George Tyson, Chair
Town of Los Altos Hills

Tina Walia, Vice Chair
City of Saratoga

Elliot Scozzola
City of Campbell

Sheila Mohan
City of Cupertino

Zach Hilton
City of Gilroy

Sally Meadows
City of Los Altos

Rob Rennie
Town of Los Gatos

Evelyn Chua
City of Milpitas

Bryan Mekechuk
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Margaret Abe-Koga
City of Mountain View

Larry Klein
City of Sunnyvale

Otto Lee
County of Santa Clara

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, September 13, 2023
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

Administrative Conference Room, Gilroy City Hall
7351 Rosanna St.
Gilroy, CA 95020

Morgan Hill City Hall
17575 Peak Ave.
Morgan Hill, CA 95037

Teleconference Meeting
Webinar:
https://cityofcupertino.zoom.us/j/98073701644

Telephone (Audio Only):
US: +1 669-900-6833
Webinar ID: 980 7370 1644

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.

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

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

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

AGENDA

Call to Order

Roll Call

Public Comment on Matters Not Listed on the Agenda

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

Consent Calendar (Action)

1a) Approve Minutes of the August 9, 2023, Board of Directors Meeting

1b) Receive July 2023 Treasurer Report

1c) Approve Amendment No. 6 to Employment Agreement for Chief Executive Officer

1d) Adopt Salary Scale for Chief Executive Officer

1e) Adopt Resolution Establishing October 4, 2023 as Clean Air Day

1f) Authorize the Chief Executive Officer to Execute an Agreement for FY23-24 with HBT Energy Management LLC for Power Resource Management Services

1g) Authorize the Chief Executive Officer to Execute an Agreement for FY23-24 with Richards, Watson & Gershon for Legal Services

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

1i) SVCE 2022 Annual Power Source Disclosure Report Attestation

1j) Authorize the Chief Executive Officer to Execute a Second Amendment to the PCE Cost Share Agreement for Technical Support for the Reach Code Program

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City of Mountain View

Larry Klein
City of Sunnyvale

Otto Lee
County of Santa Clara

1k) Executive Committee Report

1l) California Community Power Report

1m) Additional Committee Reports

Regular Calendar

2) CEO Report (Discussion)

3) Update on Strategic Plan and Adopt FY24 SVCE Focus Areas (Action)

4) Adopt the FY 2023-24 Recommended Operating Budget and Updated Reserves Policy (Action)

Board Member Announcements and Direction on Future Agenda Items

Public Comment on Closed Session

Closed Session

PUBLIC EMPLOYEE APPOINTMENT
Title: Chief Executive Officer

Report from Closed Session

Adjourn

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Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, August 9, 2023
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

Administrative Conference Room, Gilroy City Hall
7351 Rosanna St.
Gilroy, CA 95020

16870 Prospect Ave.
Thousand Island Park, NY 13692

DRAFT MEETING MINUTES

Call to Order:
Chair Tyson called the meeting to order at 7:01 p.m.

Roll Call
Present:
George Tyson (Chair), Los Altos Hills
Tina Walia (Vice Chair), Saratoga
Elliot Scozzola, Campbell
Sheila Mohan, Cupertino
Zachary Hilton, Gilroy (Participated via teleconference)
Sally Meadows, Los Altos
Rob Rennie, Los Gatos (Participated via teleconference)
Evelyn Chua, Milpitas
Tanya Carothers, Morgan Hill
Margaret Abe-Koga, Mountain View
Murali Srinivasan, Sunnyvale
Otto Lee, Santa Clara County

Absent:
Bryan Mekechuk, Monte Sereno

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 June 14, 2023, Board of Directors Meeting
1b) Approve Minutes of the June 14, 2023, Board of Directors Special Meeting
1c) Receive May and June 2023 Treasurer Report
1d) Ratify Broker Transaction Expenses for Past Commodity Purchases
1e) Adopt Resolution to Approve the Amended Energy Risk Management Policy
1f) Authorize the Chief Executive Officer to Modify Agreement with Power MC LLC
1g) Adopt Resolution Authorizing the Chief Executive Officer to Amend Master Agreement with Direct Energy Business Marketing, LLC ("DEBM")
1h) Receive Q2 2023 Decarbonization Programs Update
1i) Executive Committee Report
1j) Finance and Administration Committee Report
1k) California Community Power Report
1l) Legislative Response to Industry Transition 2023 Ad Hoc Committee Report
1m) Audit Committee Report

MOTION: Vice Chair Walia moved and Director Lee seconded the motion to approve the Consent Calendar, Items 1a through 1m.

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

Regular Calendar

2) CEO Report (Discussion)

CEO Girish Balachandran's report included the following:

1) Announcement of staff's all-hands retreat at the SVCE office on Thursday, followed by Friday at the Milpitas Community Center;
2) Introduction of SVCE's newest Associate Data Scientist, Colleen McCamy, who provided brief welcome comments;
3) Announcement of promotions of the following staff:
    a. Bena Chang, Director of Government and Legislative Affairs,
    b. Pamela Leonard, Deputy Director of Marketing and Communications, and
    c. Nik Zanotto, Senior Manager of IT and Administrative Services

4) An informational presentation from Justin Zagunis, Director of Decarbonization Programs and Policy, regarding where to find information on SVCE's programs and upcoming enhancements to sharing that information.
5) An update from Jessica Cornejo, Senior Programs Specialist, on SVCE's Contractor Training Program, which included two video testimonials from contractors who participated in the course.

CEO Balachandran noted staff would be preparing a future workshop focused on SVCE's programs.

Staff responded to board member questions regarding contractor training participants, and past feedback on the process for SVCE's FutureFit Homes program rebates; Director Chua requested information on contractors from the City of Milpitas.

A question was posed on if Board Members could participate in SVCE's FutureFit Homes program rebates; staff noted they would follow up and confirm.

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

3) Authorize the Chief Executive Officer to Execute a 15-Year Power Purchase Agreement with Grace Orchard Solar II, LLC for Renewable Solar PV Supply (PCC1) and a 15-Year Energy Storage Service Agreement with Yellow Pine Solar III, LLC for Energy Storage, in Substantial Form and Any Necessary Ancillary Agreements and Documents (Action)

Monica Padilla, COO and Director of Power Resources, and Zak Liske, Senior Manager of Power Operations, presented the item with a request to the Board of Directors to authorize the CEO to execute two separate NextEra agreements for the procurement of renewable solar energy and standalone storage capacity in substantial form, and any necessary ancillary agreements and documents as follows:

1. Grace Orchard Solar II, LLC, Power Purchase Agreement (PPA) ("Grace Solar")
    a. 120 MW or approximately 331,000 MWh per year of Renewable Portfolio Standard (RPS) Portfolio Category Content One ("PCC1") eligible resources
    b. 15-Year term PPA with expected commercial operation date (COD) and term from July 1, 2027, through June 30, 2042.
    c. Total amount not-to-exceed $286,000,000.

2. Yellow Pine Solar III, LLC, Energy Storage Service Agreement (ESSA) ("YP3 BESS")
    a. 115 to 120 MW, four-hour standalone battery energy storage system (BESS).
    b. 15-year deliver term with expected COD and term of August 1, 2025, through July 31, 2040.
    c. Dollar authority not to exceed $420,000,000.

The presentation included information on the progress made towards meeting SVCE's long-term clean energy goals, a summary of the Fall 2022 request for proposals (RFP), and information on both projects and how they would increase clean energy and capacity.

Staff responded to board member questions regarding the RFP responses received, if SVCE engages in joint procurement efforts, and renewable portfolio standard resources.

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

MOTION: Director Abe-Koga moved and Vice Chair Walia seconded the motion to authorize the CEO to execute the 15-year Power Purchase Agreement with Grace Orchard Solar II, LLC and the 15-year Energy Storage Service Agreement with Yellow Pine Solar III, LLC.

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

4) Provide Feedback on the FY 2023-24 Proposed Operating Budget and Updated Reserves Policy (Discussion)

Amrit Singh, CFO and Director of Administrative Services, provided a presentation on the FY 23-24 proposed operating budget and revised reserves policy for feedback. The main areas of discussion in the presentation were to review key highlights, review the proposed budget forecast, review revenue forecast uncertainty, power supply cost comparison to the FY23 mid-year budget, other operating expenses, and a review of the proposed update to reserve targets to increase the target days cash on hand from 285 to 300.

Staff responded to board member questions regarding the proposed current customer discount rate, the increase in days cash on hand to 300, the potential of purchasing an office building in the future, current investment strategy, and PG&E's rates.

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

Board Member Announcements and Future Agenda Items
Director Meadows announced the City of Los Altos and SVCE published a joint press release on the Community Resilience Grant award to implement the “cool pavement” coating pilot project in Los Altos.

Director Rennie announced the Fire Safe Council will be having a fundraising event on October 10, 2023 at the Mountain Winery.

Public Comment on Closed Session
No speakers.

The Board of Directors convened to Closed Session at 8:35 p.m.

Closed Session
Public Employee Performance Evaluation
Title: Chief Executive Officer

Public Employee Appointment
Title: Chief Executive Officer

Conference with Labor Negotiators
Agency designated representatives: Director Tyson, Board Chair, and Director Walia, Board Vice Chair
Unrepresented Employee: Chief Executive Officer

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(California Government Code Section 54956.9(d)(1))
Name of case: Central Coast Community Energy, a California joint powers authority; Silicon Valley Clean Energy Authority, a California joint powers authority v. Big Beau Solar, LLC, et al, Santa Clara County Superior Court Case No. 22CV398156

Report from Closed Session
Chair Tyson announced there was nothing to report from Closed Session.

Adjourn
Chair Tyson adjourned the meeting at 9:56 p.m.

ATTEST:

_____
Andrea Pizano, Board Secretary



TREASURER REPORT

Fiscal Year to Date
As of July 31, 2023

(Preliminary & Unaudited)

Issue Date: September 13, 2023

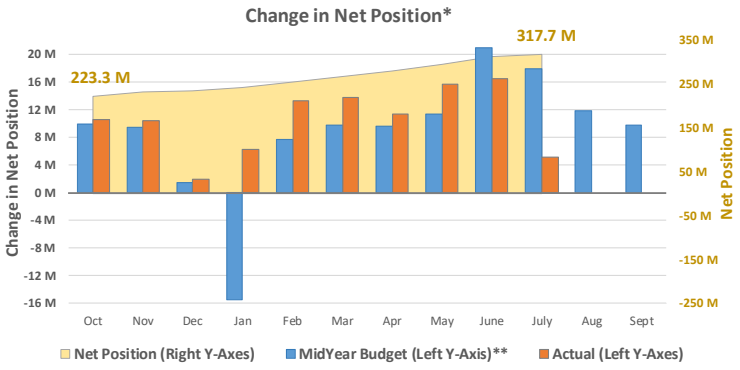
Table of Contents

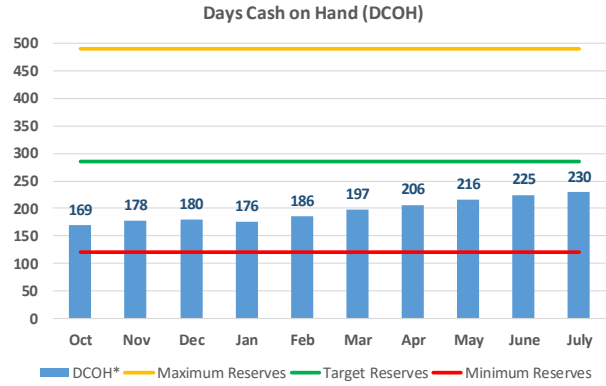
	Page
Summary	2-3
Statement of Net Position	4
Statement of Revenues, Expenses & Changes in Net Position	5
Statement of Cash Flows	6-7
Actuals to Budget Report	8-10
Monthly Change in Net Position	11
Investments Report	12
Customer Accounts	13
Accounts Receivable Aging Report	13

SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights* ($ in millions)
July 31, 2023

Balance Sheet Highlights:

> SVCE operations resulted in a change in net position of $5.2 million for the month of July and $105 million for fiscal-year-to-date (FYTD).*
> Total Net Position increased further to $317.7 M
> SVCE is investing ~95% of available funds generating FYTD interest/dividend income of $6.1 million.





*Does not yet recognize unspent program dollars

**For reconciliation purposes, budget numbers include actual program expenses and depreciation, exclude GASP 87 expenses.

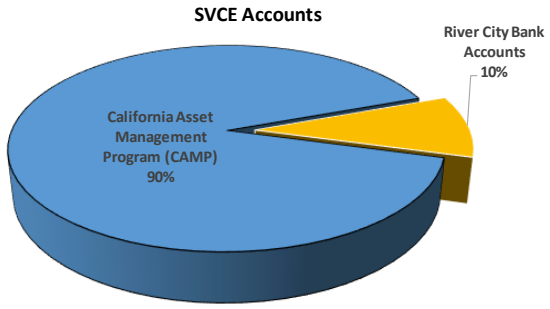
*Adjusted to reflect Mid-year budget adjustments and additional program funding

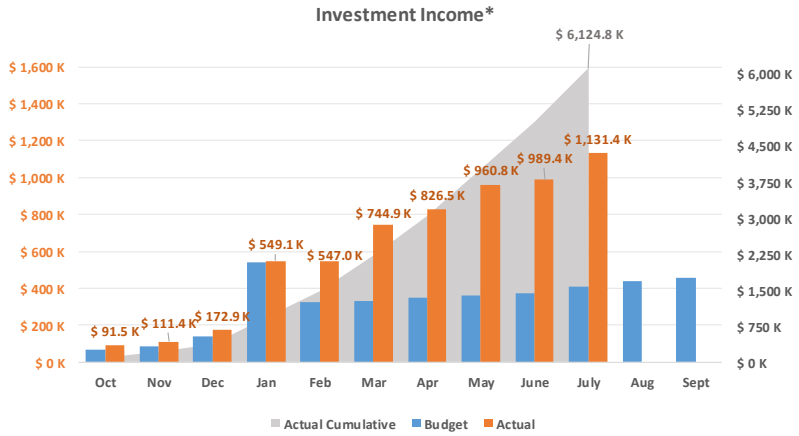
SVCE Yield-bearing Accounts:

Combined Ending Balance	249.3 M
Total Interest/Div. Earned FYTD	6.0 M
Average Return On Investments	5.0%

* Includes River Bank accounts - Money Market, Collateral and ICS; CAMP; PFM Portfolio

** Aver





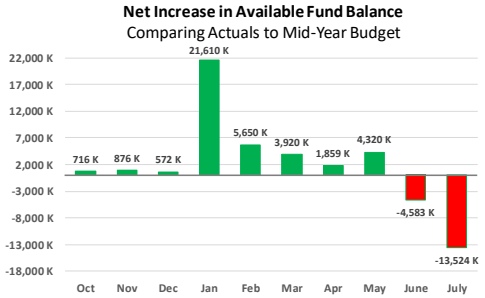
*Includes investment income from SVCE Yield-bearing accounts plus interest on cash collateral

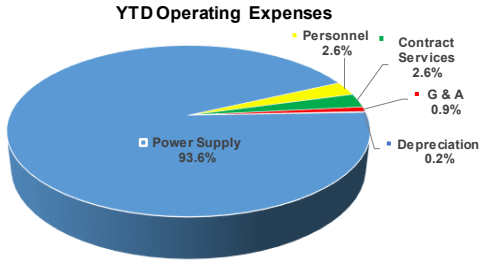
SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights** ($ in millions)
July 31, 2023

Summary of Actual Results vs. Budget (includes allocated but unspent program dollars):

> FYTD operating margin of $116.5 million or ~29% is above amended budget expectations of 26% operating margin for the fiscal year to date.
> FYTD Power Supply costs are -8% below mid-year budget.
> Retail GWh sales for the month and FYTD landed -7% and -1% below budget respectively.

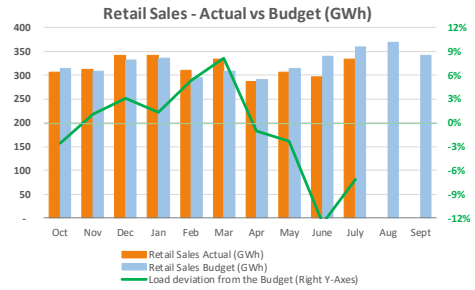
Variance Explanation:
January *- the variance mainly reflects a big drop in prices from December'22 to January'23 resulting in $21.5M net power cost savings comparing to MY Budget estimations*
March *- mainly reflects stronger revenues due to higher than anticipated customer load*
February, April & May *- mainly reflects the below budget net power supply cost and savings in all categories of other operating expenses.*
June & July *- lower than estimated customer load due to below historic-average temperatures.*

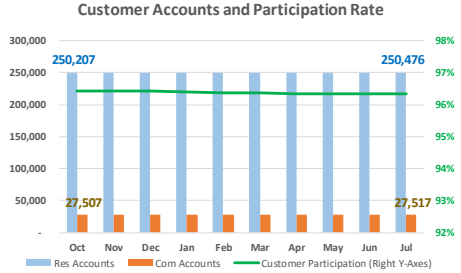




$ in thousands	July Actual	July Budget	July % Dif	Fiscal YTD Actual	Fiscal YTD Budget	Fiscal YTD % Dif	Main Drivers:
Revenue	47.8 M	56.6 M	-15.5%	396.3 M	409.7 M	-3.3%	• -13% and -7% lower than budgeted customer load for June and July respectively.
Power Supply Cost	42.4 M	36.3 M	16.9%	279.8 M	303.5 M	-7.8%	
Operating Margin	5.4 M	20.4 M	-73.3%	116.5 M	106.2 M	9.7%	
Operating Expenses (ex Power)	1.6 M	2.3 M	-29.7%	16.5 M	23.0 M	-28.4%	• *Staffing vacancies, underrunning professional services, and lower marketing expenses*
Other Non-Op. Expen. (Income)	-1.1 M	-0.4 M	188.7%	116.5 M	106.2 M	9.7%	• *Reflects higher Interest Income*
Net Increase in Available Fund Balance	5.0 M	18.5 M	-73.1%	73.8 M	51.7 M	42.7%	

Customer Load Statistics:





Total Accounts	**277,993**
Opt-Out Accounts (Month)	**43**
Opt-Out Accounts (FYTD)	**783**
Opt-Up Accounts (Month)	**(10)**
Opt-Up Accounts (FYTD)	**(33)**

Program Funds:

	Beginning Balance	End Balance	YTD Contributions	YTD Expenditures
General Program Fund	$ 28,536,229	$ 47,552,814	$ 21,165,000	$ 2,148,415
CRCR Fund*	$ 7,982,993	$ 8,490,158	$ 3,600,000	$ 3,092,835
Electrification Discount Fund	$ -	$ 9,500,000	$ 9,500,000	$ -

** Customer Relief and Community Resilience Fund*

*** 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.*

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION
As of July 31, 2023

ASSETS

Current Assets		
Cash & Cash Equivalents	$	286,825,874
Accounts Receivable, net of allowance		42,407,325
Accrued Revenue		33,556,334
Other Receivables		2,711,504
Prepaid Expenses		3,670,980
Deposits		26,905,218
Restricted cash		163,407
Total Current Assets		**396,240,642**
Noncurrent assets		
Capital assets, net of depreciation		424,684
Lease asset, net of amortization		922,875
Deposits		45,130
Total Noncurrent Assets		**1,392,689**
Total Assets		**397,633,331**

LIABILITIES

Current Liabilities		
Accounts Payable		1,230,523
Accrued Cost of Electricity		59,928,649
Other accrued liabilities		1,334,923
User Taxes and Energy Surcharges due to other gov'ts		1,267,182
Supplier securit deposits		8,051,250
Lease liability		504,133
Total Current Liabilities		**72,316,660**
Noncurrent Liabilities		
Supplier security deposits		7,100,000
Lease liability		490,167
Total noncurrent liabilities		**7,590,167**
Total Liabilities		**79,906,827**

NET POSITION

Net investment in capital assets		353,259
Restricted for security collateral		163,407
Unrestricted (deficit)		317,209,838
Total Net Position	**$**	**317,726,504**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2022 through July 31, 2023

OPERATING REVENUES	
Electricity Sales, Net	$395,351,493
GreenPrime electricity premium	1,203,318
Liquidated damages	1,134,600
Other income	42,906
TOTAL OPERATING REVENUES	**397,732,317**
OPERATING EXPENSES	
Cost of Electricity	279,803,127
Contract services	8,587,690
Staff compensation and benefits	7,910,997
Other operating expenses	2,690,999
Depreciation	514,753
TOTAL OPERATING EXPENSES	**299,507,566**
OPERATING INCOME(LOSS)	**98,224,751**
NONOPERATING REVENUES (EXPENSES)	
Grant income	716,553
Interest Income	6,124,760
Financing costs	(23,082)
TOTAL NONOPERATING REVENUES (EXPENSES)	**6,818,231**
CHANGE IN NET POSITION	105,042,982
Net Position at beginning of period	212,683,522
Net Position at end of period	**$317,726,504**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2022 through July 31, 2023

CASH FLOWS FROM OPERATING ACTIVITIES	
Receipts from customers	$ 408,322,727
Receipts from liquidated damages	1,134,600
Other operating receipts	27,541,496
Payments to suppliers for electricity	(296,431,545)
Payments for other goods and services	(12,087,593)
Payments for staff compensation and benefits	(7,737,665)
Tax and surcharge payments to other governments	(7,141,977)
Net cash provided (used) by operating activities	**113,600,043**
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES	
Grant revenue received	716,553
Finance costs paid	(1,915)
Net cash provided (used) by financing activities	**714,638**
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES	
Acquisition of capital assets	(180,441)
CASH FLOWS FROM INVESTING ACTIVITIES	
Interest income received	5,019,268
Net change in cash and cash equivalents	119,153,508
Cash and cash equivalents at beginning of year	167,835,773
Cash and cash equivalents at end of period	**$ 286,989,281**
Reconciliation to the Statement of Net Position	
Cash and cash equivalents (unrestricted)	$ 286,825,874
Restricted cash	163,407
Cash and cash equivalents	**$ 286,989,281**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)
October 1, 2022 through July 31, 2023

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

Operating Income (loss)	$ 98,224,751
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	514,753
(Increase) decrease in net accounts receivable	13,255,896
(Increase) decrease in other receivables	(1,524,298)
(Increase) decrease in accrued revenue	(8,047,636)
(Increase) decrease in prepaid expenses	(2,693,052)
(Increase) decrease in current deposits	(6,339,896)
Increase (decrease) in accounts payable	222,715
Increase (decrease) in accrued cost of electricity	21,846,629
Increase (decrease) in accrued liabilities	(180,162)
Increase (decrease) in energy settlements payable	2,027,158
Increase (decrease) in taxes and surcharges due to other governments	(426,815)
Increase (decrease) in supplier security deposits	(3,280,000)
Net cash provided (used) by operating activities	**$ 113,600,043**

SILICON VALLEY CLEAN ENERGY AUTHORITY
BUDGETARY COMPARISON SCHEDULE
October 1, 2022 through July 31, 2023

	FYTD	FYTD	Variance		FY 2022-23	FY 2022-23
OPERATING REVENUES	**Actual**	**Budget**	**$**	**%**	**Budget**	**Remaining Budget**
Energy Sales	$393,962,358	$408,763,328	-$14,800,970	-4%	$522,853,000	$128,890,642
Green Prime Premium	1,203,318	894,271	$309,047	35%	1,055,000	(148,318)
Liquidated damages	1,134,600	-	$1,134,600	n/a	-	(1,134,600)
Other Income	42,906	41,667	1,239	3%	50,000	7,094
TOTAL OPERATING REVENUES	**396,343,182**	**409,699,266**	**(13,356,084)**	**-3%**	**523,958,000**	**127,614,818**
ENERGY EXPENSES						
Power Supply	279,803,127	303,497,800	(23,694,673)	-8%	392,436,000	112,632,873
Operating Margin	**116,540,055**	**106,201,466**	**10,338,589**	**10%**	**131,522,000**	**14,981,945**
OPERATING EXPENSES						
Data Management	2,662,437	2,843,750	(181,313)	-6%	3,413,000	750,563
PG&E Fees	982,666	1,225,000	(242,334)	-20%	1,470,000	487,334
Salaries & Benefits	7,910,997	9,404,067	(1,493,070)	-16%	11,285,000	3,374,003
Professional Services	2,581,626	6,726,038	(4,144,412)	-62%	8,016,000	5,434,374
Marketing & Promotions	507,827	719,886	(212,059)	-29%	862,000	354,173
Notifications	79,347	109,375	(30,028)	-27%	131,000	51,653
Lease	431,985	437,500	(5,515)	-1%	525,000	93,015
General & Administrative	1,318,249	1,547,613	(229,364)	-15%	1,857,000	538,751
TOTAL OPERATING EXPENSES	**16,475,134**	**23,013,229**	**(6,538,095)**	**-28%**	**27,559,000**	**11,083,866**
OPERATING INCOME/(LOSS)	**100,064,921**	**83,188,237**	**16,876,684**	**20%**	**103,963,000**	**3,898,079**
NON-OPERATING REVENUES						
Investment Income	6,124,760	2,978,648	3,146,112	106%	3,870,000	(2,254,760)
TOTAL NON-OPERATING REVENUES	**6,124,760**	**2,978,648**	**3,146,112**	**106%**	**3,870,000**	**(2,254,760)**
NON-OPERATING EXPENSES						
Financing	1,915	2,500	(585)	-23%	3,000	1,085
CAPITAL EXPENDITURES, TRANSFERS, & OTHER						
Capital Outlay	180,442	166,667	13,775	8%	200,000	19,558
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	-
Multi Family Discount Programs	9,500,000	9,500,000	-	0%	9,500,000	-
Electrification Discount Programs	9,500,000	9,500,000	-	0%	9,500,000	-
Transfer to CRCR Fund	3,600,000	3,600,000	-	0%	3,600,000	-
Transfer from CRCR Fund - customer bill relief	(2,105,688)	-	(2,105,688)	n/a	-	2,105,688
TOTAL OTHER USES	**32,339,754**	**34,431,667**	**(2,091,913)**	**-6%**	**34,465,000**	**2,125,246**
NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE	**$73,848,012**	**$51,732,718**	**$22,115,294**	**43%**	**$73,365,000**	

SILICON VALLEY CLEAN ENERGY AUTHORITY
PROGRAM FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2022 through July 31, 2023

REVENUE & OTHER SOURCES:	BUDGET	ACTUAL	ADOPTED BUDGET REMAINING	ACTUAL/ ADOPTED BUDGET
Transfers in - General Programs	$ 9,765,000	$ 9,765,000	$ -	100.0%
Transfers in - Nuclear Allocation	$ 1,900,000	$ 1,900,000	$ -	100.0%
Transfers in - Multi-Family DI	$ 9,500,000	$ 9,500,000	$ -	100.0%
Total	$ 21,165,000	$ 21,165,000	$ -	
EXPENDITURES & OTHER USES:				
Program expenditures*	15,007,082	2,148,415	12,858,667	14.3%
Net increase (decrease) in fund balance	**$ 6,157,918**	**$19,016,585**		
Fund balance at beginning of period		28,536,229		
Fund balance at end of period		$47,552,814		

CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND
BUDGETARY COMPARISON SCHEDULE*
October 1, 2022 through July 31, 2023

REVENUE & OTHER SOURCES:	BUDGET	ACTUAL	ADOPTED BUDGET REMAINING	ACTUAL/ ADOPTED BUDGET
Transfer from Operating Fund	$ 3,600,000	$ 3,600,000	$ -	100.0%
EXPENDITURES & OTHER USES:				
Customer bill relief credit	3,600,000	2,105,688	1,494,312	58.5%
Other program expenditures	3,119,875	987,147	2,132,728	31.6%
Total Program expenditures	6,719,875	3,092,835	3,627,040	
Net increase (decrease) in fund balance	**$ (3,119,875)**	**2,612,853**		
Fund balance at beginning of period		7,982,993		
Fund balance at end of period		$10,595,846		

ELECTRIFICATION DISCOUNT FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2022 through July 31, 2023

REVENUE & OTHER SOURCES:	BUDGET	ACTUAL	ADOPTED BUDGET REMAINING	ACTUAL/ ADOPTED BUDGET
Transfer from Operating Fund *	$ 9,500,000.00	$ 9,500,000.00	$ -	100.0%
EXPENDITURES & OTHER USES:				
Program expenditures *	100,000	-	100,000	0.0%
Net increase (decrease) in fund balance	**$ 9,400,000**	**9,500,000**		
Fund balance at beginning of period		-		
Fund balance at end of period		$9,500,000		

SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING FUND
BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION
October 1, 2022 through July 31, 2023

Net Increase (decrease) in available fund balance per budgetary comparison schedule	$	73,848,012
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position		
Subtract depreciation expense		(514,753)
Subract program expense not in operating budget		(3,135,562)
Add back GASB 87 expenses not in operating budget		399,843
Add back transfer to Program fund		34,265,000
Add back capital asset acquisition		180,442
Change in Net Position		**105,042,982**

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2022 through July 31, 2023

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	$ 35,283,024	$ 33,596,659	$ 39,756,116	$ 42,320,931	$ 40,149,296	$ 40,246,959	$ 33,407,866	$ 37,591,795	$ 44,585,837	$ 48,413,010			$ 395,351,493
Green electricity premium	133,572	123,147	130,539	120,693	101,229	127,670	107,631	116,789	131,297	110,751			1,203,318
Liquidated damages	-	-	-	-	-	-	-	-	1,134,600	-			1,134,600
Other Income	2,250	15,255	-	2,250	5,651	2,750	1,000	3,500	3,000	7,250			42,906
Total operating revenues	35,418,846	33,735,061	39,886,655	42,443,874	40,256,176	40,377,379	33,516,497	37,712,084	45,854,734	48,531,011	-	-	397,732,317
OPERATING EXPENSES													
Cost of electricity	23,218,378	21,819,493	35,364,953	35,834,118	26,012,142	25,276,392	20,879,201	20,825,057	28,176,368	42,397,025			279,803,127
Staff compensation and benefits	656,536	673,219	792,543	742,292	723,137	787,636	861,508	945,539	871,530	857,057			7,910,997
Data manager	265,853	265,687	265,535	265,615	266,006	266,325	266,110	266,680	267,286	267,340			2,662,437
Service fees - PG&E	98,200	98,021	98,152	98,182	98,159	98,157	98,346	98,412	98,359	98,678			982,666
Consultants and other professional fees	410,507	374,917	575,873	298,921	372,763	700,446	514,729	561,112	551,868	581,451			4,942,587
Other operating expenses	200,337	182,040	881,981	206,710	(17,169)	220,350	210,747	167,925	399,865	238,213			2,690,999
Depreciation	50,510	50,510	50,449	50,397	50,866	50,927	51,428	53,208	53,250	53,208			514,753
Total operating expenses	24,900,321	23,463,887	38,029,486	37,496,235	27,505,904	27,400,233	22,882,069	22,917,933	30,418,526	44,492,972	-	-	299,507,566
Operating income (loss)	10,518,525	10,271,174	1,857,169	4,947,639	12,750,272	12,977,146	10,634,428	14,794,151	15,436,208	4,038,039	-	-	98,224,751
NONOPERATING REVENUES (EXPENSES)													
Grant income	-	-	-	716,553	-	-	-	-	-	-			716,553
Interest income	91,459	111,370	172,923	549,063	546,985	744,934	826,490	960,822	989,361	1,131,353			6,124,760
Financing costs	(2,428)	(2,359)	(4,010)	(2,251)	(2,152)	(2,083)	(2,023)	(2,078)	(1,884)	(1,814)			(23,082)
Total nonoperating revenues (expenses)	89,031	109,011	168,913	1,263,365	544,833	742,851	824,467	958,744	987,477	1,129,539	-	-	6,818,231
CHANGE IN NET POSITION	**$ 10,607,556**	**$ 10,380,185**	**$ 2,026,082**	**$ 6,211,004**	**$ 13,295,105**	**$ 13,719,997**	**$ 11,458,895**	**$ 15,752,895**	**$ 16,423,685**	**$ 5,167,578**	**$ -**	**$ -**	**$ 105,042,982**

SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2022 through July 31, 2023

Ending Balance of SVCE Accounts:	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
River City Bank Accounts	$ 208,116,692	$ 221,541,600	$ 227,161,983	$ 70,193,524	$ 66,497,950	$ 45,850,620	$ 23,833,640	$ 43,723,703	$ 26,483,735	$ 42,080,801	$ -	$ -
California Asset Management Program (CAMP)	$ -	$ -	$ -	$ 140,486,848	$ 140,996,992	$ 177,721,225	$ 216,512,539	$ 209,946,658	$ 244,922,370	$ 246,027,861	$ -	$ -
PFM Asset Management Investment Portfolio	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Ending Balance	**$ 208,116,692**	**$ 221,541,600**	**$ 227,161,983**	**$ 210,680,372**	**$ 207,494,943**	**$ 223,571,844**	**$ 240,346,179**	**$ 253,670,362**	**$ 271,406,105**	**$ 288,108,662**	**$ -**	**$ -**

Return On Investments:

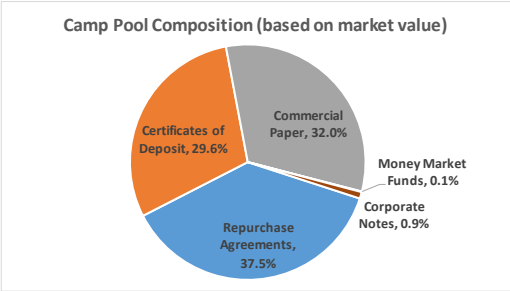
Annual % Yield	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
River City Bank Accounts	0.50%	0.58%	0.85%	1.07%	1.44%	2.39%	2.77%	2.85%	2.97%	3.06%		
California Asset Management Program (CAMP)	0.00%	0.00%	0.00%	4.53%	4.73%	4.80%	4.97%	5.16%	5.24%	5.31%		
PFM Asset Management Investment Portfolio	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%		
Average Return On Investments:	**0.50%**	**0.58%**	**0.85%**	**3.38%**	**3.68%**	**4.31%**	**4.75%**	**4.76%**	**5.02%**	**4.98%**		

Interest Earned	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
River City Bank Accounts	$ 67,811	$ 86,193	$ 139,716	$ 54,891	$ 36,841	$ 13,057	$ 24,386	$ 15,153	$ 13,649	$ 18,219	$ -	$ -
California Asset Management Program (CAMP)	$ -	$ -	$ -	$ 486,848	$ 510,145	$ 724,233	$ 791,314	$ 934,120	$ 975,711	$ 1,105,492	$ -	$ -
PFM Asset Management Investment Portfolio	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Interest/Div. Earned	**$ 67,811**	**$ 86,193**	**$ 139,716**	**$ 541,738**	**$ 546,985**	**$ 737,290**	**$ 815,701**	**$ 949,273**	**$ 989,361**	**$ 1,123,710**	**$ -**	**$ -**

CAMP Portfolio Statistics

As of July 31, 2023

Beginning of the Month Market Value	$ 244,922,370
Ending of The Month Market Value	$ 246,027,861
Yield at Market	5.31%
Weighted Average Maturity (days)	33



Comparison to Benchmark Chart will be included once we have 3 months of return data with PFM

SILICON VALLEY CLEAN ENERGY AUTHORITY
RETAIL SALES, CUSTOMER ACCOUNTS AND AGING REPORT

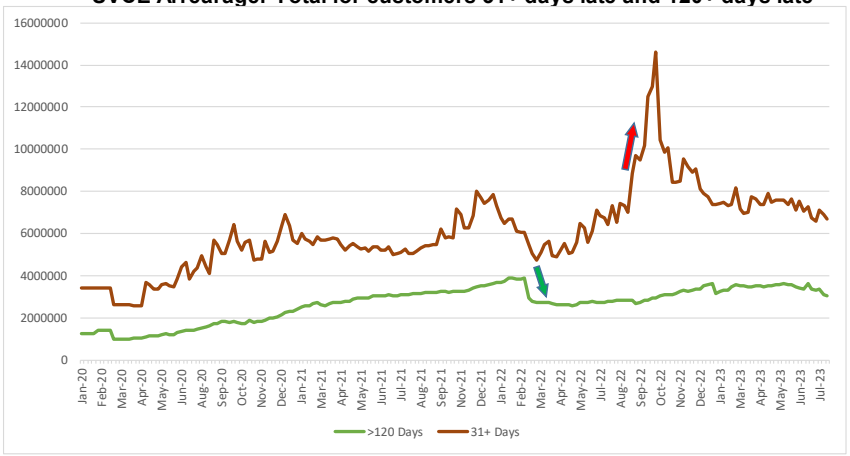
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	YTD
Retail Sales Actual (GWh)	307	311	341	341	311	334	287	306	297	333			**3,168**
Retail Sales Budget (GWh)	315	308	331	336	295	309	290	313	340	358	369	342	**3,196**
Load deviation from the Budget (F	*-2.5%*	*1.1%*	*3.1%*	*1.3%*	*5.3%*	*8.2%*	*-1.1%*	*-2.3%*	*-12.7%*	*-7.1%*			***-0.9%***
Customer Participation Rate Res	96.4%	96.4%	96.4%	96.4%	96.3%	96.3%	96.3%	96.3%	96.3%	96.3%			
Customer Participation Rate Com	96.7%	96.7%	96.7%	96.7%	96.7%	96.7%	96.7%	96.7%	96.7%	96.7%			
Total Accounts	277,714	277,867	277,956	277,950	278,041	278,106	278,068	278,120	278,095	277,993			
Opt-Out Accounts	74	62	99	126	137	69	77	54	42	43			**783**
Opt-Up Accounts	-3	4	-6	-36	8	24	-7	-4	-3	-10			**-33**

Age Summary (as of 7/31/2023)

<30 days	$43,325,157
<60 days	$2,017,173
<90 days	$1,049,777
<120 days	$758,373
Older	$3,092,741

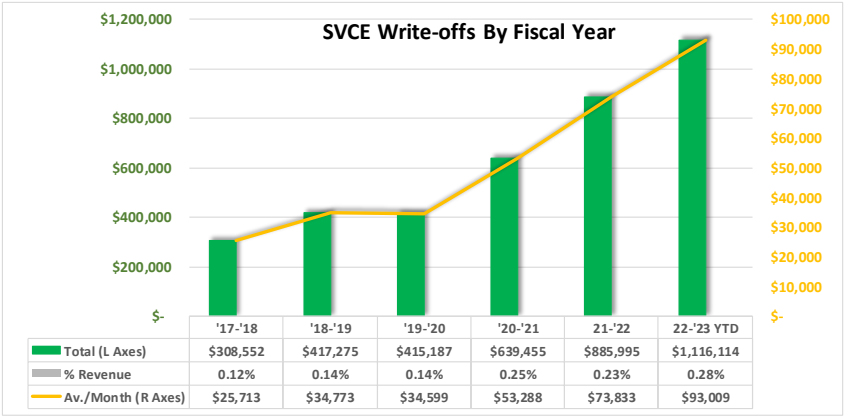
Accounts Receivable Days
35 Days
$50,243,220
TOTAL DUE

SVCE Arrearager Total for customers 31+ days late and 120+ days late



	Date	Amount
High	11/29/2021	$7.99M
Low	4/17/2020	$2.54M
Current	7/31/2023	$6.9 M

- Green arrow indicates receipt of $1.3M in Federal CAPP funds.
- An additional $717K in CAPP funding provided in Winter 2023.
- Growth at red arrow indicates short-term PG&E billing-hold issue in Fall 2022 that was quickly resolved.



	'17-'18	'18-'19	'19-'20	'20-'21	21-'22	22-'23 YTD
Total (L Axes)	$308,552	$417,275	$415,187	$639,455	$885,995	$1,116,114
% Revenue	0.12%	0.14%	0.14%	0.25%	0.23%	0.28%
Av./Month (R Axes)	$25,713	$34,773	$34,599	$53,288	$73,833	$93,009

Bad Debt % (*Budget*)
0.90%

Bad Debt % (Actual)
July 2023 FYTD
0.28%

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1c

Item 1c:	**Approve Amendment No. 6 to Employment Agreement for Chief Executive Officer**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Trisha Ortiz, General Counsel
Date:	9/13/2023

RECOMMENDATION

The CEO Employment Agreement Ad Hoc Committee recommends approving Amendment No. 6 to the Employment Agreement for Chief Executive Officer ("Agreement").

BACKGROUND

Girish Balachandran was hired as the Chief Executive Officer ("CEO") on February 19, 2018 pursuant to the Agreement. In 2018, 2019, 2020, 2021 and 2022, the Board approved Amendment Nos. 1, 2, 3, 4 and 5 to the Agreement providing for salary increases, changing the term of the Agreement and amending other provisions relating to the CEO evaluation process and certain Benefits. The Agreement terminates on September 30, 2023, and automatically renews for successive one-year terms. The 2023 performance evaluation of the CEO has been completed and an amendment to the Agreement is being proposed to extend the term of employment until March 31, 2024, the date on which the CEO has announced that he intends to retire.

ANALYSIS & DISCUSSION

Amendment No. 6 to the Agreement makes the following changes:

- Extends the term of the Agreement until March 31, 2024.
- Provides a retention payment of $50,000, which is paid to the CEO on the first pay day after January 1, 2024, in return for the CEO staying with SVCEA until the March 31, 2024 termination date.
- Provides for reimbursement of the CEO's travel between his primary residence and SVCEA's principal office, in connection with the CEO's duties. The amount eligible for reimbursement will be based on a travel budget established by the Chair of the Governing Board.
- Upon hiring a new CEO and at the election of the CEO and the Chair of the CEO search committee, provides for a "Transition Period" during which time SVCEA retains CEO solely as an advisor to the new CEO, through the March 31, 2024 termination date.

ATTACHMENTS

1. Amendment No. 6 to Employment Agreement for Chief Executive Officer

AMENDMENT NO. 6 TO EMPLOYMENT AGREEMENT FOR CHIEF EXECUTIVE OFFICER

The Employment Agreement, dated December 13, 2017, between the Silicon Valley Clean Energy Authority (SVCEA or Employer) and Girish Balachandran, an individual, (Employee) as amended by Amendment Nos. 1, 2, 3, 4, and 5 is further amended by this Amendment No. 6, as set forth herein, effective September 14, 2023.

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

B. In 2018, 2019, 2020, 2021, and 2022 the Board of Directors approved Amendment Nos. 1, 2, 3, 4, and 5, respectively, to the Agreement providing for salary increases, changing the term of the Agreement and amending other provisions relating to the CEO evaluation process and certain benefits.

C. The parties desire to further amend the Agreement with this Amendment No. 6 to provide an extension of the term of the Agreement, a salary increase, and certain other benefits related to the anticipated retirement of EMPLOYEE.

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

1. Section 4, titled "Term," is amended and restated in its entirety to read as follows:

"Term. Unless earlier terminated as provided in this Agreement, the term of this Agreement shall expire on March 31, 2024 (the "Expiration Date").

a. Election for Limited Duties during Term. In the event that prior to the expiration date SVCEA hires a new CEO, with the full power and authority to perform all of the duties of EMPLOYEE, as set forth in this Agreement, SVCEA may elect to retain EMPLOYEE as an advisor to the new CEO, until the Expiration Date (the "Transition Period") to promote an orderly transition of such duties to the new CEO. During the Transition Period, EMPLOYEE agrees: (i) not to report to work and to begin using accumulated PTO, (ii) not to exercise any of the duties set forth in this Agreement, and (iii) to be available for consultations with the new CEO, which time shall be considered as compensated in full through EMPLOYEE's use of accumulated PTO. The election to utilize the Transition Period shall be made by EMPLOYEE and the Chair of the CEO search committee, who shall mutually agree to the election and the duration of the Transition Period. EMPLOYEE shall be entitled to receive such employment benefits during the Transition Period as EMPLOYEE would otherwise receive in the absence of SVCEA's election to retain EMPLOYEE for the Transition Period through the Expiration Date.

b. Retention Payment. To reduce the risk of disruption to the organization in the event that EMPLOYEE voluntarily leaves the organization during the term of this Agreement, SVCEA agrees to pay EMPLOYEE a retention payment of Fifty Thousand dollars ($50,000), which shall be paid to EMPLOYEE on the first pay day after January 1, 2024. EMPLOYEE may elect to be paid through payroll, as a contribution to EMPLOYEE's 457 Plan, as a contribution to EMPLOYEE's 401k Plan, or any combination of the foregoing. The retention payment: (i) is subject to all required taxes and withholdings, (ii) is reportable as income on Employee's W-2 form, (iii) is not considered "salary," and (iv) does not change the nature of EMPLOYEE's at will employment status. In the event EMPLOYEE voluntarily separates from employment prior to the Expiration Date, EMPLOYEE shall repay to SVCEA a pro-rated amount of the retention payment, based on the number of days from the separation date until March 31, 2024, as a percentage of the full retention period, which is October 1, 2023 through March 31, 2024. In the event EMPLOYEE refuses to or is unable to repay the retention payment, EMPLOYEE authorizes SVCEA to withhold an amount equal to the pro-rated repayment amount from any final compensation due and owing to EMPLOYEE at the time of separation. The election for a Transition Period shall not be considered a voluntary separation that requires the repayment obligation set forth in this paragraph."

2. Section 8, titled "Expenses," is amended by deleting the last sentence, as added by Amendment No. 4, and adding the following:

"EMPLOYEE shall be reimbursed for budgeted and reasonable expenses incurred for travel between his primary residence in Oceanside, California and SVCEA's principal office, in connection with the exercise of EMPLOYEE's duties under this Agreement. For the purposes of this section, the SVCEA Chair of the Governing Board will meet with EMPLOYEE and establish a budget for the amount of travel expenses necessary for the performance of EMPLOYEE's duties under this Agreement. Such budget may be changed from time to time as deemed necessary by the SVCEA Chair of the Governing Board."

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

[*remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 6.

Silicon Valley Clean Energy Authority

_____

Chair, Board of Directors

DATE: _____

Employee

_____

Girish Balachandran

DATE: _____

APPROVED AS TO FORM:

_____
Trisha Ortiz
General Counsel

ATTEST:

_____
Secretary/Clerk

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1d

Item 1d:	**Adopt Salary Scale for Chief Executive Officer**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Trisha Ortiz, General Counsel
Date:	9/13/2023

RECOMMENDATION

Adopt $325,000 to $450,000 as the salary scale for the CEO position.

BACKGROUND

In 2022, the California legislature adopted SB 1162, which requires greater transparency for salaries. Prior to SB 1162, all employers were required to provide to an applicant the pay scale for a position upon request and after the applicant completed their first interview with the employer. SB 1162 omits the requirement that the request follow a first interview. Accordingly, any applicant may request the pay scale for a position to which they are applying from any employer, including a public agency. As important here, SB 1162 also adds a requirement that any employer with 15 or more employees must include the pay scale for a position in any job posting. If the employer engages a third party to announce, post, publish, or otherwise make known a job posting, it is required to provide the pay scale to the third party and the third party must include the pay scale in the job posting.

The CEO has announced his retirement and SVCE will begin a recruitment process for a new CEO. SB 1162 requires the CEO position posting to include a pay scale. The Board's ad hoc CEO search committee has recommended a salary range of $325,000 to $450,000.

ANALYSIS & DISCUSSION

General Counsel recommends the SVCE Board of Directors adopt the salary scale to be compliant with SB 1162.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1e

Item 1e:	**Adopt Resolution Establishing October 4, 2023 as Clean Air Day**
From:	Girish Balachandran, CEO
Prepared by:	Juliette Pascual, Community Outreach Specialist Pamela Leonard, Deputy Director of Marketing and Communications
Date:	9/13/2023

RECOMMENDATION

Staff recommends the Silicon Valley Clean Energy (SVCE) Board of Directors adopt Resolution 2023-15 declaring October 4, 2023 as Clean Air Day.

BACKGROUND

Clean Air Day is a statewide event built on the idea that shared experiences unite people to action to improve our community health. By joining together for a unified day of action, we can create new habits to clear the air for all members of California's diverse communities. California Clean Air Day is a project of the Coalition for Clean Air.

ANALYSIS & DISCUSSION

In addition to air quality concerns from sources like vehicle emissions, industrial smokestacks, and wildfires, studies have shown that contributions from water heaters, space heaters, and stoves are responsible for significant emissions and generate measurable impacts on air quality. Focusing on the health benefits of building electrification represents an effective way for SVCE to communicate with customers about the need to decarbonize their world.

Staff intends 2023 to be SVCE's second year of participating in this opportunity to expand awareness and efforts in 2024 and beyond. For 2023, staff plans to take the following actions:

- Create social media posts for customers around the "Clean Air" message
- Encourage employees to engage
- Encourage and support other agencies to adopt resolutions, sponsor events, push out social media posts, etc.

Adopting the attached resolution is a foundational step for this effort.

STRATEGIC PLAN

The proposed programs align with the board-adopted strategic plan for the following goals:

- Goal #6: Empower customers with the awareness, knowledge and resources needed to make effective clean energy choices

ALTERNATIVE

The Board may choose to decline the opportunity to adopt the resolution or edit its contents.

FISCAL IMPACT

N/A

ATTACHMENTS

1. Recommended Resolution 2023-15 Declaring October 4, 2023 Clean Air Day

SILICON VALLEY CLEAN ENERGY AUTHORITY
RESOLUTION NO. 2023-15

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY DECLARING OCTOBER 4, 2023 CLEAN AIR DAY

WHEREAS, air pollution contributes to higher rates of cancer and heart and lung diseases, which adversely affect health; and

WHEREAS, the Silicon Valley Clean Energy region remains a nonattainment area for ozone and has some of the worst air quality in the Bay Area; and

WHEREAS, it is vital that we protect the health and well-being of our residents, visitors, and workforce; and

WHEREAS, emissions from vehicles, industry, and even household sources significantly affects the natural environment, air quality and well-being of local residents; and

WHEREAS, individual actions such as electrifying space and water heating and replacing gas ranges with induction cooktops can directly improve air quality in our region; and

WHEREAS, agency employees, vendors and directors have tremendous power to help lower emissions; and

WHEREAS, pledges by individuals have shown to result in action; and

WHEREAS, education about air quality can raise community awareness, encourage our community to develop better habits, and improve our community health; and

WHEREAS, Californians will be joining together across the state to clear the air on October 4, 2023; and

WHEREAS, Silicon Valley Clean Energy is committed to the health of our residents, workforce, visitors, and community at large.

NOW THEREFORE, the Board of Directors of the Silicon Valley Clean Energy Authority does hereby resolve that the first Wednesday of October be declared “Clean Air Day” in the district; and be it further

RESOLVED, that our departments ask their employees to take the clean air pledge for California Clean Air Day; and be it further

RESOLVED, that we encourage all residents, businesses, employees, and community members to participate in Clean Air Day and help clear the air for all Californians.

PASSED AND ADOPTED this 13th day of September, 2023, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Scozzola				
City of Cupertino	Director Mohan				
City of Gilroy	Director Hilton				
City of Los Altos	Director Meadows				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Chua				
City of Monte Sereno	Director Mekechuk				
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 1f

Item 1f:	**Authorize the Chief Executive Officer to Execute an Agreement for FY23-24 with HBT Energy Management LLC for Power Resource Management Services**
From:	Girish Balachandran, CEO
Prepared by:	Monica Padilla, Chief Operating Officer and Director of Power Resources
Date:	9/13/2023

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy Authority Board ("Board") authorize the Chief Executive Officer ("CEO") to execute a new FY23-24 Agreement with HBT Energy Management LLC ("HBT") for power resources management services from October 1, 2023 through September 30, 2024, for an amount not to exceed $100,000.

BACKGROUND

On July 2, 2021, the CEO approved an agreement with HBT, related to operationalizing projects under long-term power purchase agreements and additional power resources support, in an amount not to exceed $119,600. In 2022, an amendment to the agreement was made to extend the term through September 30, 2023, increase the compensation by $160,000, and update the schedule of performance. The operationalizing of SVCE's projects under long-term power agreements was a critical issue, and SVCE was operating with reduced power resources staff capacity, making it advantageous to engage with an experienced outside consulting firm.

ANALYSIS & DISCUSSION

Since mid-2021, SVCE has added additional staff, but also seen the complexity increase on many of the long-term projects in the portfolio, owing to changes in commodity power market prices, delays due to COVID, and an international trade dispute around solar panel production. As a result, HBT's experience working on these projects with the developers has proved invaluable, allowing staff to focus their efforts in other areas.

The scope of work for fiscal year 2023-2024 is included in Exhibit A to the proposed Agreement with HBT Energy Management (Attachment 1) and includes:

- Assist and coordinate the operational integration of Authority's renewable and conventional resources; to represent Authority in discussions with Authority renewable resource project partners to realize economic and operational efficiencies in joint renewable energy projects.
- Assist in the management of Authority's power resources as may be requested by Authority from time to time.

STRATEGIC PLAN

Approval of Agreement with HBT will directly support Goal 5 of the Strategic Plan, which is to "Acquire clean and reliable electricity in a cost effective, equitable and sustainable manner".

ALTERNATIVE

If the Board does not approve the agreement, SVCE will need to identify and acquire additional resources to support staff in operationalizing projects. This may cause a delay in bringing these long-term resources into

operation and thus delay SVCEs ability to meet long-term compliance goals and reduce long-term power costs.

FISCAL IMPACT

Approval of this new Agreement results in a fiscal impact of $100,000 for Fiscal Year 2023-24.

ATTACHMENTS

1. HBT Energy Management LLC Agreement

AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND HBT ENERGY MANAGEMENT LLC FOR POWER RESOURCES MANAGEMENT SERVICES

THIS AGREEMENT ("Agreement"), is entered into this 13th day of September, 2023, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and HBT ENERGY MANAGEMENT LLC, a California limited liability company whose address is 4632 Greenmeadows Avenue, Torrance, CA 90505 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties" and individually as a "Party").

RECITALS:

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

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

C. Authority and Consultant desire to enter into an agreement for power resources management upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2023, and shall terminate on September 30, 2024, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

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

3. **COMPENSATION TO CONSULTANT**

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

4. **TIME IS OF THE ESSENCE**

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

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant. Consultant shall indemnify and hold harmless Authority and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of Authority officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. Authority shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to Authority from Consultant as a result of Consultant's failure to promptly pay to Authority any reimbursement or indemnification arising under this section.

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

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

8. **NON-DISCRIMINATION**

In the performance of this Agreement, Consultant, and any subconsultant under the Consultant, shall not discriminate against any employee, subcontractor or applicant for

employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

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

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

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

D. Consultant's indemnifications and obligations under this section shall survive the expiration or termination of this Agreement.

10. **INSURANCE**

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

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

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

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

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

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

11. **CONFLICT OF INTEREST**

Consultant warrants that it, its officers, employees, associates and subcontractors, presently have no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it, its officers, employees, associates and subcontractors, will not employ any person having such an interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the Authority Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this section into any subcontract that Consultant executes in connection with the performance of this Agreement. Consultant understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance

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

14. **REPORTS**

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

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

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

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

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

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

15. **RECORDS**

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

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer ("Authority Representative") shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Hsi Bang (Bob) Tang (Consultant Representative") shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION AND DOCUMENTS**

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

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

C. It is understood that Authority is subject to the California Public Records Act (Gov. Code § 7920.000 *et seq*.). If a request under the California Public Records Act is made to view any documents Consultant provided to Authority, Authority shall notify Consultant of the request and the date that such records will be released to the requester unless Consultant obtains a court order enjoining that disclosure. If Consultant fails to obtain a court order enjoining that disclosure, Authority will release the requested information on the date specified.

D. In the event Authority gives Consultant written notice of a "litigation hold" or request under the Public Records Act, then as to all data identified in such notice or request, Consultant shall, at no additional cost to Authority, isolate and preserve all such data pending receipt of further direction from the Authority.

E. Consultant agrees to comply with the confidentiality and data protection provisions set forth in Exhibit "E," attached hereto and incorporated herein by this reference.

F. Consultant's covenants under this section shall survive the expiration or termination of this Agreement.

18. **NOTICES**

Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on

personal delivery, (b) on confirmed delivery by courier service during Consultant's and Authority's regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

TO AUTHORITY:
333 W. El Camino Real
Suite 330
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO CONSULTANT:
Hsi Bang (Bob) Tang
HBT Energy Management LLC
4632 Greenmeadows Avenue
Torrance, Ca 90505

19. **TERMINATION**

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

In the event of Authority's termination of this Agreement due to no fault or failure of performance by Consultant, Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority. Consultant shall have no other claim against Authority by reason of such termination, including any claim for compensation.

20. **COMPLIANCE WITH LAWS**

Consultant shall keep itself informed of all applicable federal, state and local laws, ordinances, codes, regulations and requirements which may, in any manner, affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall, at all times, observe and comply with all such laws and regulations, including, but not limited to the Americans with Disabilities Act, the Stored Communications Act, 18 U.S.C. Section 2701, et seq., California Civil Code Sections 1798.80 through 1798.84, and the California Consumer Privacy Act, Civil Code Section 1798.100 *et seq*. Authority, and its officers and employees, shall

not be liable at law or in equity by reason of the failure of the Consultant to comply with this paragraph.

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

21. **CONFLICT OF LAW**

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

22. **ADVERTISEMENT**

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

23. **WAIVER**

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

24. **INTEGRATED CONTRACT**

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

25. **AUTHORITY**

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

26. **INSERTED PROVISIONS**

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

27. **CAPTIONS AND TERMS**

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

28. **AUTHORITY'S RIGHTS TO EMPLOY OTHER CONSULTANTS**

Authority reserves the right to employ other consultants in connection with the subject matter of the Scope of Services.

29. **EXHIBITS**

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

30. **FORCE MAJEURE**

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

31. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**

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

32. **ATTORNEY FEES**

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

33. **SEVERABILITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force

without being impaired or invalidated in any way.

34. **SUCCESSORS AND ASSIGNS**

The terms and conditions of this Agreement shall be binding on the successors and assigns of the Parties to this Agreement.

35. **NO THIRD PARTY BENEFICIARIES INTENDED**

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

36. **COUNTERPARTS; FACSIMILE/PDF/ELECTRONIC SIGNATURE**

This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument. The Parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.

37. **DRAFTING PARTY**

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

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

RECOMMENDED FOR APPROVAL

_____
Monica Padilla, COO/Director of Power Resources

RECOMMENDED FOR APPROVAL

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

CONSULTANT NAME
HBT ENERGY MANAGEMENT LLC

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

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

Task 1: Assist and coordinate the operational integration of Authority's renewable and conventional resources; to represent Authority in discussions with Authority renewable resource project partners to realize economic and operational efficiencies in joint renewable energy projects.

Task 2: Assist in the management of Authority's power resources as may be requested by Authority from time to time.

Exhibit B
Schedule of Performance

Specific timelines and deliverables will be determined and submitted for Authority's approval once initial work assignments are finalized.

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

Task	Begin	Complete
1. Assist with implementation of Authority's PPAs	October 2023	September 2024
2. Other power supply portfolio management	October 2023	September 2024

Exhibit C
Compensation

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

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

Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	**Estimated Budget**
1. Assist with implementation of Authority's PPAs	
2. Other power supply portfolio management	
Total	$100,000

Rates

Personnel	**Title**	**Hourly**
Hsi Bang (Bob) Tang	President, HBT Energy Management LLC	$130

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed). Authority shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth herein. Authority does not pay interest on past due amounts.

Reimbursable Expenses

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

Additional Services

Consultant shall provide additional services outside of the services identified in Exhibit A only by

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

Exhibit D
Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE**:

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

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

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

(4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least $1,000,000.

Exhibit E
Confidentiality and Data Security Requirements

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

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

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

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

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

Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement. Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority. Without limiting Consultant's obligation of confidentiality as further described herein, Consultant shall be responsible for establishing, maintaining, and providing a written description to Authority of, a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that comply with or are substantial similar to the security controls identified in the current version of NIST SP800-53, and that is designed to: (a) ensure the security and confidentiality of the Authority's Data; (b) protect against any anticipated threats or hazards to the security or integrity of the Data; (c) protect against unauthorized disclosure, access to, or use of the Data; (d) ensure the proper disposal of Data; and, (e) ensure that all employees, agents, and subcontractors of Consultant, if any, comply with all of the foregoing. In no case shall the safeguards of Consultant's data privacy and information security program used to protect Data be less stringent than the safeguards used by Consultant for its own data. If the services include handling credit card information, then the Consultant shall comply at all times with all applicable Payment Card Industry Data Security Standards (PCI-DSS). Consultant agrees and warrants that it is responsible for the security of "cardholder data" that Consultant possesses, stores, processes or transmits on behalf of the Authority, and for any impact on the security of Authority's cardholder data environment adversely affected by any failure of Company to maintain compliance with provisions of the PCI-DSS applicable to the services. No less than annually, Consultant shall conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to Authority. The required audit shall be a SAS-70 (or successor standard) compliant audit, and Consultant shall provide the audit findings in the form of an SAS-70 Type II report.

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

6. In the event of any act, error or omission, negligence, misconduct, or breach that permits any unauthorized access to, or that compromises or is suspected to compromise the security, confidentiality, or integrity of the Authority's Data or the physical, technical, administrative, or organizational safeguards put in place by Consultant that relate to the protection of the security, confidentiality, or integrity of the Data, Consultant shall, as applicable: (a) notify Authority as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with Authority in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Authority; (c) in the case of Confidential Information, at Authority's sole election, (i) notify the affected individuals who comprise the Confidential Information as

soon as practicable but no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or, in the absence of any legally required notification period, within five (5) calendar days of becoming aware of the occurrence; or, (ii) reimburse Authority for any costs in notifying the affected individuals; (d) in the case of Confidential Information, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the Confidential Information for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Consultant's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless Authority for any and all Claims (as defined herein), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from Authority in connection with the occurrence; (g) be responsible for recreating lost Data in the manner and on the schedule set by Authority without charge to Authority; (h) provide to Authority a detailed plan within ten (10) calendar days of the occurrence describing the measures Consultant will undertake to prevent a future occurrence and (i) upon conclusion of the occurrence, or at Authority's request, provide to Authority a comprehensive summary of the occurrence, including reason for occurrence, details of occurrence, how occurrence was addressed and any other information required by Authority, which shall be executed by Consultant and may be relied upon by Authority as a true and accurate account of the occurrence. Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Consultant's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Consultant has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Consultant. This Section shall survive the termination of this Agreement.

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

8. Consultant shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Authority directly against such employees or representatives for

improper disclosure and/or use. In no event shall Consultant or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Consultant shall immediately notify Authority in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Consultant or any of its employees or representatives. However, nothing in this Agreement shall obligate the Authority to monitor or enforce the Consultant's compliance with the terms of this Agreement.

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

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

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

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

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

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1g

Item 1g:	**Authorize the Chief Executive Officer to Execute an Agreement for FY23-24 with Richards, Watson & Gershon for Legal Services**
From:	Girish Balachandran, CEO
Prepared by:	Amrit Singh, CFO / Director of Administrative Services Nik Zanotto, Sr. Manager of Technology and Administrative Services
Date:	9/13/2023

RECOMMENDATION

Staff recommends that the Board authorize the CEO to execute a new FY23-24 agreement with Richards, Watson & Gershon (RWG) for legal services from October 1, 2023 through September 30, 2024, for an amount not to exceed $215,000.

BACKGROUND

Silicon Valley Clean Energy (SVCE) has been utilizing the services of RWG since the Agency's formation with the current agreement expiring on September 30, 2023. Staff continues to have a successful working relationship with Richards, Watson, and Gershon as General Counsel to SVCE, and recommends continuing the partnership.

Compensation for the upcoming agreement for fiscal year 2023 – 2024 is to not exceed $215,000 for the term of the agreement. This compensation cap matches the agreement amount from FY22-23. While staff recognizes that consultation with RWG has increased over the past several years due to increasing program and contractual needs, staff and RWG believe that this amount will still provide enough headroom to lessen the possibility of an amendment later in the fiscal year.

ANALYSIS & DISCUSSION

The scope of work for fiscal year 2023 – 2024 is included in Exhibit A to the Agreement with RWG (see Attachment 1) and includes:

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

STRATEGIC PLAN

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

ALTERNATIVE

Staff is open to alternatives from the Board.

Agenda Item: 1g **Agenda Date: 9/13/2023**

FISCAL IMPACT

The recommendation results in a fiscal impact of $215,000 for Fiscal Year 2023-24.

ATTACHMENTS

1. Agreement with Richards, Watson & Gershon for FY23-24 legal services

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

THIS AGREEMENT ("Agreement"), is entered into this 13th day of September, 2023, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and RICHARDS, WATSON & GERSHON, a professional corporation whose address is One Sansome Street, Suite 2850, San Francisco, CA 94104 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties" and individually as a "Party").

RECITALS:

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

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

C. Authority and Consultant desire to enter into an agreement for Legal Services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2023, and shall terminate on September 30, 2024, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

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

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed two hundred and fifteen thousand and 00/100 dollars ($215,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

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

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant. Consultant shall indemnify and hold harmless Authority and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of Authority officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. Authority shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to Authority from Consultant as a result of Consultant's failure to promptly pay to Authority any reimbursement or indemnification arising under this section.

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

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

8. **NON-DISCRIMINATION**

In the performance of this Agreement, Consultant, and any subconsultant under the Consultant, shall not discriminate against any employee, subcontractor or applicant for

employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

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

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

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

D. Consultant's indemnifications and obligations under this section shall survive the expiration or termination of this Agreement.

10. **INSURANCE**

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

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

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

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

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

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

11. **CONFLICT OF INTEREST**

Consultant warrants that it, its officers, employees, associates and subcontractors, presently have no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it, its officers, employees, associates and subcontractors, will not employ any person having such an interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the Authority Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this section into any subcontract that Consultant executes in connection with the performance of this Agreement. Consultant understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance

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

14. **REPORTS**

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

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

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

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

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

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

15. **RECORDS**

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

16. **PARTY REPRESENTATIVES**

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

17. **CONFIDENTIAL INFORMATION AND DOCUMENTS**

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

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

C. It is understood that Authority is subject to the California Public Records Act (Gov. Code § 7920.000 *et seq*.). If a request under the California Public Records Act is made to view any documents Consultant provided to Authority, Authority shall notify Consultant of the request and the date that such records will be released to the requester unless Consultant obtains a court order enjoining that disclosure. If Consultant fails to obtain a court order enjoining that disclosure, Authority will release the requested information on the date specified.

D. In the event Authority gives Consultant written notice of a "litigation hold" or request under the Public Records Act, then as to all data identified in such notice or request, Consultant shall, at no additional cost to Authority, isolate and preserve all such data pending receipt of further direction from the Authority.

E. Consultant agrees to comply with the confidentiality and data protection provisions set forth in Exhibit "E," attached hereto and incorporated herein by this reference.

F. Consultant's covenants under this section shall survive the expiration or termination of this Agreement.

18. **NOTICES**

Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and

Authority's regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

TO AUTHORITY:
333 W. El Camino Real
Suite 330
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO CONSULTANT:
Richard, Watson & Gershon
Attn: Trisha Ortiz
One Sansome Street, Suite 2850
San Francisco, CA 94104

19. **TERMINATION**

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

In the event of Authority's termination of this Agreement due to no fault or failure of performance by Consultant, Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority. Consultant shall have no other claim against Authority by reason of such termination, including any claim for compensation.

20. **COMPLIANCE WITH LAWS**

Consultant shall keep itself informed of all applicable federal, state and local laws, ordinances, codes, regulations and requirements which may, in any manner, affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall, at all times, observe and comply with all such laws and regulations, including, but not limited to the Americans with Disabilities Act, the Stored Communications Act, 18 U.S.C. Section 2701, et seq., California Civil Code Sections 1798.80 through 1798.84, and the California Consumer Privacy Act, Civil Code Section 1798.100 *et seq*. Authority, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the Consultant to comply with this

paragraph.

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

21. **CONFLICT OF LAW**

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

22. **ADVERTISEMENT**

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

23. **WAIVER**

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

24. **INTEGRATED CONTRACT**

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

25. **AUTHORITY**

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

26. **INSERTED PROVISIONS**

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

27. **CAPTIONS AND TERMS**

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

28. **AUTHORITY'S RIGHTS TO EMPLOY OTHER CONSULTANTS**

Authority reserves the right to employ other consultants in connection with the subject matter of the Scope of Services.

29. **EXHIBITS**

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

30. **FORCE MAJEURE**

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

31. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**

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

32. **ATTORNEY FEES**

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

33. **SEVERABILITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force

without being impaired or invalidated in any way.

34. **SUCCESSORS AND ASSIGNS**

The terms and conditions of this Agreement shall be binding on the successors and assigns of the Parties to this Agreement.

35. **NO THIRD PARTY BENEFICIARIES INTENDED**

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

36. **COUNTERPARTS; FACSIMILE/PDF/ELECTRONIC SIGNATURE**

This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument. The Parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.

37. **DRAFTING PARTY**

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

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

RECOMMENDED FOR APPROVAL

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

CONSULTANT NAME
RICHARD, WATSON & GERSHON

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

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

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

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

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

Exhibit B
Schedule of Performance

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

Task	Begin	Complete
1. Legal Services	**October 2023**	**September 2024**

Exhibit C
Compensation

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of two hundred and fifteen thousand dollars and no/100 ($215,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Rates

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

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed). Authority shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth herein. Authority does not pay interest on past due amounts.

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

Additional Services
Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority Representative prior to commencement of any additional services. Consultant shall submit, at the Authority Representative's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

Exhibit D
Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE**:

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

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

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

(4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least $1,000,000.

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

Exhibit E
Confidentiality and Data Security Requirements

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

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

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

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

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

nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement. Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority. Without limiting Consultant's obligation of confidentiality as further described herein, Consultant shall be responsible for establishing, maintaining, and providing a written description to Authority of, a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that comply with or are substantial similar to the security controls identified in the current version of NIST SP800-53, and that is designed to: (a) ensure the security and confidentiality of the Authority's Data; (b) protect against any anticipated threats or hazards to the security or integrity of the Data; (c) protect against unauthorized disclosure, access to, or use of the Data; (d) ensure the proper disposal of Data; and, (e) ensure that all employees, agents, and subcontractors of Consultant, if any, comply with all of the foregoing. In no case shall the safeguards of Consultant's data privacy and information security program used to protect Data be less stringent than the safeguards used by Consultant for its own data. If the services include handling credit card information, then the Consultant shall comply at all times with all applicable Payment Card Industry Data Security Standards (PCI-DSS). Consultant agrees and warrants that it is responsible for the security of "cardholder data" that Consultant possesses, stores, processes or transmits on behalf of the Authority, and for any impact on the security of Authority's cardholder data environment adversely affected by any failure of Company to maintain compliance with provisions of the PCI-DSS applicable to the services. No less than annually, Consultant shall conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to Authority. The required audit shall be a SAS-70 (or successor standard) compliant audit, and Consultant shall provide the audit findings in the form of an SAS-70 Type II report.

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

6. In the event of any act, error or omission, negligence, misconduct, or breach that permits any unauthorized access to, or that compromises or is suspected to compromise the security, confidentiality, or integrity of the Authority's Data or the physical, technical, administrative, or organizational safeguards put in place by Consultant that relate to the protection of the security, confidentiality, or integrity of the Data, Consultant shall, as applicable: (a) notify Authority as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with Authority in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Authority; (c) in the case of Confidential Information, at Authority's sole

election, (i) notify the affected individuals who comprