLEY CLEAN ENERGY

What is E-ELEC?

- E-ELEC ("Electric Home") is a non-tiered, opt-in residential rate schedule
- Intended to incentivize residential electrification by lowering volumetric charges on transmission and distribution (T&D) rate components
- Includes a fixed monthly charge of $15 to recover PG&E's fixed costs (meter reading, maintenance, service, O&M, etc.)
- Residential customers are eligible if the customer uses electricity for any of the following:
  - Heat pump space and/or water heating,
  - EV Charging, or
  - Energy storage charging

Item 1d
Attachment 3

Timeline for E-ELEC (Electric Home)



*Dates are contingent on when E-ELEC is implemented for NEM customers

E-ELEC (Electric Home) Rate Features

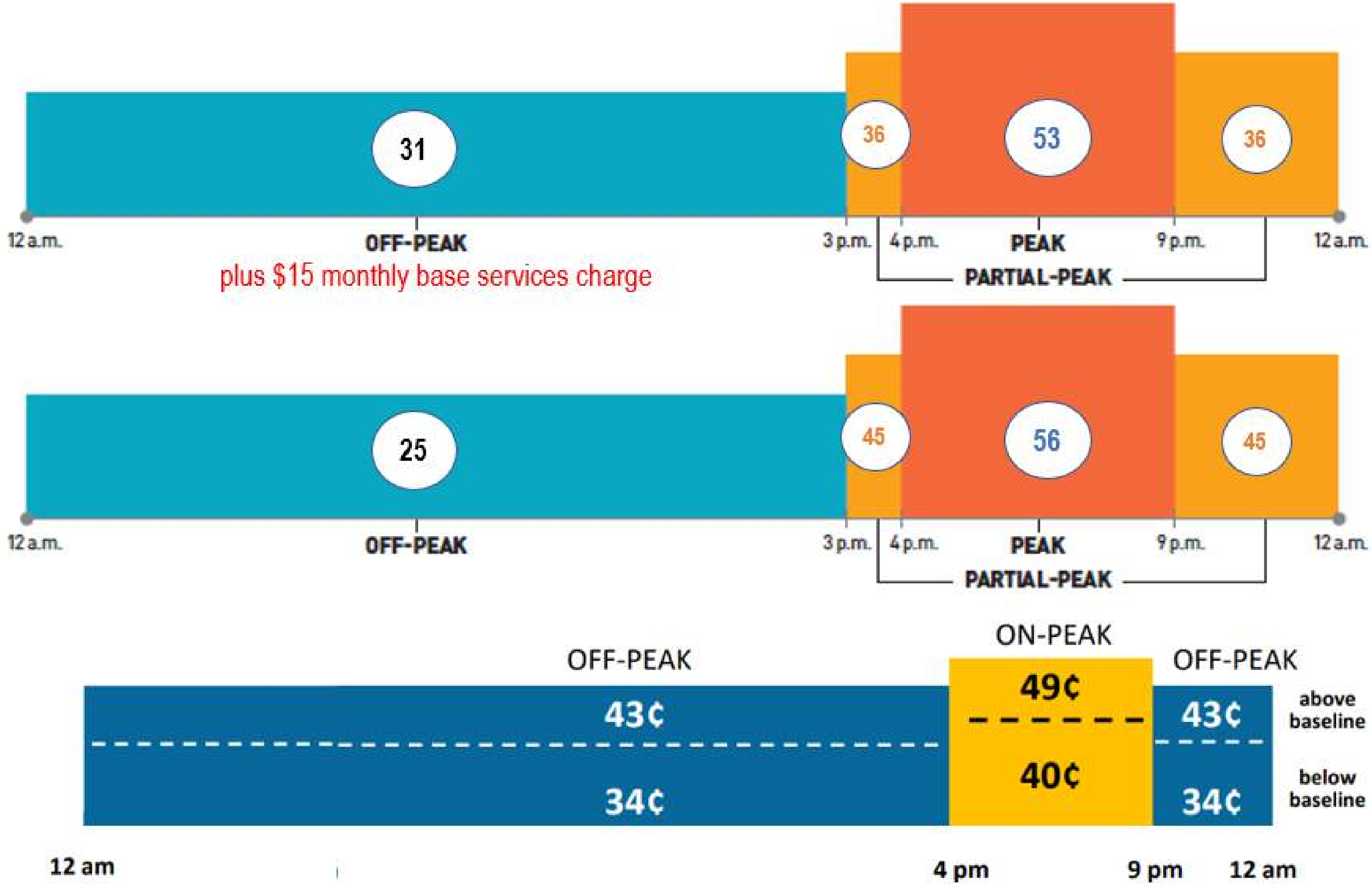
Seasons	Same as all currently applicable single family rates • Summer: 06/01 to 09/30 (4 months) • Winter: 10/01 to 05/31 (8 months)
Time-of-Use Periods	Same as Home Charging (EV-2A) • Peak: 4pm - 9pm daily • Partial Peak: 3pm - 4pm, 9pm - 12am daily • Off Peak: all other times (12am - 3pm) daily
Rates / Charges	• *Fixed Charge (daily price)* • *No minimum delivery charge* • Energy Charges vary by Season and TOU Period, similar to other TOU rate plans

Summer Rate Comparison (June-Sept)

Electric Home (E-ELEC)

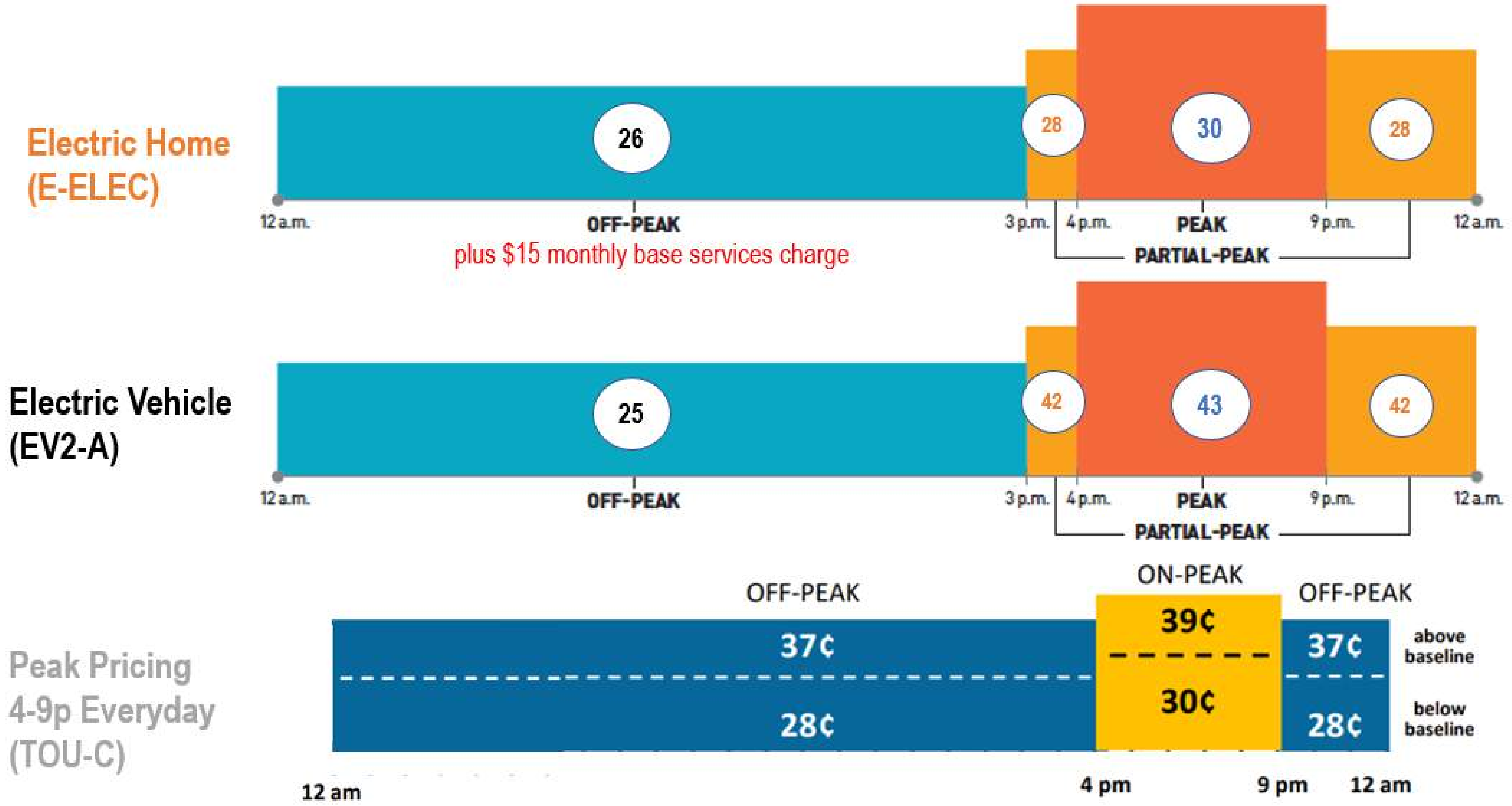
Electric Vehicle (EV2-A)

Peak Pricing 4-9p Everyday (TOU-C)



*TOU-C rates from Sept 1, 2022

Winter Rate Comparison (Oct-May)



E-ELEC (Electric Home) Eligibility

Qualifying Technologies	Similar to Home Charging (EV2A): 1) Electric Vehicles 2) Energy storage 3) Electric heat pumps used for a) water heating and/or b) space conditioning (i.e., heating or cooling)
Eligible Programs	• **Medical Baseline Discount *** • **CARE/FERA*** • SmartRate Program • PG&E Solar Choice • Regional Renewable Choice • Green Saver Discount (DAC-GT) • Local Green Saver (CS-GT) • California Climate Credit
Ineligible Programs	• Employee Discount • Home Area Network (HAN) for bill forecast and for “marginal” price

E-ELEC SVCE Generation Rates

E-ELEC

Time of Use Period	SVCE Generation Rates[1]	SVCE Generation Service[2]	PG&E Generation Service[3]
Summer (Jun-Sep)			
SUMMER PEAK	$ 0.27501	**$ 0.29581**	$ 0.29880
SUMMER PART-PEAK	$ 0.17689	**$ 0.19769**	$ 0.19969
SUMMER OFF-PEAK	$ 0.13224	**$ 0.15304**	$ 0.15459
Winter (Oct-May)			
WINTER PEAK	$ 0.11450	**$ 0.13530**	$ 0.13667
WINTER PART-PEAK	$ 0.09473	**$ 0.11553**	$ 0.11670
WINTER OFF-PEAK	$ 0.08152	**$ 0.10232**	$ 0.10335

1 SVCE Generation Rates, without added PG&E fees, effective 12/1/2022

2 SVCE Generation Service reflects our price for Generation, with added PG&E fees (PCIA and Franchise Fees), effective 12/1/2022

3 PG&E Generation service rate effective 12/1/2022

Staff Recommendation

- Recommend approving a Resolution to add E-ELEC (Electric Home) rate option for SVCE customers to mirror PG&E's new E-ELEC rate, retroactively effective starting December 1, 2022

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1e

Item 1e:	**Acknowledge Additional Meeting Expenses with Pisenti & Brinker, LLP for Past Financial Audits**
From:	Girish Balachandran, CEO
Prepared by:	Kevin Armstrong, Deputy Director of Administrative Services
Date:	12/14/2022

RECOMMENDATION

Acknowledge additional meeting expenses with Pisenti & Brinker, LLP for past financial audits, in an amount totaling $2,375.

BACKGROUND

Pisenti & Brinker, LLP ("Pisenti") has performed financial audit services for SVCE since its inception in 2016. Prior to the onset of COVID and remote work in March 2020, Pisenti regularly met with SVCE staff, the audit committee, and the Board of Directors in person as needed, to present financial audit results.

Pisenti's original agreement with SVCE was for a term from November 29, 2017 to June 30, 2020, with an NTE amount of $77,000. The agreement was amended in May 2020, extending the term to November 29, 2022 and increasing the NTE amount to $130,100.

Both the original and amended scopes of work included expense allowances for in person meetings, however in early 2019 and early 2020, SVCE staff and Pisenti agreed that additional unplanned meetings were required, and that Pisenti could claim expenses for these additional meetings.

ANALYSIS & DISCUSSION

In November 2022, during routine cleanup and closeout of expiring contracts, staff realized that prior payments to Pisenti for financial audit services had exceeded the NTE of $130,100 as amended in May 2020. Payments to Pisenti totaled $132,475, which exceeded the NTE by $2,375. Staff audited past invoices, uncovering the additional meeting expenses that had been agreed upon and charged. Staff confirmed through communication with Pisenti and a review of archived emails that the charges had been known and agreed to at the respective times but were not subsequently accounted for in the amended NTE. While the charges incurred are not in dispute, they do exceed the contractual NTE, and so staff recommends the Board acknowledge the expenses to certify their validity for SVCE's records.

In order to avoid future situations where additional expenses exceeding an agreement's NTE amount are agreed upon and incurred by parties outside of a formal amendment, staff recommends 1) At the time of the execution / amendment of an agreement, evaluating the inclusion of a contingent "miscellaneous expense" amount when warranted, and 2) requiring that prior to payment of any final invoice, the project / program manager calculate and note the running agreement balance prior to approval of the final payment and contract closeout.

STRATEGIC PLAN

The proposal supports SVCE's 2022-2023 Strategic Plan Goal 18, to "Commit to maintaining a strong financial position", by recognizing actual expenses incurred and improving project oversight processes.

ALTERNATIVE

Staff is open to alternatives from the Board.

FISCAL IMPACT

This action will have no financial impact, as funds have already been paid to Pisenti.

ATTACHMENTS

1. Amended Agreement with Pisenti & Brinker, LLP for Financial Audit Services, May 2020
2. Correspondence between Pisenti & Brinker and SVCE, agreeing to additional meeting attendance expenses in 2019 and 2020.

FIRST AMENDMENT TO AGREEMENT WITH PISENTI & BRINKER, LLP

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency ("Authority"), and PISENTI & BRINKER, LLP entered into that certain agreement entitled FINANCIAL STATEMENT AUDIT SERVICES, effective on November 29, 2017, hereinafter referred to as "Original Agreement"; and

WHEREAS, Authority and PISENTI & BRINKER, LLP 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 29, 2017 and shall terminate on November 29, 2022, unless terminated earlier as set forth herein.

2. Compensation to Consultant 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 thousand and one hundred dollars ($130,100.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

3. Exhibit C Compensation Section of Original Agreement shall be amended to read as follows:

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of one hundred thirty thousand and one hundred dollars ($130,100.00) 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.

Fiscal periods ending	**Financial Statement Audit**	**Management Letter & Other Communications**	**Total Proposed Fees**
March 31 to June 30, 2016; July 1 to September 30, 2016: September 30, 2017	$27,500	Included	$27,500
September 30, 2018	$24,500	Included	$24,500
September 30, 2019	$25,000	Included	$25,000

Amended Values

September 30, 2020	$26,300	Included	$26,300
September 30, 2021	$26,800	Included	$26,800

4. This Amendment shall be effective on May 14, 2020.

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

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

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

RECOMMENDED FOR APPROVAL

DocuSigned by:
Don Eckert
10C84C9C59134BD...

Don Eckert, Director of Finance and Administration

CONSULTANT NAME
PISENTI & BRINKER, LLP

DocuSigned by:
By: Brett Bradford
Name: Brett Bradford
Title: Partner
Date: 5/14/2020

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

DocuSigned by:
By: Girish Balachandran
5A64B9AC4C24C3...
Name: Girish Balachandran
Title: Chief Executive Officer
Date: 5/14/2020

APPROVED AS TO FORM:

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

Counsel for Authority

ATTEST:

DocuSigned by:
Andrea Pizano
D0029733BB994BA...

Authority Clerk

Kevin Armstrong

From: Brett P. Bradford
Sent: Tuesday, November 15, 2022 1:02 PM
To: Kevin Armstrong
Cc: Nikolas Zanotto
Subject: RE: SVCE - Prior Agreement NTE Overage - ~$2400
Attachments: Silicon Valley Clean Energy Authority invoice 75788.pdf

Hi Kevin,

You are correct, it was for additional meeting attendance beyond the original scope. The yellow amounts below should be the sum of the total overage. It looks like you have one invoice that breaks out the additional amount and I have attached the other one. I don't have anything from Don in my email any more, since it is going back a few years. Let me know if you need any more info or if I can answer any questions.

Thanks

9/30/2018			
Engagement Fees			2/22/2019
Audit	$	24,500	
Additional for board meeting attendance	$	975	
WIP			30,958.56
Earned			25,475

9/30/2019				
Engagement Fees				2
Audit	$	25,000		
			WIP	23,
			Audit - Earned	$
			Additional for board meeting attendance	
			BRS	
			BPB	
			Courtesy discount	

Brett P. Bradford, CPA | **Partner**
PISENTI & BRINKER LLP
3562 Round Barn Circle, Suite 200
Santa Rosa, CA 95403
Phone: 707-577-1582
Main: 707-542-3343

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From: Kevin Armstrong
Sent: Tuesday, November 15, 2022 12:30 PM
To: Brett P. Bradford
Cc: Nikolas Zanotto
Subject: [*** CONTAINS JAVASCRIPT - BE CAREFUL ***] SVCE - Prior Agreement NTE Overage - ~$2400

Hi Brett –

I know Kellin is taking over partner responsibility on our impending audit, but we've run into an odd issue with the prior agreement that we're unfortunately only just discovering now, and that you might be able to shed light on. It seems that our prior engagement exceeded the aggregate NTE by ~2400 or so, and the deviation seems to stem from some charges in 2019 - 2020, when Don Eckert and Eric Acedo were around and approving invoices. A part of the overage seems to be from an additional meeting that was added to the scope (presumably approved on the fly with Don Eckert), but I'm not sure about the remainder, which appears connected to a partial payment with little detail included. I've attached the billing log showing the totals, the two invoices from 2019-2020 that I referenced, and the May 2020 amendment that extended the term and raised the NTE to $130,100.

We should have caught this on our end well before now, so our apologies for the late discovery. As the prior engagement doesn't actually term out until Nov 29th in a few weeks, though, we still potentially have time to address things before the whole agreement becomes retroactive.

Do you happen to have any insight you can provide that would enlighten us on that partial charge, like maybe some communication from Don E?

Kevin Armstrong
Deputy Director of Administrative Services
408-549-2670
SVCleanEnergy.org | Follow us @SVCleanEnergy

Staff Report – Item 1f

Item 1f:	**Executive Committee Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	George Tyson, Executive Committee Chair
Date:	12/14/2022

The Executive Committee met November 14, 2022 and received information on hybrid meeting requirements following termination of the governor's emergency order, received an update on 2023 SVCE Board Elections, heard from staff on establishing an electrification discount rate, and received a presentation on FutureFit Homes.

Kevin Armstrong, Deputy Director of Administrative Services, provided information on virtual attendance options following the end of the governor's emergency order on February 28, 2023. AB 2449 and traditional Brown Act requirements were discussed and the ways in which they could allow for continued remote participation if desired. Staff recommended to utilize Cupertino Community Hall as the primary physical meeting location for Board of Directors meetings and the SVCE office as the primary physical location for Brown Act committee meetings. Staff also offered to help assist in coordinating public meeting locations in other member agency cities with advance notice. This item will be discussed with the Board of Directors for additional input.

Board Clerk Andrea Pizano provided an informational update on 2023 SVCE Board Elections which included a general timeline of events; this process and proposed deadlines will be shared at the December Board of Directors meeting.

Don Bray, Director of Strategic Development, Adam Selvin, Director of Energy Services and Community Relations, and Peter Mustacich, Energy Services Lead, presented information on an 'Electric Home' rate and led a discussion of the 2023 discount options. Staff noted there was an updated FY23 budget analysis that supported funds for an additional expenditure of $30M, and recommended a hybrid approach to allocate the $30M to fund a combination of increasing SVCE's overall discount rate for 2023, implementing a new 'electrification discount' and expanded multifamily direct-install program. Committee members provided feedback and support of the staff recommendation. Staff will be presenting an action item at the December board meeting to consider the recommended allocation of these funds.

Justin Zagunis, Director of Decarbonization Programs and Policy, and Jessamyn Allen, Program Manager, presented on SVCE's FutureFit Homes program, which expands residential building electrification incentives by providing up to $8,000 in rebates for HPWH, HP HAVAC, panel upgrades, pre-wiring for future electric appliances, and removal of the gas meter.

Materials from this meeting can be found on SVCE's website: [SVCE Executive Committee Meeting, November 14, 2022]

The next meeting of the Executive Committee is tentatively scheduled for January 27, 2023 at 10:00 a.m., based on new member availability; the December 23, 2022 meeting has been cancelled. Materials for the January meeting will be posted no later than 72 hours in advance of the meeting.

Staff Report – Item 1g

Item 1g:	**Closing Report of the 2022 Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition**
From:	Girish Balachandran, CEO
Prepared by:	Bena Chang, Senior Manager of Government Affairs
Date:	12/14/2022

RECOMMENDATION
Staff recommends that the Board receive the closing report of the 2022 Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition ("Ad Hoc Committee").

BACKGROUND
The Ad Hoc Committee was convened at the January 2022 SVCE Board of Directors Meeting and expires at the end of 2022. The Closing Report contains documentation of the Ad Hoc Committee's operations and activities during its tenure and is the required final product of the Ad Hoc Committee upon its expiration.

ANALYSIS & DISCUSSION
The Closing Report provides documentation of the Ad Hoc Committee's activities as well as an update on each of the five policy areas defined as the scope of the Ad Hoc Committee upon its formation.

STRATEGIC PLAN
The activities of the Ad Hoc Committee including presentation of this Closing Report support Goal 12 of SVCE's Strategic Plan, "Support legislation which advances SVCE's mission to reduce dependence on fossil fuels by supporting the development of a low carbon, affordable, and reliable electric system while simultaneously advancing economy-wide decarbonization."

ALTERNATIVE
If the Board wishes to see any changes to the Closing Report, SVCE can update the Closing Report and place it on the agenda for the January 2023 Board of Directors meeting.

FISCAL IMPACT
None.

ATTACHMENTS
1. Closing Report of the Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition
2. Legislative Spreadsheet with positions and results of bills that SVCE followed and took positions on.

SILICON VALLEY CLEAN ENERGY

Attachment 1
Closing Report of the
Ad Hoc Committee of the Board
to Address Legislative and Regulatory Responses to Industry Transition

I. Committee Operations

Formation

Formation of the Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition ("Ad Hoc Committee") was authorized by the SVCE Board of Directors at its January 2022 meeting with the following three areas in scope:

- SVCE Customer Welfare and the CCA Model
- Climate Mitigation and Clean Energy Technologies
- CA Energy Regulatory and Market Structures

Members of the Ad Hoc Committee were selected at the February 2022 Board of Directors Meeting. Membership consisted of: Chair Rob Rennie, Vice Chair Yvonne Martínez Beltrán, Director Margaret Abe-Koga, Director Liz Gibbons, Director Zach Hilton, and Alternate Director Gustav Larsson.

Committee Activities

The Ad Hoc Committee held its inaugural meeting on March 3, 2022. At the meeting, the Committee elected Director Rob Rennie as Chair and Director Yvonne Martínez Beltrán as Vice Chair. The Committee reviewed SVCE's mission and policy focus areas and discussed several bills including the CalCCA sponsored bill, AB 1814 (Grayson) that would have allowed CCAs to become program administrators for CPUC EV funding, and bills related to the Brown Act.

The Ad Hoc Committee held its second meeting on June 14, 2022. The Committee discussed the Provider of Last Resort proceeding at the CPUC, several pieces of legislation, the state budget, and provided input on federal infrastructure investments.

The Ad Hoc Committee held its final meeting on November 18, 2022, and received a recap on the 2022 legislative session and a forecast of the 2023 legislative session from Jennifer Tannehill from Aaron Read & Associates. The Committee provided input on the draft 2023 Legislative Policy Platform and discussed updates on the Integrated Resource Plan and Net Energy Metering (NEM) 3.0 decisions at the CPUC.

II. Scoping Area Updates

The Ad Hoc Committee provides the following updates to the Board on each of the three priority Scoping Areas.

SVCE Customer Welfare and the CCA Model

- Working with coalition partners, SVCE was able to stop SB 881 (Min), a bill that would have created compliance measures for Integrated Resource Plans. SVCE and CalCCA worked to propose amendments to the bill that would have made it more target-based instead of prescriptive, but ultimately had to oppose the bill.
- SB 1287 (Bradford), a bill that would have raised the minimum Financial Security Requirement which CCAs and Direct Access providers are required to post in case a CCA or Direct Access Provider involuntarily returns customers, also died in the legislature.
- The revised NEM 3.0 Proposed Decision is expected to be voted out in the first quarter of 2023, with limited to no further revisions. The new decision takes directionally correct steps in reducing the

cost shift from non-NEM customers to NEM customers while also incentivizing solar plus storage build and supporting adoption of such technologies for low-income households.

Climate Mitigation and Clean Energy Technologies

- **Electric Vehicles**: EV station reliability is an increasingly important issue as stations age. SVCE worked with the author and sponsor of AB 2061 (Ting) to improve the bill which requires all state and ratepayer funded stations to provide reporting on the amount of time the station is online and functioning as anticipated. SVCE was able to negotiate amendments to create a potential separate reporting standard for level 1 and nonnetworked level 2 stations.
- **Building Decarbonization**: SVCE supported SB 1112 (Becker), which provided a mechanism to inform future tenants and property owners about decarbonization charges that are part of a Tariff on Bill Financing Program. SVCE is exploring a potential Tariff on Bill Financing pilot through the CPUC which would allow people to finance the upfront cost of electrification on their monthly utility bills. SVCE testified in support of the bill at the Senate and Assembly Energy Committee meetings. SVCE also worked with Senate Governance and Finance Committee on amendments to SB 1393 (Archuleta), a bill that would have required local governments to seek approval from the CEC for any local existing building decarbonization policies. The bill ultimately died.
- **Funding**: SVCE weighed in on the state budget and successfully advocated for funding for long-duration storage and building decarbonization. SVCE also led a federal advocacy letter with other California CCAs to detail priorities for federal funding. The Inflation Reduction Act included many of these priorities including Investment Tax Credits for stand-alone storage, decarbonized building and EV incentives. In November, SVCE led a joint CCA comment letter to the IRS and Treasury Departments on Inflation Reduction Act implementation.

California's Energy Regulatory Requirements and Market Structure

- The Governor was focused on improving the reliability of the grid this year. Through the budget, the Governor and legislature formed a new Strategic Reliability Reserve that directed the Department of Water Resources to delay the retirement of natural gas plants and secure backup generation during extreme heat events that stress the grid.
- The Governor also championed the passage of SB 846 (Dodd), which extends the life of PG&E's Diablo Canyon Nuclear Power Plant for up to an additional 5 years.
- The Provider of Last Resort proceeding remains open at the California Public Utilities Commission. SVCE will continue to monitor and engage in this proceeding to protect the financial stability and fair treatment of CCAs.

Attachment 2 - 2022 SVCE Legislative Results Spreadsheet

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Policy Platform Category (if position)
		Clean Energy/Power Supply			
SB 1158	Becker	Requires LSEs to report electricity purchases by hour.	Support	Signed by Governor	Climate Mitigation and Clean Energy Technologies
SB 887	Becker	Requires the CPUC to request CAISO identify highest priority transmission investments and to approve at least 2 of those lines as part of its '22-23 transmission planning process. Requires the CPUC to provide guidance to CAISO on various load, new renewables projections.	Watch	Signed by Governor	
SB 1174	Hertzberg	Requires the CPUC to accelerate transmission and interconnection projects. Requires the CPUC to waive RA penalties that arise from transmission/interconnection delays. Requires IOUs to annually report any transmission delays and "prudent remedial actions to address and minimize those delays."		Signed by Governor	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Policy Platform Category (if position)
SB 612	Portantino	Allows CCAs to access their proportionate share of the benefits of IOU legacy contracts in the PCIA and directs the CPUC to establish a market price benchmark for greenhouse gas-free (GHG-free) energy.	Support	Dead	Cost Shifts and Customer Indifference
SB 1020	Atkins, Laird, Caballero, Durazo	Sets interim targets for the SB 100 goal of 100% renewable energy by 2045. Interim goals are 90% renewable and zero carbon by 2035 and 95% renewable and zero carbon by 2040.	Watch	Signed by Governor	
SB 529	Hertzberg	Directs the CPUC to update its general order governing transmission construction to allow IOUs to use the permit-to-construct process to seek approval or expansion or upgrade projects for existing transmission lines. For expansion/upgrade transmission projects, IOUs will also no longer need to show a certificate of present or future public convenience and necessity requires or will require the construction of the project.	Watch	Signed by Governor	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Policy Platform Category (if position)
SB 881	Min	Requires the CPUC to require LSEs undertake "sufficient procurement" to "achieve a diverse, balanced, and reliable statewide portfolio." Allows the CPUC to assess penalties if LSEs fail this obligation.	Oppose Unless Amended	Dead	CCA Procurement Authority
		Decarbonization			
SB 833	Dodd	Creates a grant program for local government community resiliency plans and to expedite permitting for distributed energy resources.	Support	Died	Climate Mitigation/Clean Energy Funding
SB 1112	Becker	Creates statewide tariff on bill financing structure for decarbonization investments.	Support	Signed by Governor	Fuel Switching and Electrification
AB 2316	Ward	Directs CPUC to examine existing community solar programs and modify them as needed. Gives CPUC the option to create a new community solar program, if warranted.	Watch	Signed by Governor	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Policy Platform Category (if position)
AB 2061	Ting	Requires entities that receive state or ratepayer funding for EVSEs to report station uptime to the CEC. Starting in 2025, the CEC would do an assessment to see if there are differences in station uptime according to location, population density and income.	Support	Signed by Governor	Fuel Switching and Electrification
SB 379	Wiener	Requires jurisdictions to adopt an online, automated solar permitting platform for residential solar and solar + storage installations.	No position	Signed by Governor	
AB 2143	Carrillo	Would require prevailing wage for behind the meter renewable electric generation facilities/storage. Small scale residential projects (under 15 kilowatts) would be exempt.	Watch	Signed by Governor	
SB 1393	Archuleta	Requires CEC to develop new guidelines for local building decarb ordinances. Requires CEC review for replacement upon retrofit or burnout for gas appliance ordinances.	Opposed, then moved to Neutral	Dead	Fuel Switching and Electrification
SB 1026	Wieckowski	Requires the CEC and HCD to prepare a residential energy efficiency disclosure statement form for landlords.	Support	Dead	Fuel Switching and Electrification

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Policy Platform Category (if position)
AB 1814	Grayson	Adds CCAs as eligible program administrators for CPUC's Transportation Electrification program.	Support	Died	Climate Mitigation/Clean Energy Funding
Brown Act Bills					
AB 1944	Lee and C. Garcia	Allows local government to not publish a teleconference location if the legislative body member is participating from a private location. The meeting would need to be accessible to the public via teleconference.	Support	Died	Board Position
SB 1100	Cortese	Allows legislative bodies to remove members of the public who are willfully interrupting the meeting. Defines "willfully interrupting" as intentionally behaving in a way that substantially impairs or renders infeasible the orderly conduct of the meeting.	Support	Signed by Governor	Board Position
AB 2449	Rubio	Allows agencies to relax teleconferencing rules if at least a quorum of members participates in person from a singular location clearly identified on the agenda within the agency's jurisdiction.	Watch	Signed by Governor	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Policy Platform Category (if position)
		Miscellaneous			
AB 2204	Boerner Horvath	Establishes a Deputy Secretary for Climate within the Labor and Workforce Development Agency to oversee clean energy workforce training.	Support	Signed by Governor	Climate Mitigation/Clean Energy Financing
SB 846	Dodd	Extends operations of Diablo Canyon Power Plant another 5 years to 2030. Provides a $1.4 billion General Fund loan plus $6.50 per MWh all ratepayer funds and another $6.50 per MWh for PG&E service territory customers charge.	Watch	Signed by Governor	
AB 1279	Muratsuchi	Codifies state policy to achieve net-zero GHG emissions as soon as possible, but no later than 2045.	Watch	Signed by Governor	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Policy Platform Category (if position)
SB 1287	Bradford	Raises the Financial Security Rate that CCAs and electrical corporations must carry to cover reentry fees for customers involuntarily returning to a POLR to at least $500,000. Requires the CPUC to update the financial security calculation to include the costs of at least 12 months of incremental procurement incurred by the POLR.	Watch	Died	

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1h

Item 1h:	**California Community Power Report**
To:	Silicon Valley Clean Energy Board of Directors
From:	Girish Balachandran, CEO
Date:	12/14/2022

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 a regular board meeting on Wednesday, November 16, 2022.

Attached is a summary report from Interim General Manager Timothy Haines; materials from the November board meeting can be found here on the CC Power website: CC Power Meeting, 11/16/22

The next meeting of the board will be December 14, 2022 at 1:00 p.m.; meeting materials can be found on the CC Power website: https://cacommunitypower.org/meetings/

ATTACHMENTS:

1. CA Community Power Board Meeting Summary from Interim General Manager Timothy Haines, November 16, 2022

California Community Power

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

TO: CC Power Board of Directors and Alternates **DATE:** 11/16/2022

FROM: Tim Haines – Interim General Manager

SUBJECT: **Report on CC Power Regular Board of Directors Meeting – November 16, 2022**

The CC Power Board of Directors held its regularly scheduled meeting on Wednesday, November 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 October 16, 2022.
  - Resolution 22-11-01 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 Counsel Update on End of COVID-19 State of Emergency in California** – General Counsel Iles informed the Board that the Covid-19 State of Emergency will end on February 28, 2023. Miss Iles explained that CC Power will return to in-person meetings or comply with teleconference noticing requirements under the Brown Act. The Board had several questions and clarifying comments. The Chair requested the discussion continue at the December Board meeting.

- **Update from Strategic Business Plan ad hoc Committee –** The Interim General Manager and Phyllis Currie, CC Power consultant leading the planning effort, reviewed the draft 3-year Strategic Business Plan with the Board. The draft is the culmination of the ad hoc Committee reflection on Board Member and other interviews and Board feedback taken during the September and October public meetings. The plan sets forth the Board's strategic priorities and provides a roadmap for the full-time General Manager in developing an action plan and the 12-month budget effective in July 2023. The Board provided suggestions that will be incorporated in the final Strategic Business Plan.

- **Update from General Manager Search ad hoc Committee** – Chair Syphers, Vice-Chair Mitchell and Board Member Chaset are the Committee members. Chair Syphers updated the Board on the Committee plans and reviewed Resolution 22-11-02. Per the resolution, the Committee will select a recruiter, do outreach for interested candidates and return to the Board with final candidates.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1i

Item 1i:	**Additional Committee Reports**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Andrea Pizano, Board Clerk/Executive Assistant
Date:	12/14/2022

There are no reports for the 1) Finance and Administration and 2) Audit Committee as they have not met since October 2022 and September 2022, respectively.

The next meeting of these committees is expected for 2023; materials will be posted no later than 72 hours in advance of the meeting.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 2

Item 2:	**CEO Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Girish Balachandran, CEO
Date:	12/14/2022

REPORT

SVCE Staff Update
Sangeetha Kumar joined the SVCE team on December 1, 2022 as our new Decarbonization Data Engineer. She will be maintaining SVCE's data warehouse, developing dashboards, and conducting analyses to support SVCE's business and mission. Prior to joining SVCE, Sangeetha received a M.S. and Ph.D. in Civil Engineering from University of Texas at Austin, focusing on ventilation and indoor air quality in residences and classrooms. She previously worked in the Indoor Environment Group at Lawrence Berkeley National Lab supporting analyses for California Title 24's Mechanical Ventilation range hood standard. She also worked as an analyst at ICF, supporting federal and state projects in environmental health sciences. She received a B.S. in Environmental Science and a second degree in Mathematics from UNC Chapel Hill.

Personnel Officer Update
SVCE continues to recruit for open positions across all teams, in order to fill both existing vacancies, and a number of the new positions approved recently. In addition, we've made some adjustments to several of the salary ranges in our personnel chart, and will incorporate those into the coming Mid-Year budget as needed. We have also promoted a number of staff this month across our teams, as follows:

On the ESCR team,
- Pamela Leonard will be advancing to the Senior Manager level.
- Michaela Pippin is promoted to the role of Principal Communications Specialist.

On the DPP team,
- Jessica Cornejo is promoted to Senior Programs Services Specialist.
- Rebecca Fang is promoted to Manager of Decarbonization Programs and Policy.

On the F&A team,
- Nik Zanotto is promoted to Manager of Technology and Administrative Services.

Our congratulations to these members of our team for their valuable contributions to SVCE!

Rabbitbrush Ribbon Cutting Event, 11/30
On November 30, 2022, SVCE and Central Coast Community Energy celebrated the Rabbitbrush Project, a 100 MW solar and 20 MW/50 MWh project located in Kern County, CA. The event was well attended by a variety of stakeholders including labor groups, representation from Senator Feinstein's office, Cal CCA, and the Kern County Fire Chief, Natural Resources Director, and County Supervisor.

We would especially like to thank Alternate Director Mekechuk for making the trip to celebrate this project.

The press release can be found here.

CEO Agreements Executed

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

1) Community Resilience Program -Capital Projects Grant Agreement - South Santa Clara Fire District, Agreement: Capital Project Grant, not to exceed $100,000, 11/8/22 – 12/31/23
2) Paragon, Agreement: Recruiting services, compensation varies depending on recruitment
3) Tedesco & Associates, Agreement: Monthly Retainer Recruitment Engagement, $25,000 per month plus $10,000 per hire
4) Beth Sussman Consulting, Agreement: Leadership Development Support, Training and Coaching, not to exceed $98,000, 11/17/22 – 12/31/23
5) Ecology Action, MOU Agreement: Reliable, Equitable, and Accessible Charging for multi-family Housing (REACH) Grant Project, not to exceed $100,000, 11/21/22 – 11/20/25
6) Keyes & Fox, Amendment: Legislative Support and Legal Representation, rate amendment
7) Kestrel, Agreement: Engagement for a Green Bond Second Party Opinion, not to exceed $22,000

SILICON VALLEY CLEAN ENERGY

CEO Power Supply Agreements Executed

Counterparty Name	Execution/Effective Date	Transaction Type	Product	Start Date	End Date	Notional Value
Central Coast Community Energy	10/25/2022	Purchase	Resource Adequacy	3/1/2023	3/31/2023	$292,500.00
Central Coast Community Energy	10/25/2022	Sale	Resource Adequacy	3/1/2023	3/31/2023	$180,000.00
East Bay Community Energy	10/28/2022	Purchase	Resource Adequacy	10/1/2023	10/31/2023	$317,750.00
East Bay Community Energy	10/28/2022	Sale	Resource Adequacy	10/1/2023	10/31/2023	$287,000.00
Orange County Power Authority	10/26/2022	Purchase	Resource Adequacy	1/1/2023	3/31/2023	$586,500.00
San Diego Gas & Electric	10/31/2022	Purchase	Resource Adequacy	9/1/2023	9/30/2023	$244,260.00

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

SILICON VALLEY CLEAN ENERGY

Presentations & Relevant Meetings Attended by CEO

- Participated in CalCCA Monthly board, executive, and legislative meetings;
- CC Power Board Meeting, November 16, 2022, report included on the Consent Calendar
- Participated in California Community Choice Financing Authority Board of Directors Special Meeting, November 18, 2022 (Zak Liske, Sr. Manager of Power Operations)

ATTACHMENTS

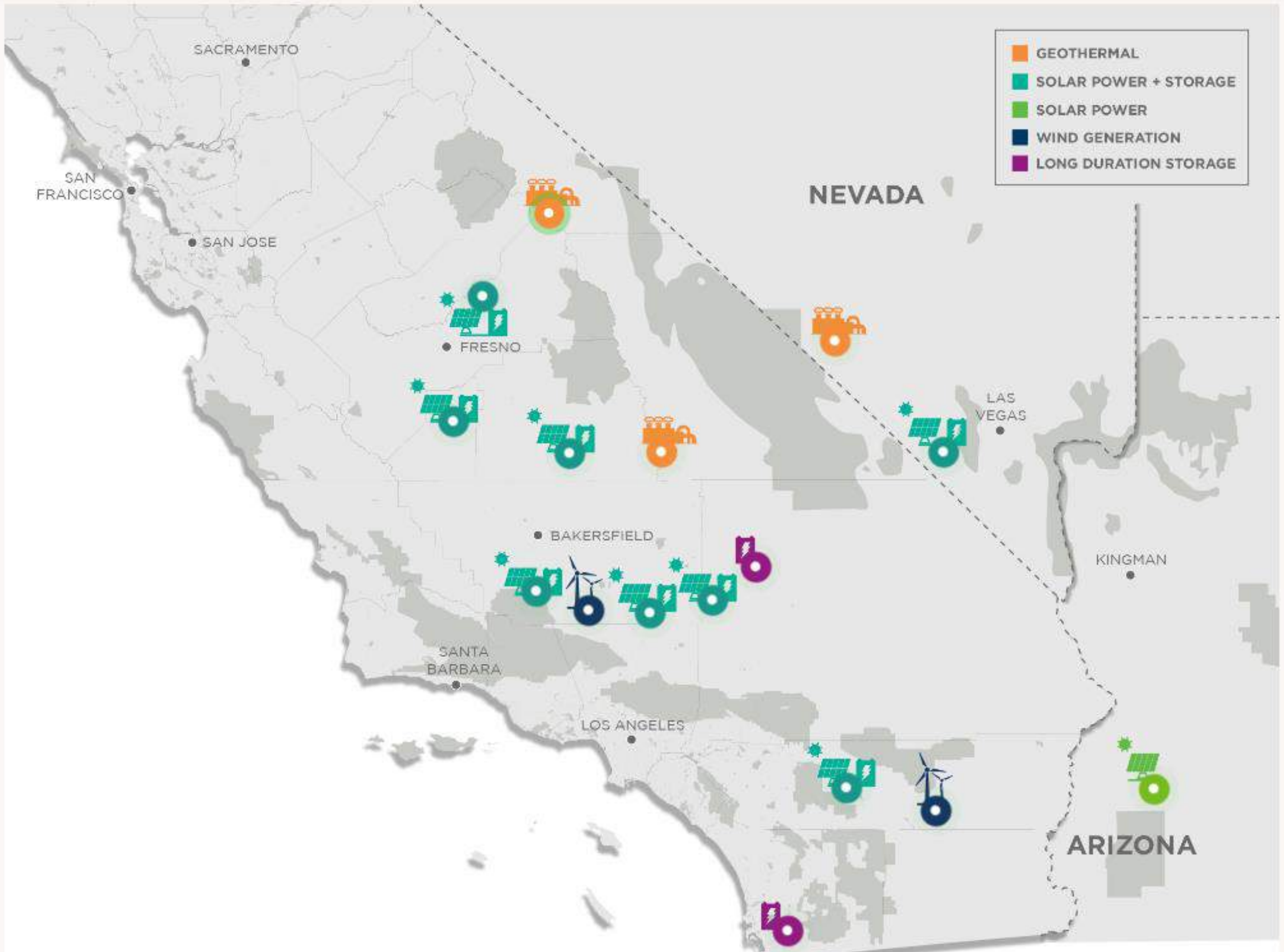
1. Clean Power Update, December 2022
2. Decarb Programs & Policy Update, December 2022
3. Energy Services & Community Relations Update, December 2022
4. Agenda Look Ahead, December 2022 – April 2023

CEO Report
Clean Power Update

SVCE Board Meeting
December 14, 2022

SILICON VALLEY
CLEAN ENERGY

Clean Long-term Power Agreements



https://svcleanenergy.org/power-sources/#1626304852954-906a3be9-bede

- $1.9B+ in commitments
- 16 PPAs signed
  - 13 new build projects
- 676 MW of Renewable Power
- 151 MW lithium-ion storage paired with 445 MW of Solar PV
- 29 MW of Long-duration storage

5 Projects now delivering to SVCE meeting ~23% energy needs:

- COSO geothermal - January 2022
- Slate Solar + Storage – January 2022
- Casa Diablo geothermal – September 2022
- Mountain View wind – July 2022
- Rabbitbrush Solar + Storage – October 2022

SVCE Long-Term Clean Energy Contracts

	Seller	Project Name	Technology	Generation MW	Storage MW	Approximate % of Annual load in 2025	Term (years)	Lifetime Not to Exceed Authority (MM$)	SVCE Board Approval	Status
1	MN8	Slate	Solar + Storage	93.0	46.5	6.7%	17	$198	Oct-18	Online
2	Ormat	Casa Diablo	Geothermal	7.0		1.4%	10	$43	Feb-20	Online
3	Atlantica	Coso	Geothermal	43.8		9.6%	15	$331	Mar-20	Online
4	Leeward	Rabbitbrush	Solar + Storage	40.0	8	3.0%	15	$64	Apr-20	Online
5	NextEra	Yellow Pine	Solar + Storage	50.0	26	4.1%	20	$128	May-20	Construction
6	Avantus	Aratina	Solar + Storage	80.0	20	6.6%	20	$174	Jun-20	Pre-construction
7	174 Power Global	Atlas	Solar	50.0	0	3.8%	10	$27	Jan-21	Pre-construction
8	SB Energy	Angela	Solar + Storage	20.0	10	1.4%	15	$35	Mar-21	Pre-construction
9	AES	Mountain View	Wind	62.5	15.625	3%	20	$128	Apr-21	Online
10	Origis	San Luis West	Solar + Storage	33.5		4%	15	$74	Apr-21	Pre-construction
11	Clearway	Victory Pass	Solar + Storage	100.0	25	8%	15	$149	May-21	Construction
12	Terra-Gen	Cameron Crest	Wind	77.7		5%	15	$150	May-21	Existing
13	Rev Renewables	Tumbleweed	Long Duration Storage		14.6	n/a	15	$100	Feb-22	Pre-construction
14	Onward	Goal Line	Long Duration Storage		14.2	n/a	15	$100	Mar-22	Pre-construction
15	Ormat	Geothermal Portfolio	Geothermal	16.75		3.3%	20	$256	Jun-22	Pre-construction
16	OME	Fish Lake	Geothermal	1.82		0.4%	20	$30	Jun-22	In-development

Clean Energy Resources On-line Progress

2022 – Q4	• Rabbitbrush Solar + Storage – ***Achieved COD on 10/18/2022*** • Atlas Solar – ***Pre-Construction - delayed***
2023 – Q1	• Cameron Crest Wind – ***Existing project. SVCE to start receiving energy on January 1, 2023.***
2023 – Q2, Q3	• Yellow Pine Solar + Storage – ***Construction mode - delayed*** • Angela Solar + Storage – ***Pre-construction - delayed*** • Aratina Solar + Storage ***– Pre-construction - delayed***
2023 – Q4	• San Luis West Solar + Storage - ***Pre-construction - delayed***
2024 – Q1	• Victory Pass Solar + Storage – ***Construction mode - delayed***
2024+	• FCR: Ormat and Fish Lake - ***Pre-construction*** • LDS: Goal Line and Tumbleweed - ***Pre-construction***

Rabbitbrush Solar + Storage

November 30, 2022 Ribbon Cutting Event

New construction project located in Kern County, CA. Developed by Leeward Renewable Energy, jointly procured with Central Coast Community Energy.

SVCE Portion
40 MW Solar PV
8 MW/20 MWh Battery Storage

10,937 homes can be powered each year with an average of 117,786 MWh of electricity provided by the project annually*

24,949 metric tons of CO2 avoided annually from the carbon-free electricity produced*

*Based on SVCE portion

Upcoming Projects

Terra-Gen: 77.7 MW Wind

- Ridgetop 1
- Ridgetop 2
- Morwind
- Deliveries start on 1/1/2023

Yellow Pine: 50 MW PV, 26 MW BESS

- COD in June 2023

Victory Pass: 100 MW PV, 25 MW BESS

- COD in March 2024

Terra-Gen Wind

Yellow Pine Solar + Storage

2022 Carbon Free Energy & Standalone Storage Projects RFP

SVCE continues to look for clean resources to meet directives

- New and existing Renewable Portfolio Standard (RPS) eligible resources
- Stand alone and paired storage
- Meet Clean, RPS and Mid-term Reliability Procurement Order needs
- Request for Proposals (RFP)
  - Issued November 2022
  - Closes December 16, 2022

THANK YOU!

DECARBONIZATION PROGRAMS UPDATES

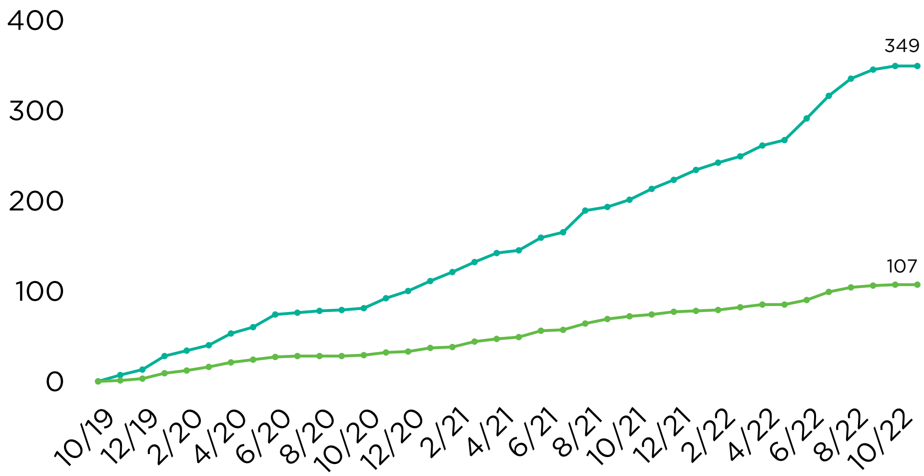
NOVEMBER 2022

Heat Pump Water Heater

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

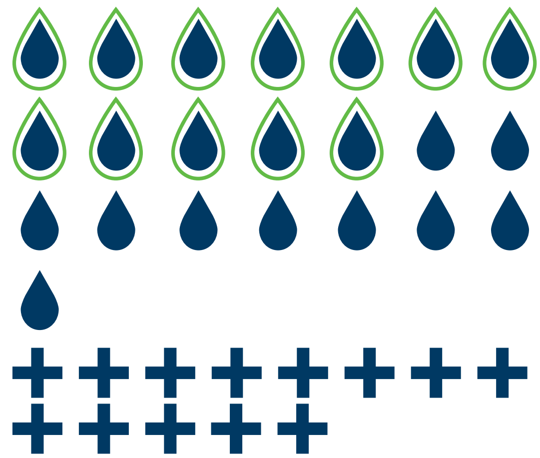
Funding: $1.15M

Goal: 220 HPWH by 2022



Cumulative HPWH Installations

Cumulative Service Panel Upgrades



= 10 Completed Installations

= 10 Completed Installations Above the Initial Goal

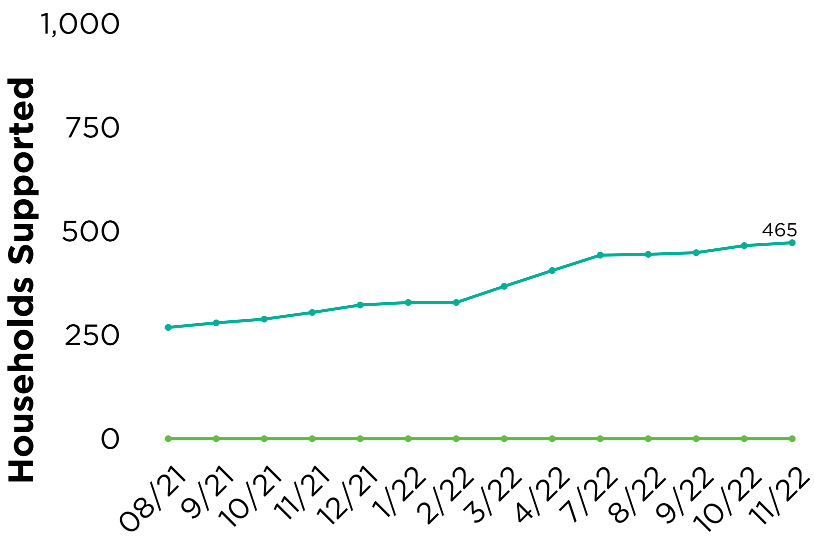
= 1 CARE/FERA Installation

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



Single-Family Multi-Family

= 25 Single-Family Projects

= 1 Multi-Family Property Project (Number of households varies)

ONGOING METRICS

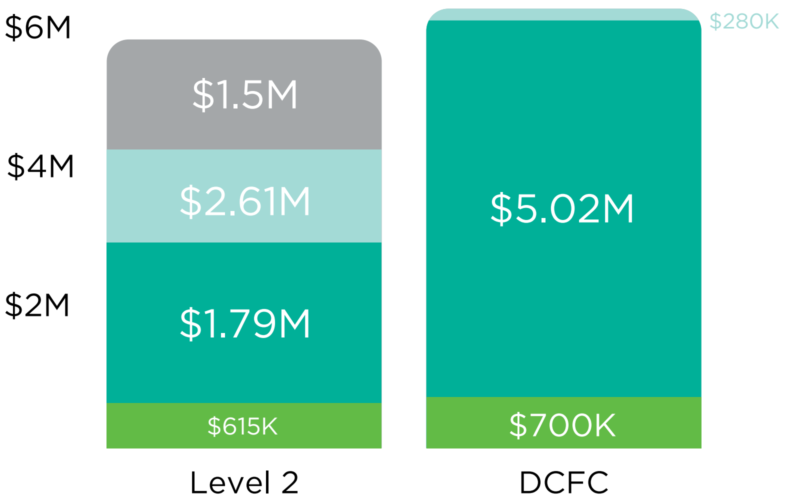
NOVEMBER 2022

CALeVIP

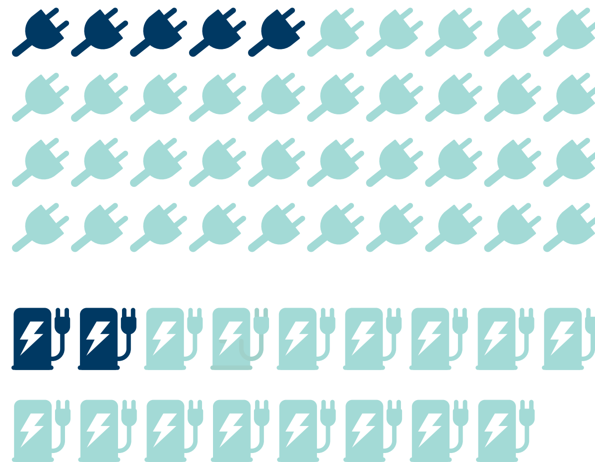
Provide incentives for electric vehicle (EV) chargers as part of a regional program

Funding: $11.58M

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



Reserved
Waitlisted (To be released in future years)
Funds Issued
Being Processed



= 25 Level 2 Installations

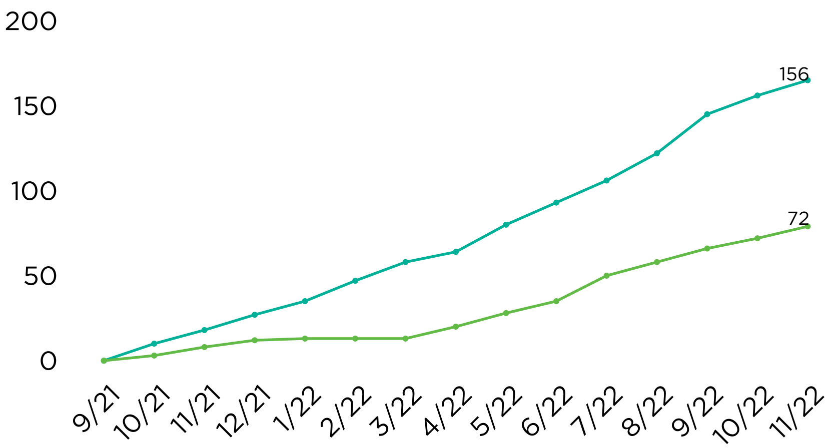
= 5 DCFC Installations

FutureFit Fundamentals

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

Funding: $1.5M

Goal: 150 Participants Complete the Course (Phase 1)



Completions
Registrations

= 5 Participants Complete Course

PROGRAMS AT A GLANCE

NOVEMBER 2022

Click for More Information

Active · In Development · Complete

POWER SUPPLY

- C&I Clean Power Offerings

BUILT ENVIRONMENT

- FutureFit Fundamentals
- FutureFit Heat Pump Water Heater
- Permit Simplification Effort
- Resilience at Community Facilities
- Medical Baseline Battery Program
- CRCR Bill Relief
- Reach Codes
- All-Electric Showcase Awards
- Building Decarb Joint Action Plan
- Accessible Financing
- Feasibility Assessment - Natural Gas Phase Out By 2045
- FutureFit Homes & Buildings
- Local Policy to Decarbonize Existing Buildings
- Regional Coordination

MOBILITY

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

GRID INTEGRATION

- GridShift EV Charging
- Lights On Silicon Valley
- Other Virtual Power Plant

EDUCATION & OUTREACH

- Customer Resource Center (eHub)
- Data Hive
- Community Engagement Grants
- Building Decarbonization Demonstration Grants
- Decarbonization Engagement Grants

INNOVATION

- Innovation Onramp Pilots
- Innovation Partners

1. Outreach Events & Sponsorships

Silicon Valley Clean Energy will be connecting with customers at upcoming community and industry events and will be supporting communities through event sponsorship.

Date	Time	Description	Location
December 1	6:00 p.m. to 8:00 p.m.	Los Altos Tree Lighting Event *(tabling and tree sponsor)*	Main and State Streets Los Altos, CA 94022 United States
December 3	3:00 p.m. to 7:00 p.m.	Gilroy Holiday Parade & Tree Lighting *(tabling and tree sponsor)*	Downtown Gilroy 7780 Monterey Hwy, Gilroy, CA 95020
December 5	5:30 p.m. to 8:00 p.m.	Mountain View's Community Tree Lighting Celebration *(tabling sponsorship)*	Civic Center Plaza 650 Castro St, Mountain View, CA 94041

2. Customer Participation

	Participation Rate	Overall Participation Rate
Residential	96.39%	96.43%
Commercial	96.73%	

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3. Customer Credit Updates

CARE and FERA Rate Relief Bill

- SVCE began crediting customer bills in April, and as of November 28, 2022, has applied over 227,421 bill credits of $12.50, totaling $2.84M. These credits will continue monthly for income-qualified CARE and FERA customers through November 2022.

SILICON VALLEY CLEAN ENERGY

4. Member Agency Working Group - October Update

The recent MAWG meeting was held virtually on December 1, 2022 and was attended by 9 different agencies and organizations with a total of 28 participants.

The following agenda items were presented and discussed:

- Inflation Reduction Act (IRA) Update
- Annual Community Impact Reports – Joint Email Opportunity
- FutureFit Homes – Digital Media Toolkits
- FYI – CARB's Clean Off-Road Equipment Voucher Incentive Project (CORE)
- Reach Code Update
- MAWG Meeting Suggested Time Change – Move to 10:00am-12:00pm for 2023

SILICON VALLEY CLEAN ENERGY

5. Press Releases & Media

Press Releases

- Central Coast Community Energy and Silicon Valley Clean Energy Announce 100 MW Rabbitbrush Solar and Storage Project Success, *11-29-2022*

Media

- Silicon Valley Clean Energy Selects Adapt2 for California ISO and Renewable Energy Operations, *Business Class News, 10-26-22*
- This new 'smart' cord lets everyone cash in on utility EV-charging perks, *Canary Media*, *11-08-22*
- Charging Smarter: How Energy Leaders Can Help Create A More Manageable Ecosystem, *Forbes, 11-14-22*
- Seeking to curb emissions, Atherton is gradually phasing out gas, while Portola Valley takes a stricter approach, *The Almanac, 11-24-22*

SVCE Agenda Look Ahead
Dec. 2022 - April 2023

DECEMBER 2022	JANUARY 2023	FEBRUARY 2023	MARCH 2023	APRIL 2023
Board of Directors, December 14:	**Board of Directors, January 11:** Consent: Minutes November 2022 Treasurer Report Committee Reports Regular Calendar: Appointment of Chair and Vice Chair Appointment of Executive Committee Reach Code Recap	**Board of Directors, February 8:** Consent: Minutes December 2022 Treasurer Report Committee Reports Regular Calendar: Appointment of SVCE Committees Updates to Exhibits C and D of the SVCE JPA PPA Amendments - *tentative*	**Board of Directors, March 8:** Consent: Minutes January 2023 Treasurer Report Committee Reports Regular Calendar: Mid-Year Budget Audited Financial Statements FutureFIt Fundamentals Update	**Board of Directors, April 12:** Consent: Minutes February 2023 Treasurer Report Committee Reports Regular Calendar: TBD
Executive Committee: Cancelled (Combined with Nov. 14th meeting)	**Executive Committee, Jan. 27:** Program Snapshots Chair and Vice Chair Appointments	**Executive Committee, Date TBD:** Program Snapshots	**Executive Committee, Date TBD:** Program Snapshots	**Executive Committee, Date TBD:** Program Snapshots

Staff Report – Item 3

Item 3:	**Approve Policy Platform and Identify Focus Areas for the 2023 Legislative Ad Hoc Committee**
From:	Girish Balachandran, CEO
Prepared by:	Bena Chang, Senior Manager of Government Affairs
Date:	12/14/2022

RECOMMENDATION

Staff recommends that the SVCE Board of Directors vote to approve:

1. A Policy Platform for 2023; and
2. Appoint an Ad Hoc Committee of the Board to Address Legislative Responses to Industry Transition ("Ad Hoc Committee") for 2023; and adopt specific focus areas for the Committee so that SVCE can continue to strengthen our advocacy and improve our legislative outcomes.

BACKGROUND

Policy Platform

In December 2020, the Board approved the SVCE's Policy Platform. The Policy Platform contains principles on policies. Staff then implements the Platform by weighing in on legislation that aligns with the principles in the Policy Platform. This process allows SVCE to act in a timely manner to state and federal legislation.

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

In 2018, SVCE established an Ad Hoc Committee to improve SVCE's advocacy and outcomes by increasing engagement between SVCE staff and those Board members most interested in legislative matters. Subsequent Ad Hoc Committees were established in 2019, 2020 and 2021 to review the upcoming year's legislative matters. In 2022, the Ad Hoc Committee met in March, June and November, and the Committee expires at the end of 2022.

Staff requests that an Ad Hoc Committee be established to review legislative matters for 2023.

ANALYSIS & DISCUSSION

Policy Platform

California's energy landscape continues to evolve rapidly. The ongoing prevalence of extreme weather events due to climate change has significantly increased grid reliability needs. Further, the impact of COVID-19 on the supply chain continues the delays in energy procurement, as well as kept issues of affordability and equity at the forefront. As a result, it is critical that SVCE actively engage legislators to ensure policies support SVCE customers and allow us to meet our short and long-term goals. The Policy Platform presents a framework for focusing SVCE resources on the policies and issues that most impact the agency and our member communities. The 2023 Policy Platform reorganizes the main policies to include guiding principles and example policies. The key policies include: 1) Climate Change Mitigation/Fuel Switching, 2) Clean, Reliable Grid, and 3) Competitive Equity/Do No Harm. Details on policy areas can be found in the attached Policy Platform.

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

In 2023, anticipated activities of the Committee include:

- General advocacy strategy development for state and federal activities.
- Feedback on priorities for legislation and the state budget.
- Advocacy on key legislation.

Staff recommends the following policy areas for 2023:

1. Affordability & Rates,
2. Climate Change Mitigation/Fuel Switching,
3. Clean, Reliable Grid,
4. Competitive Equity/Do No Harm,
5. Health Impact/Safety, and
6. Equity.

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

STRATEGIC PLAN

Approving the Policy Platform, renewing the Ad Hoc Committee and approving the Committee Focus Areas for 2023 directly supports Goal 12 of the Strategic Plan to "Support legislation which advances SVCE's mission to reduce dependence on fossil fuels by supporting the development of a low carbon, affordable, and reliable electric system while simultaneously advancing economy wide decarbonization."

ALTERNATIVE

If the Board does not establish an Ad Hoc Committee for 2023, SVCE staff will need to a) find alternative ways of including the Board in SVCE's policy advocacy, or b) conduct SVCE's 2023 legislative activities with less involvement of the Board. The former is likely to be more logistically complicated than establishing an Ad Hoc Committee and may increase email/communications traffic for the entire Board. The latter, given the high regard for local elected voices in Sacramento, is likely to make SVCE's advocacy significantly less effective.

FISCAL IMPACT

Approval of the 2023 Policy Platform and establishing an Ad Hoc Committee for 2023 is not expected to have any fiscal impact on SVCE.

ATTACHMENTS

1. 2023 Policy Platform

Attachment 1
Silicon Valley Clean Energy Policy Platform
January 2023

Purpose

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

- Articulate SVCE's legislative priorities for the 2022 legislative session and beyond;
- Allow SVCE staff to take positions on bills for SVCE without explicit Board approval as long as they are consistent with this platform; and
- Guide optimal use of SVCE advocacy time and resources.

Process

SVCE will review the policy platform at the conclusion of the previous year's legislative session. The purpose of the review will be to discuss the outcomes of that year's legislative session, develop goals and priorities for the upcomiinng session for the following year, and identify any desired updates to this policy platform. Updates to the platform will be drafted by SVCE staff and formally presented for a vote of the Board each year.

Policy Platform

Affordability & Rates

SVCE supports rates that are competitively priced, enable high valued services to SVCE customers, and support cost-of-service that includes funds needed to cover operations, meet reserve targets, and fund decarbonization programs.

- Policy Examples:
  - Support policies that minimize the cost of service and don't add unnecessary costs so SVCE can deliver more affordable electricity to customers.
  - Advocate for Provider of Last Resort fees that appropriately factor in the risk of LSE failure.
  - Support rate structures that encourage electrification.
  - Advocate for rate reform so programs like wildfire mitigation and public purpose programs are funded outside of rates.

Climate Change Mitigation/Fuel Switching

- SVCE supports funding, projects, and programs to decarbonize the economy, especially in the electric, building, and transportation sectors. SVCE seeks opportunities to amplify the learnings from our programs through regional, state, and federal levels both through policy and funding. We support efforts to remove barriers to fuel switching/decarbonization.

- Policy Examples:
    - Understand and advocate for funding opportunities to support clean energy and climate change mitigation, including the Federal Inflation Reduction Act.
    - Support efforts to transition buildings to electric, including removing the obligation to serve gas requirement and efforts to modernize permitting.
    - Support funding for EV infrastructure and ensure EV policies are technology neutral.
    - Advocate for the fair valuation of resources, including capturing the value of demand-side resources better in the CAISO.
    - Advocate for increased funding for clean energy workforce training and investments to reduce fossil damage in low-income communities.
    - Support efforts to decarbonize industrial uses and processes, including reducing the use of baseload fuel cells that use natural gas.

Clean, Reliable Grid

- SVCE supports investments and removal of barriers in building transmission and renewable projects to enable the transition to a cleaner grid. SVCE supports a reliable electric system, including the smart build out of the distribution grid to prepare for increased electrification.

- Policy Examples:
    - Support investments in transmission upgrades and efforts to reduce interconnection barriers and distribution grid failures, including addressing permitting challenges and increased transparency.
    - Support efforts to ease supply chain challenges and get renewable projects online faster.
    - Advocate for investments that increase the reliability of the electric system and recognize the role of fossil plants as the system transitions to renewables.
    - Ensure that penalties increase the production of renewables instead of simply raising the floor price of energy in the market.

  - Support efforts to explore regionalization to get a cleaner, more reliable grid.

Competitive Equity/Do No Harm

- SVCE supports the CCA model of local government governance, while acknowledging system-wide needs. Any system needs should give maximum flexibility to allow local authority and discretion to meet goals.

- Policy Examples:
  - Advocate for fair and equitable exit fees that prevent cost-shifting among customers.
  - Engage in conversations about the role of a Central Procurement Entity that preserves CCA's responsibility to procure energy while finding a system that maximizes cost efficiency and reliability.
  - Advocate for flexible Brown Act requirements that allow remote access for both the public and board members.
  - Advocate for goal-based procurement instead of prescriptive, technology-specific mandates.
  - Ensure that local governments that are first movers on reach code adoption are not penalized through incentive programs that only fund projects that go beyond local and state codes.
  - Advocate for IOU restructuring to more closely align business interests and incentives with customer interests, including potential IOU departure from retain generation services.
  - Advocate for increased visibility into the distribution grid and an open access platform to provide clear information and signals about where Distribute Energy Resource buildout is optimal.

Health Impact/Safety

- SVCE supports policies that increase the safety of the electric infrastructure and the community.

- Policy Examples:
  - SVCE recognizes the harmful health impacts of methane gas and gasoline and seeks to decarbonize buildings and transportation to address these impacts.
  - Supports efforts to increase the safety of the distribution and transmission infrastructure.

Equity

- SVCE supports policies that consider equitable treatment of low-income and historically underserved communities through affordable electricity rates, priority access to decarbonization and climate mitigation programs.

- Policy Examples:
    - Support programs that invest in low-income and historically disadvantaged either through separate tracks that dedicate funding to or that give deeper levels of subsidies for these groups.
    - Support tenant access to the benefits of decarbonization programs and tenant protections.
    - Support efforts to repeal Proposition 209, which limits public agencies' ability to engage on equity efforts.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 4

Item 4:	**Adopt Resolution to Increase SVCE's Generation Rate Discount, and Dedicate Funding for an Electrification Discount Rate and Multifamily Direct-Install Program**
From:	Girish Balachandran, CEO
Prepared by:	Peter Mustacich, Energy Services Lead Adam Selvin, Director of Energy Services and Community Relations Don Bray, Director of Strategic Development Amrit Singh, Director of Finance and Administration
Date:	12/14/2022

RECOMMENDATION

Adopt Resolution 2022-39:

1. Authorizing the CEO to implement SVCE generation rate changes effective January 1, 2023 or within three weeks thereafter, increasing from a 1% to a 4% discount to PG&E's new generation rates.
2. Authorize the CEO to allocate $19.0M to fund a) an electrification discount ($9.5M), and b) expansion of the low-income multifamily direct-install program ($9.5M).

EXECUTIVE COMMITTEE RECOMMENDATION

At the November 14th Executive Committee meeting, multiple rate discount scenarios were presented, based upon an updated FY2023 budget analysis that supports funds for an additional expenditure of $30M. The Executive Committee supported staff's recommendation to increase SVCE's standard discount beyond the 2% discount approved in the FY23 budget. And to further incentivize electrification, the Executive Committee supported funding a higher 'electrification discount' and expansion of the low-income multifamily direct-install program.

BACKGROUND

In February of 2022, the SVCE Board voted to maintain SVCE's discount to PG&E's generation rates at 1% effective March 1, 2022. In adopting the FY 2023 budget at the September 2022 Board meeting, the Board voted to maintain the 1% customer discount rate until the CPUC makes the new PCIA and PG&E generation rates effective, which was expected to occur in January 2023. To set the budget, the Board adopted an effective discount of 3% starting January 2023. The 3 percent effective discount rate is composed of a 2 percent general discount relative to comparable PG&E generation rates for all customers and an additional 1 percent converted to dollar bill credits to the CARE and FERA customers, which amounts to $3.6 million or about $10.50 per month bill credit for 9 months. The Board also agreed to revisit the customer discount level when there would be more certainty on final PCIA and PG&E generation rates.

Based on the latest generation and PCIA rates included in PG&E's November filing, which the CPUC is expected to adopt on December 15, 2022, the projected net contribution to reserves is anticipated to exceed the original budget projections, with an additional $30M available for expenditure. The additional amount available for expenditure is computed using the methodology discussed in adopting the FY 2023 budget that ensure that under stress test scenarios modeled SVCE's reserves do not fall below 120 days of cash on hand.

ANALYSIS & DISCUSSION

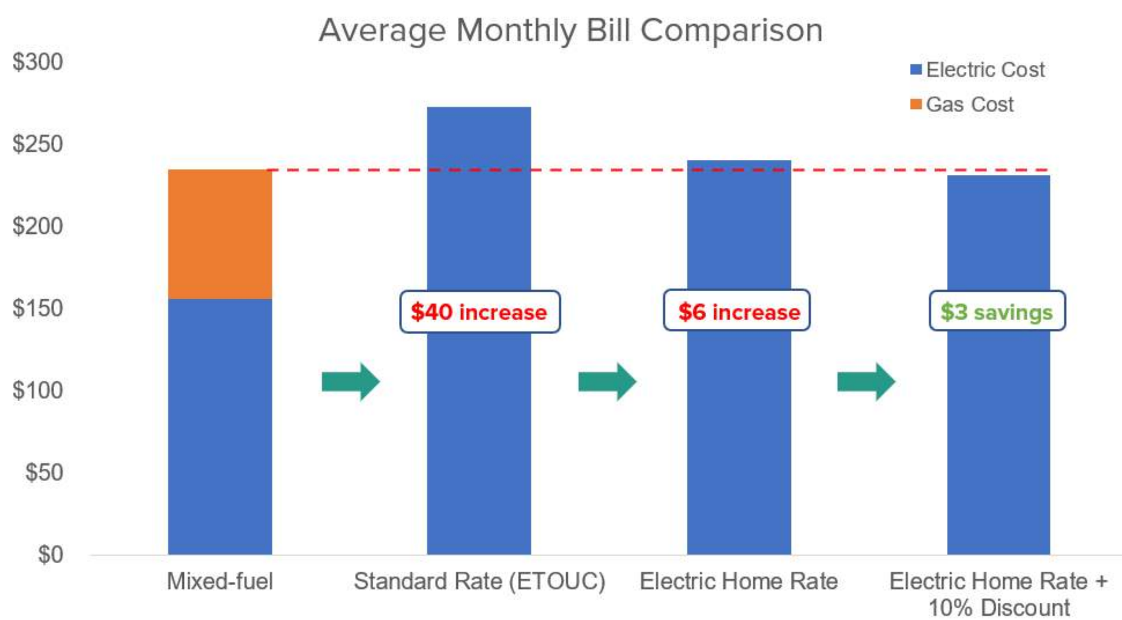
Budget Update
Based on the latest PG&E rates and SVCE's financial projections, an additional amount of roughly $30M is available for expenditure. Given the $30M available for expenditure, staff recommends an effective 5% discount composed of increasing the general SVCE discount to 4% relative to comparable PG&E generation rates along with providing an additional 1% in bill credits to CARE and FERA customers. Increasing the general discount will benefit all SVCE customers, including commercial customers who represent a majority of SVCE's load. This increase from 2% to 4% for the coming year will cost SVCE an estimated $11M.

This leaves an additional $19M available from the projected $30M additional funds. Staff is recommending the remaining funding be allocated to support electrification for residential customers, as discussed below.

Development of a new 'Electrification Discount'
SVCE staff has evaluated potential discount approaches to effectively spend the $30M in available funds. In lieu of allocating all of the additional funds to an increased general discount for the coming year, a strategic "electrification discount" approach was developed. Staff performed a detailed analysis of potential bill impacts for customers retrofitting existing homes from mixed-fuel space and water heating appliances to all-electric appliances.

To model the potential bill impacts of electrifying existing homes, actual SVCE customer usage data was aggregated and averaged to create "typical" customer load profiles. These profiles were then modified to reflect electrification retrofits using appliance energy consumption data from SVCE's 2019 SVCE Buildings Baseline Study and climate-zone specific, 8,760 hourly end-use load profiles from the Database for Energy Efficient Resources (DEER). Load profiles were evaluated using the most common PG&E residential rate options, including the new E-ELEC ("Electric Home") rate, to evaluate potential customer bill impacts.

Based on this analysis, it was observed that electrification of major appliances in existing homes could result in significant monthly bill increases if remaining on the most common E-TOUC residential rate. By enrolling in the new E-ELEC rate this cost increase is substantially reduced, however remains higher than the mixed-fuel monthly bill costs before electrification retrofitting. Adding an additional discount of 10% on the generation portion of the E-ELEC rate reduced the all-electric home's monthly bills to at or below the mixed-fuel monthly bills, as seen on the chart below:



A range of generation discount levels were evaluated relative to PG&E's rates, with analysis showing an average monthly utility bill parity between the original mixed-fuel home and the electric home occurring around 7% based on the analysis described above. Accordingly, staff is recommending an overall 10% discount on the generation component relative to PG&E's rates. It should be noted that this discount level may be achieved through strategic discount rate design as opposed to a flat 10% discount across all TOU-price periods. If funding is approved, staff will continue to explore discount design options and the associated benefits they could provide.

Electrification Discount Funding for Multiple Years
The proposed electrification discount is based on a 10% generation discount to PG&E's new E-ELEC "Electric Home" rate. This rate was introduced on December 1, 2022, as a voluntary residential rate for customers using either 1) a heat pump space and/or water heater, 2) an EV, and/or 3) a battery charged by the grid.

As established by PG&E, the Electric Home rate is initially unavailable to solar customers with net-energy metering (NEM). As such, SVCE's electrification discount would also be unavailable to NEM customers. It is staff's intention to revisit this requirement once PG&E has released phase 2 of the Electric Home rate which will include an update to allow NEM customer participation, anticipated to be released in the summer of 2023.

SVCE's proposed electrification discount has been designed with a 5-year duration period, both to increase customer confidence in investing in home electrification as well as to help serve as a policy backstop for existing building "reach code" adoption. The proposed $9.5M allocation is intended to "pre-fund" the discount which will apply over multiple years, rather than the Board having to revisit the discount rate and funding on an annual basis as is done with SVCE's general discount.

As shown in the table below, different levels of investment were considered for pre-funding the electrification discount, based on different customer adoption rates over a 5-year period. Adoption was assumed to grow linearly on an annual basis starting with zero participating customers in January 2023 to the numbers reflected for year five. In all scenarios, total costs reflect SVCE's cumulative costs over the five-year period to provide a 10% discount on the SVCE generation portion of PG&E's Electric Home rate.

E-ELEC Discount Funding Scenarios	Number of Customers Participating (Year 5)	5-year Total Cost
Scenario 1	17,000	$5.0M
Scenario 2	23,000	$6.8M
Scenario 3	32,000	$9.5M
Scenario 4	41,300	$12.3M
Scenario 5	50,500	$15.0M

Staff is recommending Scenario 3 with $9.5M allocated to pre-fund a 10% discount on the generation component of PG&E's Electric Home rate. Given uncertainties around customer participation in the new rate, PG&E's phase 2 development of Electric Home, and other factors, a measurement and verification (M&V) plan would be established soon after the release of the discount, with annual assessment and adjustment as needed. Based on this assessment and review, the Board may elect to direct program dollars to the electrification discount fund in the future.

Multifamily Direct-Install Program Enhancement

The electrification discount described above would primarily benefit those who choose to undergo "voluntary electrification". These are typically single-family homeowners in middle-to-upper income areas throughout SVCE's territory. Renters in multifamily buildings, particularly those living in lower-income areas, are unlikely to be able to take advantage of an electrification discount. This customer segment has previously been identified as facing an electrification equity gap as they are limited by both affordability as well as ability to modify their homes.

To address this equity barrier, SVCE's Multifamily Direct-Install (D.I.) program was established in the Building Decarbonization Action Plan approved by the Board of Directors in November 2020, and additionally funded in the decarbonization program 'Double Down' in March 2022. The program currently has $2M allocated, and is intended to provide very-low or no-cost electrification of qualifying multifamily buildings as a way of bringing electric retrofits to customers who otherwise don't have access. Since the D.I. program was originally conceived with SVCE's decarbonization mission at its core, eligibility was expected to be limited to existing mixed-fuel multifamily buildings where gas appliances would be retrofitted to electric equipment.

Through analysis performed as part of the electrification discount design, it was discovered that roughly 40% of renters in multifamily buildings in SVCE territory currently rely on electric heating as their primary heating source, with the majority of renters living in lower-income areas. Electric heating primarily consists of electric resistance baseboard heating, an inefficient and notoriously expensive technology to operate, straddling low-income renters with disproportionately high winter heating bills. Studies show that operating a heat pump space heater through the winter season costs only 33-35% of the cost of electric baseboard heating. In addition, such a system can provide efficient air conditioning in the summer.

In order to assist more low-income renters, staff proposes an additional $9.5M be allocated to SVCE's Multifamily direct-install program. Staff also recommends broadening the scope of the program to include heat pump retrofits for low-income customers with electric baseboard heating. It is recommended that approved funding for the electrification discount and the expanded D.I. program be flexible so that reallocation would be possible as more is learned through implementation over time.

Planned Timing and Approach for 2023 Rate Updates

If this recommendation is approved by the Board, SVCE rate tables will be updated during the first three weeks of January to reflect a 4% discount across all rate schedules, with the exception of the Electric Home rate which will reflect a 10% discount. Exact timing will depend upon when PG&E's updated rates are received, and the required time window for implementing new generation rates in SVCE's billing system.

100% Renewable Energy Option

The GreenPrime rate for 2023, SVCE's 100% renewable energy option, will reflect the January 2023 default GreenStart rates plus the premium cost per kWh (calculated to be $0.008) for 100% renewable energy. Customer participation in this rate is approximately 2% of total load.

STRATEGIC PLAN

Rate setting is directly supported by SVCE Strategic Plan Goal 8 – "Enact and maintain competitive service offerings for SVCE customers that deliver measurable economic and environmental benefits" and the accompanying measure, "Establish new rate program(s) to promote electrification, and matching of clean energy supply and demand."

This recommendation is also aligned with two of the five strategic focus areas for FY23 approved by the Board in September 2022:

- SFA 2 Grow Customer Base, Offerings, & Emphasize Electrification
- SFA 4 Leverage Balance Sheet for Structured Financing and use financing solutions to increase impact of decarbonization program offerings, especially to lower-income customers

- Strategically use balance sheet to advance our mission; providing innovative financing solutions to customers, particularly to reach those with barriers to conventional programs (e.g., low income, renters)

ALTERNATIVE

As presented to the Executive Committee in November, staff have prepared the following table of alternatives for consideration, with Alt 3 representing staff's recommendation. Each scenario equates to a total cost of $30M, in alignment with the anticipated additional budget funds available for expenditure.

Discount Scenario Examples - A -	1) 2023 SVCE Gen Discount, All Customers (%, incremental $) - B -	2A) Electrification Discount funding for ~5 years ($ / Customers) - C -	2B) Expanded Multifamily D.I. Program ($ / Customers) - D -	Total Incremental Cost in 2023 ($) - E -
Base Case (FY 2023)	2%, --	-	-	--
Alt 1	2%, --	$15M / 50k	$15M / 3k	**$30M**
Alt 2	3%, $5.5M	$12.3M / 41k	$12.3M / 2.5k	**$30M**
Alt 3	4%, $11M	$9.5M / 32k	$9.5M / 2k	**$30M**
Alt 4	5%, $16.5M	$6.8M / 23k	$6.8M / 1.4k	**$30M**

Any variety of funding combinations are possible alternatives, including up to a 7% general discount with zero investment in an electrification discount or expanded multifamily D.I. program.

FISCAL IMPACT

The combined impact of increasing SVCE's January 1st 2023 generation discount rate to 4%, and funding for an electrification discount and expanded multifamily D.I. program, will absorb the additional funds of approximately $30M. Yet year-end reserves should remain close to those projected in the approved FY23 budget. Reserves will remain sufficient to maintain at least 120 days of cash on hand in the event of a collapse in energy prices, as represented by the stress test methodology.

ATTACHMENT

1. Resolution 2022-39, Approving Customer Generation Rates and Dedicated Funding for Electrification Discount and Expanded Multifamily Direct-Install Program

SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2022-39

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY APPROVING CUSTOMER GENERATION RATES AND DEDICATED FUNDING FOR AN ELECTRIFICATION DISCOUNT RATE AND EXPANDED MULTIFAMILY DIRECT-INSTALL PROGRAM

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

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

WHEREAS, on March 9, 2022, the Board of Directors adopted Resolution No. 2022-06 which approved the customer generation rates that are currently in effect with a discount of 1% to PG&E's generation rates; and

WHEREAS, on September 14, 2022, the Board of Directors adopted Resolution No. 2022-21 approving the FY23 operating budget, including expansion of the generation discount from 1 to 2% in January 2023, and an additional credit for CARE/FERA customers equivalent to approximately 10%; and

WHEREAS, in December 2022, due to a new projected budget surplus of $30M resulting from updated 2023 PG&E Generation and PCIA rate projections, and in alignment with SVCE's goals of equitable electrification and decarbonization, the Board of Directors shall increase the generation rate discount to 4%, effective in January 2023, and allocate $9.5M to fund a discount of 10% for the new 'Electric Home' E-ELEC rate effective January 2023, and $9.5M to expand the Multifamily Direct-Install program; and

WHEREAS, since PG&E will not issue its final customer generation rates until later in December 2022, the Board of Directors desire to grant the Chief Executive Officer the authority to adjust the Authority's current electric generation rates for its customers when PG&E finalizes its January 2023 rates.

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

Section 1. Upon the release of PG&E's final customer generation rates, the

Chief Executive Officer is hereby authorized to amend the Authority's January 2023 generation rate discount of 2% adopted by Resolution No. 2022-21, to establish a 4% discount from PG&E's generation rates effective January 2023.

Section 2. The Authority shall allocate $9.5M to pre-fund an electrification discount to SVCE's generation rate component of PG&E's Electric Home E-ELEC rate, equivalent to a 10% discount to PG&E's corresponding generation rate, effective January 2023.

Section 3. The Authority shall allocate an additional $9.5M to expand the Multifamily Direct-Install program.

Section 3. The Authority's electric generation rates, as adjusted by the Chief Executive Officer pursuant to Section 1 above, shall become effective on January 1, 2023, or within three weeks after PG&E releases its final January 1st, 2023 customer generation rates, whichever is later.

The Authority's adjusted electric generation rates shall be set forth in an updated 2023 Electric Generation Rates Schedule. The Chief Executive Officer shall provide a copy of the updated 2023 Electric Generation Rates Schedule to the Board of Directors at its first meeting after the 2023 SVCE electric generation rates are finalized.

Section 4. Resolution No. 2022-06 is hereby rescinded upon the effective date of the updated 2023 Electric Generation Rates Schedule.

PASSED AND ADOPTED this 14th day of December 2022, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Willey				
City of Gilroy	Director Hilton				
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 Secretary

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 5

Item 5:	**Update on Hybrid Meeting Requirements Following Termination of Emergency Order**
From:	Girish Balachandran, CEO
Prepared by:	Kevin Armstrong, Deputy Director of Administrative Services Bena Chang, Senior Government Affairs Manager Andrea Pizano, Board Clerk and Executive Assistant
Date:	12/14/2022

RECOMMENDATION

Staff will provide an update on remote options for Board meetings in light of the Governor signing AB 2449 and the announced end of the COVID-19 State of Emergency on February 28, 2023. Staff recommends returning to traditional Brown Act meeting requirements.

EXECUTIVE COMMITTEE RECOMMENDATION

Staff presented to the Executive Committee at the meeting on November 14, 2022. The committee asked clarifying questions of the rules under both AB 2449 and the traditional Brown Act and requested that staff present to the Board of Directors for discussion prior to the State of Emergency ending on February 28, 2023.

BACKGROUND

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, legislation that amended 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.

On September 13, 2022, the Governor signed AB 2449, which allows remote meetings under specific circumstances. The provisions of AB 2449 will go into effect on January 1, 2023, and will be discussed in more detail in the Analysis & Discussion section.

On October 17, 2022, Governor Newsom's office announced that the COVID-19 State of Emergency will end on February 28, 2023. With this announcement, AB 361 can no longer be used after February 28, 2023.

ANALYSIS & DISCUSSION

Staff received feedback from the Executive Committee in March 2022 and the Board of Directors in April 2022 that continuing hybrid meetings would be preferred after Governor Newsom's emergency order is lifted.

Under traditional Brown Act rules in 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 all remote locations are accessible to the public. There are no limits on the number of times a legislative body member can teleconference, and no requirements for a quorum of the body to meet physically in one location within the service territory.

In contrast, AB 2449 (Rubio) provides the option to continue waiving the rules to publish private addresses and require public access to teleconferencing locations - under limited conditions, however. AB 2449 is not intended to allow for frequent teleconferencing under relaxed Brown Act rules, but rather provides the option to enable members of legislative bodies to participate remotely on a limited basis without following those traditional Brown Act teleconferencing rules. This limited basis is delineated by the provisions of AB 2449 that establish restrictive guardrails on teleconferencing, including the following:

- A requirement that a **quorum of the legislative body participate in person from a single physical location** within the boundaries of the service territory;
- A limit on the reasons allowing a legislative body member to teleconference to "just cause" or emergency reasons. Just cause includes: 1) childcare/caregiving, 2) contagious illness, and 3) travel on **official government business**. Emergencies include physical or family medical emergencies that prevent a member from attending in-person.
- A limit on the exercise of teleconference provisions to no more than 3 consecutive months or 20% of the meetings in a calendar year.
- The disclosure of the name and relationship of anyone over the age of 18 present with the member at the remote location.

The traditional Brown Act rules that existed before the pandemic are still in effect. AB 2449 did not replace traditional Brown Act rules but adds another option for legislative bodies. Both sets of rules only apply to members of the legislative body and not to staff or the public. SVCE remains committed to providing wide access to the public for our Board and committee meetings.

Attachment A is a comparison chart that summarizes the differences between AB 361, AB 2449, and traditional Brown Act rules.

From an administrative perspective, AB 2449 is very complex. Staff would need to track the timing and occurrence of any AB 2449 utilization, ensure a quorum of the body would be physically in one location within the service territory, and potentially enforce limits on board member teleconferencing. Given these logistical difficulties, staff proposes either not using AB 2449 for meetings or only using AB 2449 in emergency situations.

As traditional Brown Act rules become effective on March 1, 2023, following the cessation of the State of Emergency, staff proposes to continue hosting hybrid meetings under traditional Brown Act rules:

1) Utilizing Cupertino Community Hall as the primary physical meeting location for Board of Director meetings and the SVCE office as the primary physical location for Brown Act committee meetings; and
2) In advance of the State of Emergency ending on February 28, 2023, staff will work with member agencies to identify alternative public meeting locations to participate remotely if desired (e.g. City halls, community centers, etc.)

Board members also have the option to participate from a home office, but it will need to be properly noticed on the meeting agenda and allow for public access.

STRATEGIC PLAN

Not applicable.

ALTERNATIVES

Staff is open to alternatives proposed by the Board of Directors.

FISCAL IMPACT

There is a de minimis fiscal impact from 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.

Attachment A

Comparison Chart between AB 361, AB 2449, and Traditional Brown Act

	AB 361 (Rivas)	**AB 2449 (Rubio)**	**Traditional Brown Act Rules for Teleconferencing**
When can you use this authority?	During a declared state of emergency for COVID, which will end on February 28, 2023.	Starting January 1, 2023.	Anytime
Number of times you can participate remotely in a calendar year	Unlimited as long as the Board adopts a resolution making required findings.	No more than 3 consecutive months or 20% of meetings in a calendar year. Only 2 times a year for "just cause reasons."	Unlimited
Quorum Requirement	Remote and in-person members both count for establishing quorum.	Legislative body must have a quorum in a single physical location within the agency's jurisdiction. The physical location must be accessible to the public.	Remote and in-person members both count for establishing quorum. Must have a quorum within the agency's jurisdiction but could be from multiple locations.
Disclosures	None required.	Must disclose anyone over the age of 18 in the room and the member of the legislative body's relationship to that person. The member must disclose the reason for teleconferencing.	The location of any remote locations must be identified on the agenda.
Public access to remote locations	Not required.	Not required.	Members of the public must have access to all remote locations and must be able to address the legislative body from the remote location. The agenda must be posted at the remote location.
Reasons to request teleconferencing	None needed.	Must be for "just cause" or "emergency" reasons. Just cause includes 1) childcare/caregiving, 2) contagious illness, and 3) travel on official government business. Emergencies include physical or family medical emergencies that prevents a member from attending in person.	None needed.

	AB 361 (Rivas)	AB 2449 (Rubio)	Traditional Brown Act Rules for Teleconferencing
When do you have to notice remote participation?	No need to provide notice of remote locations.	Member must notify the legislative body at the earliest possible time, including at the start of the meeting.	Notification needed prior to posting agenda - at minimum 72 hours in advance of the meeting.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 6

Item 6:	**SVCE Information Update on 2023 SVCE Board Elections**
From:	Girish Balachandran, CEO
Prepared by:	Andrea Pizano, Board Clerk/Executive Assistant
Date:	12/14/2022

RECOMMENDATION
Staff recommends that the Board of Directors review the process and timeline for SVCE's 2023 Chair, Vice Chair, and Committee member appointments.

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

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

The roles of Chair, Vice Chair, and the Executive Committee are scheduled to be selected at the January 11, 2023 meeting, with remaining committee assignments made at the February 8, 2023 meeting.

ANALYSIS & DISCUSSION
Using a similar process followed in previous years, the Board Clerk will send information to the Board of Directors following the December 2022 board meeting with a call for letters of interest for the positions of Chair and Vice Chair; letters of interest received for these positions will be included in the January Board of Directors meeting agenda packet. Directors interested in serving on the Executive Committee will also be asked to notify the Board Clerk during this time and names will be included in the staff report for the January board meeting. Nominations will also be accepted from the floor for Chair, Vice Chair and Executive Committee membership.

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

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

ALTERNATIVE

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

FISCAL IMPACT

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

ATTACHMENTS

1. 2023 Proposed SVCE Board Elections Timeline
2. Draft Committee Snapshot

SILICON VALLEY CLEAN ENERGY

2023 SVCE Board Elections Timeline

December 14, 2022: Staff presents item at the Board meeting outlining process for 2023 elections based on Executive Committee feedback

December 15, 2022: Board Secretary will send a request for letters/indications of interest for the Chair/Vice Chair positions as well as interest from members looking to serve on the Executive Committee for 2023

January 3, 2023: Letters of interest for Chair/Vice Chair and expression of interest for Executive Committee membership responses due to Board Clerk

January 11, 2023: Chair, Vice Chair, and Executive Committee selections made at the Board of Directors meeting

January 13, 2023: Board Clerk will distribute information to Directors to indicate interest in serving/continuing to serve on remaining committees

January 27, 2023: Interests due to Board Clerk

February 8, 2023: SVCE Committee assignments made at the Board of Directors meeting

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CLEAN ENERGY

SVCE Committee Recap - Draft

1. **Executive Committee**

Description:
Provide input and support on operational matters;
Gives feedback on staff items and recommendations to the Board of Directors

Membership:
Five primary board members;
Typically includes the Chair and Vice Chair of the Board

Meeting Frequency:
Monthly

2022 Executive Committee Roster	Member Agency	Notes
George Tyson	**Los Altos Hills**	**Chair of 2022**
Yvonne Martinez Beltran	**Morgan Hill**	
Neysa Fligor	***Los Altos***	**Vice Chair of 2022/Not returning in 2023**
Javed Ellahie	***Monte Sereno***	**Not returning in 2023**
Liz Gibbons	***Campbell***	**Not returning in 2023**

2. **Finance & Administration Committee**

Description:
Works with SVCE staff on items related to financial and administrative issues that impact the agency.

Membership:
No fewer than three members and no greater than six members;
Can be Board members, Alternate Board members, or a Board appointed member agency staff member.
No alternate directors may attend a committee meeting on behalf of an absent primary appointed director. No more than one Committee member shall represent a particular member agency.

Meeting Frequency:
Quarterly and as-needed

2022 Finance and Administration Committee Roster	Member Agency	Notes
Rob Rennie	**Los Gatos**	**Chair of 2022**
Hung Wei	**Cupertino**	**Vice Chair of 2022**
Bryan Mekechuk	**Monte Sereno**	
Margaret Abe-Koga	**Mountain View**	
Larry Klein	**Sunnyvale**	
Liz Gibbons	***Campbell***	**Not returning in 2023**

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CLEAN ENERGY

SVCE Committee Recap - Draft

3. Audit Committee

Description:
Works with SVCE staff on the initiation and receiving of the annual audit

Membership:
No fewer than three members and no greater than six members;
Can be Board members, Alternate Board members, or a Board appointed member agency staff member.
No alternate directors may attend a committee meeting on behalf of an absent primary appointed director. No more than one Committee member shall represent a particular member agency.

Meeting Frequency:
Twice yearly and as needed

2022 Audit Committee Roster	Member Agency	Notes
Bryan Mekechuk	Monte Sereno	Chair of 2022
Margaret Abe-Koga	Mountain View	Vice Chair of 2022
Sergio Lopez	Campbell	

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 7

Item 7:	**Hybridization of Gas Peaking Fleet**
From:	Girish Balachandran, CEO
Prepared by:	Charles Grinstead, Senior Manager of Power Resources Monica Padilla, COO and Director of Power Resources
Date:	12/14/2022

This item will be a presentation from staff to the SVCE Board of Directors on hybridization of gas peaking fleet.

ATTACHMENTS

1. This presentation will be posted to the SVCE website.

Staff Report – Item 8

Item 8:	**New Construction Reach Code Update**
From:	Girish Balachandran, CEO
Prepared by:	Zoe Elizabeth, Deputy Director of Decarbonization Programs and Policy Justin Zagunis, Director of Decarbonization Programs and Policy
Date:	12/14/2022

RECOMMENDATION

Staff requests that the Board of Directors receive an update from the Decarbonization Programs and Policy team on New Construction Reach Codes.

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, with additional updates in April, May, June, August, September, October, and November.

ANALYSIS & DISCUSSION

In an effort to continue communications with the Board of Directors on reach codes, staff will provide a presentation with status updates and highlight upcoming actions/priorities.

STRATEGIC PLAN

These efforts support SVCE's Strategic Plan Goal 10, "coordinate development of decarbonization and resilience strategy, lead design of local policy, and design and deploy programs."

FISCAL IMPACT

N/A

ATTACHMENTS

1. This presentation is posted to the SVCE website.

SILICON VALLEY CLEAN ENERGY

Silicon Valley Clean Energy
Board of Directors Meeting

December 14, 2022

Appendix A

Power Resource Contracts Executed by CEO

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Silicon Valley Clean Energy, a California joint powers authority ("Seller") and Central Coast Community Energy , a California joint powers authority ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of October 25, 2022 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). This Transaction is governed by the WSPP Agreement dated August 12, 2021 (the "WSPP Agreement"). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the "Agreement" and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B, C, and D are incorporated into this Confirmation.

☐ **Firm RA Product:**

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

☒ **Contingent Firm RA Product:**

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

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

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

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit's SC to submit, (i) monthly Supply Plans and (ii) annual Supply Plans if the Effective Date is prior to the year-ahead Compliance Showing Deadline applicable for the Showing Months specified in Appendix B, in accordance with the Tariff and CPUC requirements and no later than the initial Compliance Showing Deadline for such Showing Month, identifying and confirming the transfer of the Expected Contract Quantity of Product to Purchaser for each Showing Month. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's

Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 Reductions in Contract Quantity

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

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

(c) ☒ ***If checked, the following provision and related definitions are applicable.***

Seller's obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller's option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the "Swap Reduction Option"); provided, however, that (i) Seller's obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than three (3) Business Days before the initial Compliance Showing Deadline for such Showing Month. Seller's rights under the Swap

Reduction Option are cumulative and in addition to Seller's rights under the Swap Confirmation.

2.3 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more Replacement Units in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

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

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

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

Subject to the satisfaction of the conditions contained in subsections (a) – (c) of this Section 2.3, once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate

Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity

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

(b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product or a Shown Unit's SC's failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs.

(c) If Seller fails to pay the foregoing damages, penalties, fines or costs, or fails to reimburse Purchaser for those damages, penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those damages, penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser's Re-Sale of Product

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

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

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

ARTICLE 3
PAYMENTS

3.1 Payment

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

3.2 Allocation of Other Payments and Costs

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

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

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

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

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

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

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

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

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

4.3 Seller's Representations and Warranties

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

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

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

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

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

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

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

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

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

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

6.6 Other WSPP Agreement Changes

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

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

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

(b) Section 22.1 is modified by inserting the following new text at the end thereof:

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;
(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or
(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

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

(d) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line thereof and deleting the second sentence therein.

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

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

(f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:

"If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

(g) Section 22.3(e) is deleted in its entirety and replaced with the following: "[Intentionally omitted]"

(h) Section 22.3(f) is deleted in its entirety and replaced with the following:

"If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34."

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

(j) Section 30.1 is amended by inserting "or requested" after the word "required" in Section 30.1(4) and by adding the following at the end of the first sentence: "; or (8) to the Party's and such Party's affiliates' lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential".

(k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

"34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION."

"34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM."

(l) In Section 34.4, the phrase "arbitration or" is deleted from the first line.

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

"34.5 LIMITATION OF DAMAGES

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

(n) Section 37 is amended by inserting the following in the beginning thereof: "On the date of entering into this Confirmation,".

(o) Section 41 "Witness" shall become Section 42 and the following "Standard of Review" Section shall be substituted in its place:

"The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the "Mobile-Sierra" doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm'n, 558 U.S. 165 (2010).

(ii) The Parties, for themselves and their successors and assigns, (i) agree that this "public interest" standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the "just and reasonable" standard."

6.7 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation as a PDF attachment to an email shall be the same as delivery of a manually executed signature page.

6.8 Entire Agreement; No Oral Agreements or Modifications

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

[*Signatures appear on the following page.*]

AGREED AS OF THE EFFECTIVE DATE:

Silicon Valley Clean Energy, a California joint powers authority

DocuSigned by:

By: Girish Balachandran
5CA64B9AC4C24C3...

Name: Girish Balachandran

Title: CEO

Central Coast Community Energy, a California joint powers authority

DocuSigned by:

By: Tom Habashi
69C253774488497...

Name: Tom Habashi

Title: Chief Executive Officer

Approved as to form:

DocuSigned by:

By: Brian Kimball
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Name: Brian Kimball

Title: General Counsel

APPENDIX A
DEFINED TERMS

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

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

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

"CIRA Tool" means the CAISO Customer Interface for Resource Adequacy.

"Compliance Obligations" means, as applicable, RAR, Local RAR and FCR.

"Compliance Showing Deadline" means, for each Showing Month, the Compliance Showing plan submission due date for such Showing Month. For illustrative purposes only, as of the Effective Date, the applicable Compliance Showing plan submission due dates are as follows: (A) forty-five (45) days prior to the Showing Month covered by the Supply Plan for the monthly Supply Plan; and (B) the last Business Day of October that is prior to commencement of the year for the annual Supply Plan, such dates may be modified by the CAISO from time to time throughout the Delivery Period.

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

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

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

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

"Effective Flexible Capacity" has the meaning given in CAISO's FERC-approved Tariff.

"Expected Contract Quantity" means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent

Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

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

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

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

"Flexible Capacity Category" shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

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

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

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

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

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

"MW" means megawatt.

"Net Qualifying Capacity" has the meaning given in CAISO's FERC-approved Tariff.

"Notification Deadline" is ten (10) Business Days before the Compliance Showing Deadline.

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

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

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

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

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

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

"Replacement Unit" means a generating unit having the same capacity attributes as the Unit(s) originally identified in Appendix B hereof, including the same Resource Category, RAR Attributes, and, as applicable, LAR Attributes, FCR Attributes, and Flexible Capacity Category, and otherwise meeting the requirements specified Section 2.3 hereof. A Replacement Unit shall not utilize coal or coal materials as a source of fuel, must be a specific resource that is connected directly to the CAISO controlled grid, or be under the operational control of CAISO, and may not be an unspecified import.

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

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

"SC" means Scheduling Coordinator as defined in the Tariff.

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

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

"Subsequent Purchaser" means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

"Substitute Capacity" has the meaning set forth in the Tariff for "RA Substitute Capacity".

"Swap Confirmation" means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 90 MW of Product (as defined under such confirmation)] from Purchaser.

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

"Tariff" means the CAISO Tariff, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit(s) described in Appendix B.

"Unit EFC" means the lesser of the Unit's Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

"Unit NQC" means the lesser of the Unit's Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: ______
Resource Category (MCC Bucket): _4, 24-hour dispatchable_____
CPUC Local Area (if applicable): ______
Flexible Capacity Category (if applicable): ______

[redacted]

Unit 1

Unit Specific Information	
Resource Name	Colgate Hydro Unit 2
Physical Location	Yuba County, CA
CAISO Resource ID	COLGAT_7_UNIT 2
SCID of Resource	YCWA
Unit NQC by month (e.g., Jan=50,Feb=65):	Varies by month
Unit EFC by month (e.g., Jan=30, Feb=50)	Varies by month
Resource Type (e.g., gas, hydro, solar, etc.)	Hydro
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

Unit 1

Unit Specific Information	
Resource Name	Sutter Energy Center
Physical Location	Yuba City, CA
CAISO Resource ID	Sutter_2_CISO
SCID of Resource	CALJ
Unit NQC by month (e.g., Jan=50,Feb=65):	Varies by month
Unit EFC by month (e.g., Jan=30, Feb=50)	Varies by month
Resource Type (e.g., gas, hydro, solar, etc.)	
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

Unit Specific Information	
Resource Name	Casa Diablo
Physical Location	Mono County, California
CAISO Resource ID	CASADB_1_CD4GT1
SCID of Resource	LSVCE
Unit NQC by month (e.g., Jan=50,Feb=65):	40
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Geothermal
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	SCE
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

Unit Specific Information	
Resource Name	MM West Covina – ST Unit
Physical Location	West Covina, CA
CAISO Resource ID	WALNUT_7_WCOVST
SCID of Resource	NEM
Unit NQC by month (e.g., Jan=50,Feb=65):	Varies by month
Unit EFC by month (e.g., Jan=30, Feb=50)	Varies by month
Resource Type (e.g., gas, hydro, solar, etc.)	gas
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	SCE
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

(*Repeat for additional Units*)

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

APPENDIX C
NOTICE INFORMATION

Seller: Silicon Valley Clean Energy	**Purchaser:** Central Coast Community

[redacted]

[redacted]

APPENDIX D
PLANNED OUTAGE SCHEDULE

Unit Name	CAISO Resource ID *	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Central Coast Community Energy, a California joint powers authority ("Seller") and Silicon Valley Clean Energy, a California joint powers authority ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of October 25, 2022 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). This Transaction is governed by the WSPP Agreement dated August 12, 2021 (the "WSPP Agreement"). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the "Agreement" and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B, C, and D are incorporated into this Confirmation.

☐ **Firm RA Product:**

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

☒ **Contingent Firm RA Product:**

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

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

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

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit's SC to submit, (i) monthly Supply Plans and (ii) annual Supply Plans if the Effective Date is prior to the year-ahead Compliance Showing Deadline applicable for the Showing Months specified in Appendix B, in accordance with the Tariff and CPUC requirements and no later than the initial Compliance Showing Deadline for such Showing Month, identifying and confirming the transfer of the Expected Contract Quantity of Product to Purchaser for each Showing Month. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.

(d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's

Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 Reductions in Contract Quantity

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

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

(c) ☒ ***If checked, the following provision and related definitions are applicable.***

Seller's obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller's option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the "<u>Swap Reduction Option</u>"); provided, however, that (i) Seller's obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than three (3) Business Days before the initial Compliance Showing Deadline for such Showing Month. Seller's rights under the Swap

Reduction Option are cumulative and in addition to Seller's rights under the Swap Confirmation.

2.3 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more Replacement Units in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

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

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

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

Subject to the satisfaction of the conditions contained in subsections (a) – (c) of this Section 2.3, once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate

Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity

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

(b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product or a Shown Unit's SC's failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs.

(c) If Seller fails to pay the foregoing damages, penalties, fines or costs, or fails to reimburse Purchaser for those damages, penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those damages, penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser's Re-Sale of Product

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

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

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

ARTICLE 3
PAYMENTS

3.1 Payment

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

3.2 Allocation of Other Payments and Costs

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

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

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

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

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

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

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

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

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

4.3 Seller's Representations and Warranties

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

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

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

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

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

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

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

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

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

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

6.6 Other WSPP Agreement Changes

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

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

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

(b) Section 22.1 is modified by inserting the following new text at the end thereof:

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;
(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or
(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

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

(d) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line thereof and deleting the second sentence therein.

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

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

(f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:

"If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

(g) Section 22.3(e) is deleted in its entirety and replaced with the following: "[Intentionally omitted]"

(h) Section 22.3(f) is deleted in its entirety and replaced with the following:

"If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34."

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

(j) Section 30.1 is amended by inserting "or requested" after the word "required" in Section 30.1(4) and by adding the following at the end of the first sentence: "; or (8) to the Party's and such Party's affiliates' lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential".

(k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

"34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION."

"34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM."

(l) In Section 34.4, the phrase "arbitration or" is deleted from the first line.

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

"34.5 LIMITATION OF DAMAGES

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

(n) Section 37 is amended by inserting the following in the beginning thereof: "On the date of entering into this Confirmation,".

(o) Section 41 "Witness" shall become Section 42 and the following "Standard of Review" Section shall be substituted in its place:

"The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the "Mobile-Sierra" doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm'n, 558 U.S. 165 (2010).

(ii) The Parties, for themselves and their successors and assigns, (i) agree that this "public interest" standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the "just and reasonable" standard."

6.7 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation as a PDF attachment to an email shall be the same as delivery of a manually executed signature page.

6.8 Entire Agreement; No Oral Agreements or Modifications

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

[*Signatures appear on the following page.*]

AGREED AS OF THE EFFECTIVE DATE:

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, 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

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

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

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

"CIRA Tool" means the CAISO Customer Interface for Resource Adequacy.

"Compliance Obligations" means, as applicable, RAR, Local RAR and FCR.

"Compliance Showing Deadline" means, for each Showing Month, the Compliance Showing plan submission due date for such Showing Month. For illustrative purposes only, as of the Effective Date, the applicable Compliance Showing plan submission due dates are as follows: (A) forty-five (45) days prior to the Showing Month covered by the Supply Plan for the monthly Supply Plan; and (B) the last Business Day of October that is prior to commencement of the year for the annual Supply Plan, such dates may be modified by the CAISO from time to time throughout the Delivery Period.

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

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

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

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

"Effective Flexible Capacity" has the meaning given in CAISO's FERC-approved Tariff.

"Expected Contract Quantity" means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent

Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

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

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

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

"Flexible Capacity Category" shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

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

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

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

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

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

"MW" means megawatt.

"Net Qualifying Capacity" has the meaning given in CAISO's FERC-approved Tariff.

"Notification Deadline" is ten (10) Business Days before the Compliance Showing Deadline.

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

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

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

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

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

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

"Replacement Unit" means a generating unit having the same capacity attributes as the Unit(s) originally identified in Appendix B hereof, including the same Resource Category, RAR Attributes, and, as applicable, LAR Attributes, FCR Attributes, and Flexible Capacity Category, and otherwise meeting the requirements specified Section 2.3 hereof. A Replacement Unit shall not utilize coal or coal materials as a source of fuel, must be a specific resource that is connected directly to the CAISO controlled grid, or be under the operational control of CAISO, and may not be an unspecified import.

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

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

"SC" means Scheduling Coordinator as defined in the Tariff.

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

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

"Subsequent Purchaser" means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

"Substitute Capacity" has the meaning set forth in the Tariff for "RA Substitute Capacity".

"Swap Confirmation" means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 90 MW of Product (as defined under such confirmation)] from Purchaser.

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

"Tariff" means the CAISO Tariff, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit(s) described in Appendix B.

"Unit EFC" means the lesser of the Unit's Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

"Unit NQC" means the lesser of the Unit's Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☒ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: _North_____
Resource Category (MCC Bucket): __4____
CPUC Local Area (if applicable): _N/A_____
Flexible Capacity Category (if applicable): __1____

[redacted]

Unit 1

Unit Specific Information	
Resource Name	Sunrise Power Project
Physical Location	Fellow, CA
CAISO Resource ID	SUNRIS_2_PL1X3
SCID of Resource	NRG1
Unit NQC by month (e.g., Jan=50,Feb=65):	586.02
Unit EFC by month (e.g., Jan=30, Feb=50)	461.02
Resource Type (e.g., gas, hydro, solar, etc.)	Gen
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	1
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	N/A
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4, no run hour restrictions

(*Repeat for additional Units)*

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

APPENDIX C
NOTICE INFORMATION

Seller: Central Coast Community Energy	**Purchaser:** Silicon Valley Clean Energy Authority

[redacted]

[redacted]

APPENDIX D
PLANNED OUTAGE SCHEDULE

Unit Name	CAISO Resource ID *	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between East Bay Community Energy Authority, a California joint powers authority ("Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority municipality ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of October 28, 2022 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). This Transaction is governed by the WSPP Agreement dated July 28, 2020 (the "WSPP Agreement"). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the "Agreement" and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B**,** C, and D are incorporated into this Confirmation.

☐ **Firm RA Product:**

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

☒ **Contingent Firm RA Product:**

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

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

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

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

(d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 Reductions in Contract Quantity

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

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

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

2.3 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more replacement units having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including the same Resource Category and, if applicable, the Flexible Capacity Category (each such unit, a "Replacement Unit") in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

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

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

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

(e) The designation of any Replacement Unit(s) by Seller shall be subject to Purchaser's prior written approval, which shall not be unreasonably withheld.

Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3 and Purchaser has approved such Replacement Units as consistent with this Confirmation, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month. Purchaser's approval of a Replacement Unit as to a given Showing Month shall not be construed as approval of such Replacement Unit for any subsequent Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 <u>Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity</u>

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

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

2.6 <u>Purchaser's Re-Sale of Product</u>

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

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

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

ARTICLE 3
PAYMENTS

3.1 Payment

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

3.2 Allocation of Other Payments and Costs

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

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

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

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

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

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

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

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

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

4.3 Seller's Representations and Warranties

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

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

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

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

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

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

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

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

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

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

6.6 Other WSPP Agreement Changes

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

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

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

(b) Section 22.1 is modified by inserting the following new text at the end thereof:

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

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

(d) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line thereof and deleting the second sentence therein.

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

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

(f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:

"If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

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

(h) Section 22.3(f) is deleted in its entirety and replaced with the following:

"If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34."

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

(j) Section 30.1 is amended by inserting "or requested" after the word "required" in Section 30.1(4) and by adding the following at the end of the first sentence: "; or (8) to the Party's and such Party's affiliates' lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential".

(k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

"34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION."

"34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM."

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

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

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

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

(o) Section 41 "Witness" shall become Section 42 and the following "Standard of Review" Section shall be substituted in its place:

"The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co.

v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the "Mobile-Sierra" doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm'n, 558 U.S. 165 (2010).

(ii) The Parties, for themselves and their successors and assigns, (i) agree that this "public interest" standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the "just and reasonable" standard."

6.7 Counterparts

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

6.8 Entire Agreement; No Oral Agreements or Modifications

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

[*Signatures appear on the following page.*]

AGREED AS OF THE EFFECTIVE DATE:

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority	EAST BAY COMMUNITY ENERGY AUTHORITY, a California joint powers authority
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: DocuSigned by: Marie Fontenot 205FAF1AF9DE4A7...
Name: Girish Balachandran	Name: Marie Fontenot
Title: CEO	Title: Vice President of Power Resources

APPENDIX A
DEFINED TERMS

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

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

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

"CIRA Tool" means the CAISO Customer Interface for Resource Adequacy.

"Compliance Obligations" means, as applicable, RAR, Local RAR and FCR.

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

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

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

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

"Effective Flexible Capacity" has the meaning given in CAISO's FERC-approved Tariff.

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

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

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

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

"Flexible Capacity Category" shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

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

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

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

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

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

"MW" means megawatt.

"Net Qualifying Capacity" has the meaning given in CAISO's FERC-approved Tariff.

"Notification Deadline" is ten (10) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

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

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

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

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

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

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

"Replacement Unit" has the meaning set forth in Section 2.3.

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

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

"SC" means Scheduling Coordinator as defined in the Tariff.

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

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

"Subsequent Purchaser" means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

"Substitute Capacity" has the meaning set forth in the Tariff for "RA Substitute Capacity".

"Swap Confirmation" means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 20.5 MW of Generic System RA from Purchaser.

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

"Tariff" means the CAISO Tariff, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit described in Appendix B. A Unit or Shown Unit may not be a coal-fired generating facility.

"Unit EFC" means the lesser of the Unit's Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

"Unit NQC" means the lesser of the Unit's Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☒ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: SP26
Resource Category (MCC Bucket): 1
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): 2

[redacted]

Unit 1

Unit Specific Information	
Resource Name	Sanborn Storage
Physical Location	
CAISO Resource ID	EDWARD_2_SS2BT1
SCID of Resource	
Unit NQC by month (e.g., Jan=50,Feb=65):	
Unit EFC by month (e.g., Jan=30, Feb=50)	
Resource Type (e.g., gas, hydro, solar, etc.)	Battery Storage
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	2
TAC Area (e.g., PG&E, SCE)	
Prorated Percentage of Unit Factor	
Prorated Percentage of Unit Flexible Factor	
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	1

APPENDIX C
NOTICE INFORMATION

Buyer: Silicon Valley Clean Energy Authority	**Seller:** East Bay Community Energy

[redacted]

[redacted]

APPENDIX D
PLANNED OUTAGE SCHEDULE

Unit Name	CAISO Resource ID *	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority ("Seller") and East Bay Community Energy Authority, a California joint powers authority municipality ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of October 28, 2022 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). This Transaction is governed by the WSPP Agreement dated July 28, 2020 (the "WSPP Agreement"). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the "Agreement" and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B**,** C, and D are incorporated into this Confirmation.

☐ **Firm RA Product:**

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

☒ **Contingent Firm RA Product:**

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

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

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

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

(d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 <u>Reductions in Contract Quantity</u>

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

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

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

2.3 <u>Seller's Option To Provide Alternate Capacity</u>

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more replacement units having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including the same Resource Category and, if applicable, the Flexible Capacity Category (each such unit, a "Replacement Unit") in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

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

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

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

(e) The designation of any Replacement Unit(s) by Seller shall be subject to Purchaser's prior written approval, which shall not be unreasonably withheld.

Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3 and Purchaser has approved such Replacement Units as consistent with this Confirmation, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month. Purchaser's approval of a Replacement Unit as to a given Showing Month shall not be construed as approval of such Replacement Unit for any subsequent Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 <u>Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity</u>

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

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

2.6 <u>Purchaser's Re-Sale of Product</u>

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

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

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

ARTICLE 3
PAYMENTS

3.1 Payment

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

3.2 Allocation of Other Payments and Costs

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

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

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

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

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

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

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

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

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

4.3 Seller's Representations and Warranties

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

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

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

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

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

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

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

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

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

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

6.6 Other WSPP Agreement Changes

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

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

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

(b) Section 22.1 is modified by inserting the following new text at the end thereof:

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

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

(d) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line thereof and deleting the second sentence therein.

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

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

(f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:

"If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

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

(h) Section 22.3(f) is deleted in its entirety and replaced with the following:

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

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

(j) Section 30.1 is amended by inserting “or requested” after the word “required” in Section 30.1(4) and by adding the following at the end of the first sentence: “; or (8) to the Party’s and such Party’s affiliates’ lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential”.

(k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION.”

“34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”

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

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

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

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

(o) Section 41 "Witness" shall become Section 42 and the following "Standard of Review" Section shall be substituted in its place:

"The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co.

v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the "Mobile-Sierra" doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm'n, 558 U.S. 165 (2010).

(ii) The Parties, for themselves and their successors and assigns, (i) agree that this "public interest" standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the "just and reasonable" standard."

6.7 <u>Counterparts</u>

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

6.8 <u>Entire Agreement; No Oral Agreements or Modifications</u>

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

[*Signatures appear on the following page.*]

AGREED AS OF THE EFFECTIVE DATE:

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority	**EAST BAY COMMUNITY ENERGY AUTHORITY, a California joint powers authority**
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: DocuSigned by: Marie Fontenot 205FAF1AF9DF4A7...
Name: Girish Balachandran	Name: Marie Fontenot
Title: CEO	Title: Vice President of Power Resources

APPENDIX A
DEFINED TERMS

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

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

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

"CIRA Tool" means the CAISO Customer Interface for Resource Adequacy.

"Compliance Obligations" means, as applicable, RAR, Local RAR and FCR.

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

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

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

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

"Effective Flexible Capacity" has the meaning given in CAISO's FERC-approved Tariff.

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

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

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

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

"Flexible Capacity Category" shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

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

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

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

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

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

"MW" means megawatt.

"Net Qualifying Capacity" has the meaning given in CAISO's FERC-approved Tariff.

"Notification Deadline" is ten (10) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

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

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

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

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

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

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

"Replacement Unit" has the meaning set forth in Section 2.3.

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

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

"SC" means Scheduling Coordinator as defined in the Tariff.

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

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

"Subsequent Purchaser" means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

"Substitute Capacity" has the meaning set forth in the Tariff for "RA Substitute Capacity".

"Swap Confirmation" means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 20.5 MW of Generic System RA from Purchaser.

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

"Tariff" means the CAISO Tariff, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit described in Appendix B. A Unit or Shown Unit may not be a coal-fired generating facility.

"Unit EFC" means the lesser of the Unit's Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

"Unit NQC" means the lesser of the Unit's Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: NP26
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

[redacted]

Unit 1

Unit Specific Information	
Resource Name	• Moss Landing Power Plant
Physical Location	Moss Landing, CA
CAISO Resource ID	• MOSSLD_2_PSP1
SCID of Resource	CALJ
Unit NQC by month (e.g., Jan=50,Feb=65):	510.00
Unit EFC by month (e.g., Jan=30, Feb=50)	
Resource Type (e.g., gas, hydro, solar, etc.)	Gas
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

APPENDIX C
NOTICE INFORMATION

Seller: Silicon Valley Clean Energy Authority	**Purchaser:** East Bay Community Energy
[redacted]	

[redacted]

APPENDIX D
PLANNED OUTAGE SCHEDULE

Unit Name	CAISO Resource ID *	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Orange County Power Authority, a California joint powers authority ("Seller") and Silicon Valley Clean Energy, a California joint powers authority ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of October 26, 2022 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). This Transaction is governed by the WSPP Agreement dated August 12, 2021 (the "WSPP Agreement"). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the "Agreement" and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B**,** C, and D are incorporated into this Confirmation.

☐ **Firm RA Product:**

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

☒ **Contingent Firm RA Product:**

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

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s).

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

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

(d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the

CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 Reductions in Contract Quantity

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

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

2.3 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more replacement units having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including the same Resource Category and, if applicable, the Flexible Capacity Category (each such unit, a "Replacement Unit") in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

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

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

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

(e) The designation of any Replacement Unit(s) by Seller shall be subject to Purchaser's prior written approval, which shall not be unreasonably withheld.

Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3 and Purchaser has approved such Replacement Units as consistent with this Confirmation, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month. Purchaser's approval of a Replacement Unit as to a given Showing Month shall not be construed as approval of such Replacement Unit for any subsequent Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity

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

(b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product or a

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

2.6 Purchaser's Re-Sale of Product

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

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

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

ARTICLE 3
PAYMENTS

3.1 Payment

In accordance with the terms of Section 9 of the WSPP Agreement, Purchaser shall make a

Monthly RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that Purchaser shall be entitled to a subsequent invoice adjustment or refund to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

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

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

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

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

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

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

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

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

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

4.3 Seller's Representations and Warranties

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

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

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

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

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

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

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Purchaser acknowledges that Seller's obligations under Section 30 of the WSPP Agreement to maintain the confidentiality of Purchaser information is subject to the public disclosure requirements of the California Public Records Act (Government Code Section 6250 et seq.) ("PRA"). Seller agrees that to the extent there is a valid exception to disclosure of Purchaser's information under the PRA, Seller will apply such exception.

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

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

6.6 Other WSPP Agreement Changes

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

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

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

(b) Section 22.1 is modified by inserting the following new text at the end thereof:

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

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

(d) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line thereof and deleting the second sentence therein.

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

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

(f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:

"If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

(g) Section 22.3(e) is deleted in its entirety and replaced with the following: "[Intentionally omitted]"

(h) Section 22.3(f) is deleted in its entirety and replaced with the following:

"If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting

Party may submit the calculation issue to Dispute Resolution pursuant to Section 34."

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

(j) Section 30.1 is amended by inserting "or requested" after the word "required" in Section 30.1(4) and by adding the following at the end of the first sentence: "; or (8) to the Party's and such Party's affiliates' lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential".

(k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

"34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION."

"34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN ORANGE COUNTY, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM."

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

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

"34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS CONFIRMATION AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE

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

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

(o) Section 41 "Witness" shall become Section 42 and the following "Standard of Review" Section shall be substituted in its place:

"The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the "Mobile-Sierra" doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm'n, 558 U.S. 165 (2010).

(ii) The Parties, for themselves and their successors and assigns, (i) agree that this "public interest" standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the "just and reasonable" standard."

6.7 Counterparts

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

6.8 Entire Agreement; No Oral Agreements or Modifications

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

[*Signatures appear on the following page.*]

AGREED AS OF THE EFFECTIVE DATE:

ORANGE COUNTY POWER AUTHORITY, a California joint powers authority

By:____________________________

Name: Brian Probolsky

Title: Chief Executive Officer

SILICON VALLEY CLEAN ENERGY, a California joint powers authority

DocuSigned by:

Girish Balachandran

By:____________________________

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Name: Girish Balachandran

Title: Chief Executive Officer

APPENDIX A
DEFINED TERMS

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

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

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

"CIRA Tool" means the CAISO Customer Interface for Resource Adequacy.

"Compliance Obligations" means, as applicable, RAR, Local RAR and FCR.

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

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

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

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

"Effective Flexible Capacity" has the meaning given in CAISO's FERC-approved Tariff.

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

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

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

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

"Flexible Capacity Category" shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

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

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

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

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

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

"MW" means megawatt.

"Net Qualifying Capacity" has the meaning given in CAISO's FERC-approved Tariff.

"Notification Deadline" is ten (10) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

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

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

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

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

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

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

"Replacement Unit" has the meaning set forth in Section 2.3.

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

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

"SC" means Scheduling Coordinator as defined in the Tariff.

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

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

"Subsequent Purchaser" means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

"Tariff" means the CAISO Tariff, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit described in Appendix B. A Unit or Shown Unit may not be a coal-fired generating facility.

"Unit EFC" means the lesser of the Unit's Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

"Unit NQC" means the lesser of the Unit's Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: TBD
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

Delivery period: January 1, 2023 through March 31, 2023, inclusive.

Contract Quantity and Contract Price:

Showing Month and Year	RAR Contract Quantity (MW)	Flexible Capacity Contract Quantity (MW)	Contract Price ($/kW-mo.)
[redacted]			

Unit 1

Unit Specific Information	
Resource Name	Sunrise Power Project
Physical Location	Fellows, CA
CAISO Resource ID	SUNRIS 2 PL1X3
SCID of Resource	TBD
Unit NQC by month (e.g., Jan=50,Feb=65):	586.02
Unit EFC by month (e.g., Jan=30, Feb=50)	461.02
Resource Type (e.g., gas, hydro, solar, etc.)	Gas Gen
Resource Category (1, 2, 3 or 4)	4
Flexible RAR Category (1, 2 or 3)	N/A
Path 26 (North or South)	North
Local Capacity Area	N/A
Deliverability restrictions, if any, as described in most recent CAISO	None
Run Hour Restrictions	None

Unit 2

Unit Specific Information	
Resource Name	Redondo Generating Station Unit 5
Physical Location	Redondo Beach, CA
CAISO Resource ID	REDOND_7_UNIT 5
SCID of Resource	AES
Unit NQC by month (e.g., Jan=50,Feb=65):	495.90
Unit EFC by month (e.g., Jan=30, Feb=50)	178.87
Resource Type (e.g., gas, hydro, solar, etc.)	Natural Gas Steam Turbine
Resource Category (1, 2, 3 or 4)	4
Flexible RAR Category (1, 2 or 3)	N/A
Path 26 (North or South)	South
Local Capacity Area	N/A
Deliverability restrictions, if any, as described in most recent CAISO	None
Run Hour Restrictions	None

APPENDIX C
NOTICE INFORMATION

Seller: Orange County Power Authority	**Purchaser:** Silicon Valley Clean Energy
All Notices:	**All Notices:**

[redacted]

[redacted]

APPENDIX D
PLANNED OUTAGE SCHEDULE

Unit Name	CAISO Resource ID	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

LONG FORM CONFIRMATION
FOR RESOURCE ADEQUACY CAPACITY PRODUCT

Resource Adequacy Contract Number: SDGE_SVCEA_SEP 2023_SELL_LOCAL RA

This confirmation letter ("Confirmation") confirms the transaction (the "Transaction") between San Diego Gas & Electric Company ("Seller") and Silicon Valley Clean Energy Authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 31, 2022 (the "Confirmation Execution Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Section 3 of this Confirmation. This Transaction shall be deemed to have been entered into pursuant to, and shall supplement, form a part of, and be governed by the terms and conditions of the form of Master Power Purchase and Sale Agreement published by the Edison Electric Institute and the National Energy Marketers Association (version 2.1 dated 4/25/00) (the "EEI Agreement") with a Cover Sheet containing the elections and other changes contained herein as if the Parties have executed the EEI Agreement (with such Cover Sheet the "Master Agreement"). The Parties agree that the only transactions to be concluded pursuant to such Master Agreement shall be the Transaction documented in this Confirmation. The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein). To the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder.

Name: Party A / Seller	**Name:** Silicon Valley Clean Energy Authority
All Notices:	**All Notices:**

[redacted]

[redacted]

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Article Two Transaction Terms and Conditions	☐ Optional provision in Section 2.4. If not checked, inapplicable.

Article Four Remedies for Failure to Deliver or Receive	☒ Accelerated Payment of Damages. If not checked, inapplicable.
Article Five Events of Default; Remedies	☐ Cross Default for Party A: ☐ Party A: N/A_________ Cross Default Amount: N/A____ ☐ Other Entity: N/A______ Cross Default Amount: N/A____ ☐ Cross Default for Party B: ☐ Party B:____________ Cross Default Amount:________ ☐ Other Entity:__________ Cross Default Amount:________ <u>5.6 Closeout Setoff</u> ☒ Option A (Applicable if no other selection is made.) ☐ Option B – Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: ____________________________________ ☐ Option C (No Setoff)
Article 8 Credit and Collateral Requirements	<u>8.1 Party A Credit Protection</u>: (a) Financial Information: ☐ Option A ☐ Option B Specify: ________________________ ☐ Option C Specify: ________________________ (b) Credit Assurances: ☒ Not Applicable ☐ Applicable (c) Collateral Threshold: ☒ Not Applicable ☐ Applicable (d) Downgrade Event: ☒ Not Applicable ☐ Applicable (e) Guarantor for Party B: N/A Guarantee Amount: N/A <u>8.2 Party B Credit Protection</u> (a) Financial Information: ☐ Option A ☐ Option B Specify: ________________________ ☐ Option C Specify: ________________________ (b) Credit Assurances: ☒ Not Applicable ☐ Applicable (c) Collateral Threshold: ☒ Not Applicable ☐ Applicable If applicable, complete the following:

Party A Collateral Threshold: $______________; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: $______________
Party A Rounding Amount: $________________

(d) Downgrade Event:
☒Not Applicable
☐ Applicable
If applicable, complete the following:

☐ It shall be a Downgrade Event for Party A if Party A 's Credit Rating falls below _______ from S&P or _______ from Moody's or if Party A is not rated by either S&P or Moody's

☐ Other:
Specify: ______________________________

(e) Guarantor for Party A: N/A

Guarantee Amount: N/A

Article 10 Confidentiality	☒ Confidentiality Applicable If not checked, inapplicable.
Schedule M	☐ Party A is a Governmental Entity or Public Power System ☐ Party B is a Governmental Entity or Public Power System ☐ Add Section 3.6. If not checked, inapplicable ☐ Add Section 8.4. If not checked, inapplicable Note to Buyers: If Buyer is a form of governmental entity, then Schedule M shall apply and further modifications to this Confirm will be needed.
Other Changes	1. The modifications to Section 1.12, 1.50 and 5.2 of the Master Agreement specified in that certain Errata published by the Edison Electric Institute (version 1.1, July 18, 2007) are hereby incorporated herein as if set forth in full. 2. Section 1.60 is amended by inserting the words "in writing" immediately following the words "agreed to". 3. In Section 2.1, delete the first sentence in its entirety and replace with the following: "A Transaction, or an amendment, modification or supplement thereto, shall be entered into only upon a writing signed by both Parties evidencing the

commercial terms of such Transaction (a "Confirmation")."

4. Section 2.3 is deleted in its entirety and replaced with the following:

   "2.3 No Oral Agreements or Modifications. Notwithstanding anything to the contrary in this Master Agreement, the Master Agreement and any and all Transactions may not be orally amended, supplemented or modified and any such amendment, supplement or modification shall only be effective pursuant to a writing signed by both Parties."

5. Section 2.4 is hereby amended by deleting the words "either orally or" in the sixth line.

6. Section 10.2(ii) of the Master Agreement shall be modified by inserting "Except for the approval by the CPUC as stated in Section 2.2 of this Confirmation," at the beginning of the first sentence in such section.

7. Section 10.6 of the Master Agreement shall be deleted in its entirety and replaced with the following:

   "10.6 THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAW, EACH PARTY WAIVES ITS RESPECTIVE RIGH TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT."

8. Schedule P: Products and Related Definitions shall be deleted in its entirety.

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1. <u>Definitions</u>

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

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

1.3 "Availability Standards" has the meaning set forth in the Tariff.

1.4 "Buyer" has the meaning specified in the introductory paragraph.

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

1.6 "Capacity Attributes" means (a) the Local RA Attributes, (b) the RA Attributes, (c) the Flexible RA Attributes, and (d) any other current or future defined characteristics (including the ability to generate at a given capacity level, provide ancillary services, ramp up or down at a given rate, and flexibility or dispatch-ability attributes), certificates, tags, credits, howsoever entitled, including any account construct applied to any Compliance Obligations, based on the applicable Unit's electric generation capacity.

1.7 "Capacity Price" means the price specified in the Capacity Price Table in Section 4.1.

1.8 "Capacity Replacement Price" means (a) the actual rate per kW-day paid for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) including any penalties, fines, transaction costs and expenses reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of Replacement Capacity, any penalties, fines, transaction costs and expenses plus the per kW-day market price for the Product not delivered by Seller under this Confirmation. Buyer shall determine such market prices in a commercially reasonable manner. For purposes of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed the "Replacement Price" for this Transaction.

1.9 "Compliance Obligations" means the RAR, Local RAR, Flexible RAR, and other resource adequacy requirements associated with a generating unit's Capacity Attributes established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.10 "Compliance Showing" means one or more of the following: (a) Local RAR Showing, (b) RAR Showing, (c) Flexible RAR Showing, or (d) other Capacity Attributes compliance or advisory filing (or similar or successor showing or filing), in each case, that an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.11 "Confirmation" has the meaning specified in the introductory paragraph.

1.12 [Reserved]

1.13 "Confirmation Execution Date" has the meaning specified in the introductory paragraph.

1.14 "Contract Price" means, for any day in any Monthly Delivery Period, the Capacity Price for such period.

1.15 "Contract Quantity" means the quantity of Product (in MW) as set forth in Section 3.5.

1.16 "Contract Term" has the meaning set forth in Section 2.1.

1.17 "CPUC" means the California Public Utilities Commission.

1.18 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-25, and any other existing or subsequent decisions, resolutions or rulings related to resource adequacy, as may be amended from time to time by the CPUC.

1.19 "CPUC Filing Guide" is the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSEs to demonstrate compliance with the CPUC's resource adequacy program as provided in the CPUC Decisions.

1.20 "Credit Rating" means, with respect to any entity, the rating assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) by S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Master Agreement, or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Master Agreement.

1.21 "Delivery Period" has the meaning specified in Section 3.3.

1.22 "Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

1.23 "Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

1.24 "Flexible RA Attributes" means, with respect to a Unit, any and all flexible resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and Local RA Attributes.

1.25 "Flexible RAR" means the flexible capacity requirements, including, without limitation, maximum continuous ramping, load following, and regulation, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Flexible RAR may also be known as ramping, maximum ramping, maximum continuous ramping, maximum continuous ramping capacity, maximum continuous ramping ramp rate, load following, load following capacity, load following ramp rate, regulation, regulation capacity, regulation ramp rate.

1.26 "Flexible RAR Showing" means the Flexible RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.27 "GADS" means the Generating Availability Data System, or its successor.

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

1.29 "Local Capacity Area" has the meaning set forth in the Tariff.

1.30 "Local RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes or other locational attributes for the Unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward a Local RAR, but exclusive of any RA Attributes and Flexible RA Attributes.

1.31 “Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

1.32 “Local RAR Showing” means the Local RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.33 “LSE” means load-serving entity.

1.34 “Marketable Emission Trading Credits” means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

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

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

1.37 “Monthly Payment” has the meaning specified in Section 4.1.

1.38 “Moody’s” means Moody’s Investors Services, Inc. or its successor.

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

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

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

1.42 “Non-Availability Charges” has the meaning set forth in the Tariff.

1.43 “Non-Specified RA Replacement Capacity” has the meaning set forth in the Tariff.

1.44 “Outage” means any disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff.

1.45 “Outage Schedule” has the meaning specified in Section 3.8.

1.46 “Planned Outage” shall have the meaning in CPUC Decisions, and includes a planned, scheduled, or any other Outage approved by the CAISO for the routine repair or maintenance of the Unit, or for the purposes of new construction work, and does not include any Outage designated as either forced or unplanned as defined by the CAISO or NERC/GADS Protocols.

1.47 “Product” has the meaning specified in Section 3.1.

1.48 “Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix A, of the Unit NQC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

1.49 “Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix A, of the Unit EFC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

1.50 "RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward RAR, exclusive of any Local RA Attributes and Flexible RA Attributes.

1.51 "RA Substitute Capacity" means capacity that the CAISO permits under the CAISO Tariff to be substituted for a Resource Adequacy Resource that is on Outage.

1.52 "RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.53 "RAR Showing" means the RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.54 "Replacement Capacity" means capacity which has equivalent Capacity Attributes as the portion of the Product not provided by the Units committed to Buyer as of the Confirmation Execution Date.

1.55 "Replacement Rules" has the meaning set forth in Section 3.9(b).

1.56 "Replacement Unit" means a generating unit providing Replacement Capacity.

1.57 "Resource Category" shall be as described in the CPUC Filing Guide.

1.58 "RMR Contract" has the meaning set forth in the Tariff.

1.59 "S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc. or its successor).

1.60 "Scheduling Coordinator" or "SC" has the meaning set forth in the Tariff.

1.61 "Seller" has the meaning specified in the introductory paragraph.

1.62 "Showing Month" shall be the calendar month that is the subject of the Compliance Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Execution Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.63 "Substitution Rules" has the meaning set forth in Section 3.9(b).

1.64 "Supply Plan" has the meaning set forth in the Tariff.

1.65 "Tariff" means the tariff and protocol provisions, including any applicable CAISO-published "Operating Procedures" and "Business Practice Manuals," as amended or supplemented from time to time, of the CAISO.

1.66 "Transaction" has the meaning specified in the introductory paragraph.

1.67 "Unit" or "Units" shall mean the generation assets described in Appendix A (including any Replacement Units), from which Product is provided by Seller to Buyer.

1.68 "Unit Contract Quantity" means the amount of Product (in MW) to be delivered by Seller to Buyer by each individual Unit, as specified in Appendix A as of the Confirmation Execution Date.

1.69 "Unit EFC" means the effective flexible capacity or capacity that is qualified to provide Flexible RA Attributes established by the CAISO for the applicable Unit.

1.70 "Unit NQC" means the Net Qualifying Capacity established by the CAISO for the applicable Unit.

1.71 "Unit Delivered Quantity" means the amount of applicable Product (in MW) actually "delivered" by Seller to Buyer by each individual Unit. As used herein, "delivered" shall mean shown in the Supply Plan and, for purposes of Section 4.1, shall include any RA Substitute Capacity under Section 3.9, and in all cases, shall not include (i) any portion of Contract Capacity for which Buyer is required under the Compliance Obligations or the Tariff to procure Replacement Capacity, and (ii) any portion of Contract Capacity for which Seller is required hereunder, but fails, to provide Replacement Capacity to Buyer.

2. Term

2.1 Contract Term

The "Contract Term" shall mean the period of time commencing upon the Confirmation Execution Date and continuing until the later of (a) the expiration of the Delivery Period or (b) the date the Parties' obligations under this Agreement have been fulfilled.

3. Transaction

3.1 Product

(a) Seller shall sell and Buyer shall receive and purchase, the Capacity Attributes (including all Local RA Attributes but excluding Flexible RA Attributes (if any) of the Units identified in Appendix A (collectively, the "Product") and Seller shall deliver the Product as described in Section 3.2 below. Product does not include any right to dispatch or receive the energy or ancillary services from the Unit. Seller retains the right to sell any Product from a Unit in excess of its Unit Contract Quantity.

(b) The Parties agree that (i) the Contract Price for the Product shall not change if the CAISO, CPUC or other Governmental Body (A) defines new or re-defines existing Local Capacity Areas which decreases or increases the amount of Local RA Attributes provided hereunder, or (B) defines new or re-defines existing Local Capacity Areas whereby the Units qualify for a Local Capacity Area and (ii) if the event in Section 3.1(b)(i)(B) occurs then the Product shall include such Local RA Attributes.

3.2 Unit Contingent Quantity

During the Delivery Period, Seller shall provide Buyer with the Product from the Unit(s) in the amount of the Contract Quantity. Except for reasons of Planned Outage, Force Majeure or any adjustment of the Capacity Attributes of any Unit(s), if the Unit(s) are not available to provide any portion of the Product, Seller shall provide Buyer with Replacement Capacity from one or more Replacement Units pursuant to Section 5.1. If Seller fails to provide Buyer with Replacement Capacity pursuant to Section 5.1, then Seller shall be liable for damages and/or to indemnify Buyer for penalties, fines or costs pursuant to the terms of Section 5 and Section 10.

3.3 Delivery Period

The "Delivery Period" shall be September 1, 2023 through September 30, 2023, inclusive, unless terminated earlier in accordance with the terms of this Agreement.

3.4 Contract Quantity:

During each month of the Delivery Period, Seller shall provide the Product from each Unit in the total amount for such month as follows:

CONTRACT QUANTITY TABLE

Unit Name	CAISO Resource ID*	Month(s)	Unit Contract Quantity (MW)	
			Capacity Attributes (excluding Flexible RA Attributes)	Flexible RA Attributes
[redacted]				

3.5 Delivery of Product

Seller shall provide Buyer with the Contract Quantity for each day in each Monthly Delivery Period consistent with the following:

(a) Seller shall, on a timely basis, submit, or cause each Unit's SC to submit, Supply Plans to identify and confirm the Unit Delivered Quantity for each Unit provided to Buyer so that the total amount of Unit Delivered Quantity identified and confirmed equals the Unit Contract Quantity for each Unit, unless specifically notified or requested not to do so by the Buyer pursuant to Section 3.9, and;

(b) Seller shall submit, or cause each Unit's SC to submit, written notification to Buyer, no later than fifteen (15) Business Days before the relevant deadline for any applicable Compliance Showing, that Buyer will be credited with Unit Delivered Quantity for the applicable portion of the Delivery Period in the Unit's SC Supply Plan so that the total amount of Unit Delivered Quantity for each Unit credited equals the Unit Contract Quantity.

3.6 CAISO/CPUC Offer Requirements

Subject to Buyer's request under Section 3.9(a), Seller shall, or cause the Unit's SC to, bid and/or schedule with, or make available to, the CAISO the Unit Contract Quantity for each Unit in compliance with the Tariff and the CPUC Filing Guide, including any must offer obligation under the Tariff or the CPUC Filing Guide, and shall, or cause the Unit's SC, owner, or operator, as applicable, to perform all obligations under the Tariff and the CPUC Filing Guide that are associated with the sale and delivery of Product hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's SC, owner, or operator to comply with such Tariff and CPUC Filing Guide provisions, including any penalties, charges or fines imposed on Seller or the Unit's SC, owner, or operator for such noncompliance.

3.7 Reserved

3.8 Unit Substitution; RA Replacement Capacity

(a) RA Replacement Capacity: No later than five (5) Business Days before the relevant deadline for each applicable Compliance Showing, Buyer may (i) request, subject to Seller's reasonable approval, that Seller not, or cause each Unit's SC not to, list a portion or all of a Unit's applicable Unit Contract Quantity on the Supply Plan or (ii) notify Seller that a portion or all of the Unit Contract Quantity of a Unit will be included in an applicable Compliance Showing as RA Substitute Capacity. The amount of Unit Contract Quantity that is the subject of such a request or notice shall be known as "RA Substitute Capacity" and, for purposes of calculating a Monthly Payment pursuant to Section 4.1, to the extent provided, such RA Substitute Capacity shall be deemed Unit Delivered Quantity provided consistent with Section 3.6.

(b) Seller's Obligations With Respect to RA Substitute Capacity: If Buyer requests RA Substitute Capacity, Seller shall (i) make such RA Substitute Capacity available to Buyer during the applicable Showing Month to allow Buyer to utilize, as applicable, the substitution rules in Sections 9.3.1.3.1, 9.3.1.3.2 and 40.9.4.2.1 of the Tariff ("Substitution Rules") and (ii) take, or cause each Unit's SC to take, all action to allow Buyer to utilize, as applicable, the Substitution Rules, including, but not limited to, ensuring that the RA Substitute Capacity will qualify, as applicable, for substitution under the Substitution Rules, and providing Buyer with all information needed to utilize the Substitution Rules.

(c) Seller agrees that all RA Substitute Capacity utilized by Buyer under the Substitution Rules, as applicable, is subject to the requirements identified in Section 3.6.

(d) Failure to Provide RA Substitute Capacity: If Seller fails to provide RA Substitute Capacity or Buyer is unable to utilize the RA Substitute Capacity under the Substitution Rules due to Seller's failure to fulfill its obligations under Section 3.9(b)(ii), then Seller shall reimburse Buyer for any and all Non-Availability Charges incurred by Buyer and shall pay Buyer the CPM revenue the CASIO would have paid the Buyer but for Seller failure, due to such failure or inability to utilize the Substitution Rules; provided, that if Buyer is unable to utilize the Substitution Rules because the RA Substitute Capacity does not qualify for substitution under Section 9.3.1.3.1, 9.3.1.3.2, 40.9.4.2.1(1)(i) or (ii) of the Tariff, then Seller shall not be responsible for any such Non-Availability Charges described in this Section 3.9(d) associated with such inability.

3.9 Buyer's Re-Sale of Product

Buyer may re-sell all or a portion of the Product.

4. Payment

4.1 Monthly Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a "Monthly Payment" to Seller for each Unit after the applicable Monthly Delivery Period, as follows:

$$Monthly\ Payment = \sum_{n=1}^{d} (A_n * B_n * 1000)$$

***where*:**

A *= applicable Contract Price (in $/kW-day) for that calendar day*

B *= Unit Delivered Quantity (in MW) for Capacity Attributes provided by Seller for such Unit in that calendar day; provided, however, in no event shall this quantity "**B**" exceed the Contract Quantity for such Unit (in MW) for Capacity Attributes nor shall this quantity "**B**" be less than zero.*

d *= Total number of calendar days in the respective Monthly Delivery Period*

The Monthly Payment calculation shall be rounded to two decimal places. In no case shall a Unit's Monthly Payment (or any day in any Monthly Payment) be less than zero.

CAPACITY PRICE TABLE

Contract Month	Capacity Price ($/kW-day)
[redacted]	

4.2 Reserved.

4.3 Allocation of Other Payments and Costs

(a) Seller shall retain any revenues it may receive from and pay all costs charged by, the CAISO or any other third party with respect to any Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, and (iv) any revenues for black start or reactive power services. Seller shall be responsible for the Environmental Costs associated with the Product and shall indemnify, defend and hold Buyer harmless from and against all third-party claims brought against Buyer for Environmental Costs.

(b) Buyer shall be entitled to receive and retain all revenues associated with the Contract Quantity during the Delivery Period including any capacity or availability revenues from RMR Contracts for any Unit, Capacity Procurement Mechanism (CPM) or its successor, and Residual Unit Commitment (RUC) Availability Payments, or its successor but excluding payments described in Section 4.3(a)(i)-(iv).

(c) In accordance with Section 4.1 of this Confirmation and Article Six of the Master Agreement, all such Buyer revenues described in Section 4.3(b), but received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. In order to verify the accuracy of such revenues, Buyer shall have the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity.

(d) If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit the Contract Quantity for re-sale in such market, and retain and receive any and all related revenues.

(e) Subject to the Unit being made available to the CAISO in accordance with Article 3 of this Confirmation, Seller agrees that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments under the Tariff. Furthermore, the Parties agree that any Availability Incentive Payments are for the benefit of Seller and for Seller's account and that any Non-Availability Charges are the responsibility of Seller and for Seller's account.

4.4 Offset Rights

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

5. Seller's Failure to Deliver Contract Quantity

5.1 Seller's Duty to Provide Replacement Capacity

Planned Outage replacement shall be addressed by the Tariff. For all other replacements, if Seller is unable to provide the Contract Quantity from any Unit(s) for any day in any Monthly Delivery Period and Replacement Capacity is required under Section 3.2, then:

(a) Seller shall notify Buyer of the non-availability of any portion of the Contract Quantity from any Unit(s) and identify Replacement Unit(s), and

(b) Seller shall, at no additional cost to Buyer, provide Buyer with Replacement Capacity from one or more Replacement Units, such that the total amount of Product provided to Buyer from all Units and Replacement Units equals Contract Quantity.

provided that the designation of any Replacement Unit by Seller shall be subject to Buyer's prior written approval, which shall not be unreasonably withheld or delayed. Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 5.1, and Buyer has approved the designation of the Replacement Unit, then any such Replacement Unit shall be deemed a Unit for purposes of this Confirmation for that day in such Monthly Delivery Period. Notwithstanding anything to the contrary in this Confirmation, Seller's failure to properly provide Replacement Capacity, including Seller's obligation to identify Replacement Units within the notice deadlines specified in this Section 5.1, may result in the calculation of damages payable to Buyer and/or the indemnification of Buyer against any penalties, fines or costs under Section 5 and Section 10.

5.2 Damages for Failure to Provide Replacement Capacity

If Seller fails to provide Buyer any portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by Section 5.1, then the following shall apply:

(a) Buyer may, but shall not be obligated to, obtain Replacement Capacity. Buyer may enter into purchase transactions with one or more parties to replace the portion of Contract Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver the capacity to another party, and such arrangements shall be considered the procurement of Replacement Capacity. Buyer shall act in a commercially reasonable manner in purchasing any Replacement Capacity, and;

(b) Seller shall pay to Buyer damages, in accordance with the terms of Section 4.1 of the Master Agreement relating to "Accelerated Payment of Damages," if applicable, an amount equal to the positive difference, if any, between (i) the sum of (A) the Capacity Replacement Price paid by Buyer for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) for such day, plus (B) the Capacity Replacement Price times the portion of Contract Capacity not provided by Seller nor purchased by Buyer pursuant to Section 5.2(a) for such day times 1,000 kW/MW, and (ii) the portion of Contract Capacity not provided for the applicable day in the applicable Monthly Delivery Period times the Contract Price for that day times 1,000 kW/MW.

5.3 Indemnities for Failure to Deliver Contract Capacity

If Buyer is unable to purchase Replacement Capacity after Seller fails to provide Buyer a portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by Section 5.1, then in addition to the damages pursuant to Section 5.2(b)(i)(B) with respect to the portion of Contract Capacity that Buyer has not replaced, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC, CAISO, or any Governmental Body having jurisdiction, resulting from any of the following:

(a) Seller's failure to provide any portion of the Contract Capacity or any portion of the Replacement Capacity;

(b) Seller's failure to provide timely notice of the non-availability of any portion of the Contract Capacity;

(c) A Unit's SC's failure to timely submit Supply Plans that identify Buyer's right to the Unit Contract Quantity purchased hereunder, or;

(d) any other failure by Seller to perform its material obligations under this Confirmation.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines and costs.

6. Other Buyer and Seller Covenants

6.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's Compliance Obligations. The Parties further agree to negotiate in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions or decisions rendered by the CPUC, FERC, or other Governmental Body having jurisdiction to administer Compliance Obligations, to maintain the benefits of the bargain struck by the Parties on the Confirmation Execution Date. The Parties acknowledge that the benefit of the bargain as stated in this Agreement attempts to reflect anticipated changes to the CASIO and CPUC Resource Adequacy rules as such rules have been proposed as of the Confirmation Execution Date.

As used in this Section 6.1, "commercially reasonable actions" or "good faith" shall not require the Seller, or the owner or operator of any Unit to undertake any capital improvements, facility enhancements, or the construction of new facilities.

6.2 Seller's Represents, Warrants and Covenants

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

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

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

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

(d) Seller shall, and each Unit's SC, owner and operator is obligated to, comply with Applicable Laws, including the Tariff, relating to the Product;

(e) If Seller is the owner of any Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for any Unit does not exceed the Unit NQC or Unit EFC, as applicable, for that Unit;

(f) Seller has notified the SC of each Unit that Seller has transferred the Unit Contract Quantity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff fully reflecting such transfer;

(g) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to Buyer, at least fifteen (15) Business Days before the relevant deadline for each Compliance Showing, the Unit Contract Quantity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period;

(h) Seller has notified each Unit's SC that Buyer is entitled to the revenues set forth in Section 4.3, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues;

(i) In the event Seller has rights to the energy output of any Unit, and Seller or the Unit's SC schedules energy from the Unit for export from the CAISO Control Area, or commits energy to another entity in a manner that could result in scheduling energy from the Unit for export from the CAISO Control Area, it shall do so only as allowed by, and in accordance with, Applicable Laws and such exports may, if allowed by the Tariff, be curtailed by the CAISO, and;

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

7. Confidentiality

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer and Seller may disclose this Agreement to the CPUC, CAISO and any Governmental Body, as required by Applicable Law, and Seller may disclose the transfer of the Contract Quantity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans; provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or SC to further disclose such information. In addition, in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

8. Counterparts

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by fax will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by facsimile will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

9. <u>Collateral Requirements</u>

Buyer shall have no obligation to provide or maintain such Performance Assurance if Buyer maintains a Credit Rating from S&P of BBB- or better or from Moody's of Baa3 or better; provided that if Seller fails to maintain such specified Credit Rating, then Buyer agrees to deliver to Seller within three (3) Business Days of Seller's request following such Credit Rating downgrade and maintain in full force and effect Performance Assurance in the amount of Two Hundred Forty Four Thousand, Two Hundred Sixty ($244,260.00) in the form of (i) cash or (ii) a Letter of Credit, in substantially the same form as attached hereto as Appendix B, until all amounts have been indefeasibly paid in full.

10. <u>Declaration of an Early Termination Date and Calculation of Settlement Amounts</u>

Notwithstanding anything to the contrary, the Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation as applicable. Furthermore, with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the EEI Agreement:

> "If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur penalties, fines or costs from the CPUC, the CAISO, or any other Governmental Body having jurisdiction, because Buyer is not able to include the Contract Quantity in any applicable Compliance Showing due to the termination of the Transaction under the Master Agreement caused by Seller's Event of Default and Buyer has not purchased Replacement Capacity for the applicable portion of the Contract Quantity, then Buyer may, in good faith, estimate as its Losses in respect of the Transaction the present value of the amount of those penalties, fines and costs on a $/kW-day basis subtracting the Contract Price (in $/kW-day) and include this estimate in its determination of the Settlement Amount, subject to accounting to Seller when those penalties, fines and costs are finally ascertained. The rights and obligations with respect to determining and paying any Settlement Amount or Termination Payment, and any dispute resolution provisions with respect thereto, shall survive the termination of this Transaction and shall continue until after those penalties or fines are finally ascertained."

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Confirmation to be duly executed as of the date first above written.

Silicon Valley Clean Energy Authority a California joint powers authority	SAN DIEGO GAS & ELECTRIC COMPANY a California corporation
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: DocuSigned by: Joseph Pasquito BB43C9758847480...
Name: Girish Balachandran	Name: Joe Pasquito
Title: girish@svcleanenergy.org	Title: Market Analysis Manager
	APPROVED as to legal form DS AS

APPENDIX A

Buyer SCID: LSVCE

Unit Information

Unit Resource Name	Kumiyaay Wind
CAISO Resource ID	CRSTWD_6_KUMYAY
Unit SCID	LSDGE
Unit NQC (MW)	5.62
Prorated Percentage of Unit Factor	94.48%
Unit EFC (MW)	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Resource Type	Wind
Resource Category (MMC Bucket 1, 2, 3 or 4)	4
Path 26 (North or South)	South
Local Capacity Area (if any, as of Confirmation Execution Date)	San Diego-IV
Unit Contract Quantity (MW) fo[redacted] Capacity Attributes (excluding Flexible RA Attributes)	[redacted]
Unit Contract Quantity (MW) for Flexible RA Attributes	N/A
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	None
Run Hour Restrictions	None

Appendix B

Form of Letter of Credit

LETTER OF CREDIT FORM

IRREVOCABLE STANDBY
LETTER OF CREDIT
Reference Number:_______________
Transaction Date:

BENEFICIARY:

San Diego Gas & Electric Company
____
____
____

Ladies and Gentlemen:

_____________________________________(the "Bank") hereby establishes this Irrevocable Standby Letter of Credit ("Letter of Credit") in favor of San Diego Gas & Electric Company, a California corporation (the "Beneficiary"), for the account of_______________________, a _____________corporation (the "Applicant"), for the amount of XXX AND XX/100 Dollars ($_____ ____________) (the "Available Amount"), effective immediately and expiring at 5:00 p.m., New York time, on the Expiration Date (as hereinafter defined).

This Letter of Credit shall be of no further force or effect upon the close of business on _______________or, if such day is not a Business Day (as hereinafter defined), on the next preceding Business Day, unless extended in accordance with the terms of this Letter of Credit. For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in New York, New York.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to the Beneficiary by presentation in compliance on or prior to 5:00 p.m. New York time, on or prior to the Expiration Date, of the following:

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and

2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at________________or such other number as specified from time to time by the Bank or by electronic signature. The facsimile or electronic signature transmittal shall be deemed delivered when received. It is understood that drawings made by facsimile transmittal or electronic signature are deemed to be the operative instrument without the need of originally signed documents.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; *provided that,* the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is transferable in whole or in part.

Banking charges shall be the sole responsibility of the Applicant.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period beginning on the present expiry date hereof and upon each anniversary of such date, unless at least ninety (90) days prior to any such expiry date we have sent you written notice by regular and registered mail or courier service that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored except as described in the succeeding paragraph.

We agree that if this Letter of Credit would otherwise expire during, or within 30 days after, an interruption of our business caused by an act of god, riot, civil commotion, insurrection, act of terrorism, war or any other cause beyond our control or by any strike or lockout, then this Letter of Credit shall expire on the 30th day following the day on which we resume our business after the cause of such interruption has been removed or eliminated and any drawing on this Letter of Credit which could properly have been made but for such interruption shall be permitted during such extended period.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

The Bank engages with the Beneficiary that Beneficiary's drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 600 ("UCP"), EXCEPT TO THE EXTENT THAT THE TERMS HEREOF ARE INCONSISTENT WITH THE PROVISIONS OF THE UCP, INCLUDING BUT NOT LIMITED TO ARTICLES 14(8) AND 36 OF THE UCP, IN WHICH CASE THE TERMS OF THIS LETTER OF CREDITSHALLGOVERN. MATTERSNOTCOVERED BY THE UCP SHALL BEGOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

AUTHORIZED SIGNATURE for Bank

____
By:

Title:________________________________

ATTACHMENT A TO APPENDIX B
DRAWING CERTIFICATE TO [ISSUING BANK NAME]
IRREVOCABLE STANDBY LETTER OF CREDIT

Reference Number. ____
(Sample Text)

DRAWING CERTIFICATE
Bank
Bank Address

Subject: Irrevocable Standby Letter of Credit
Reference Number:
____

The undersigned______________________, an authorized representative of San Diego Gas & Electric Company (the "Beneficiary"), hereby certifies to [Issuing Bank Name] (the "Bank"), and ______________________(the "Applicant"), with reference to Irrevocable Standby Letter of Credit No.___________________, dated ______________________, (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to $_________________, for the following reason(s) [check applicable provision]:

   [ ]A. An Event of Default, as defined in the [INSERT] Agreement between Beneficiary and Applicant (the "Agreement"), with respect to the Applicant has occurred and is continuing or an amount is due and unpaid to Beneficiary by Applicant.

   [ ]B. The Letter of Credit will expire in fewer than sixty (60) days from the date hereof, and Applicant has not provided to Beneficiary alternate Performance Assurance (as defined in the Agreement) acceptable to Beneficiary.

2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. DOLLARS AND /100ths (U.S.$___________________________), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire-transferred to the Beneficiary in accordance with the following instructions: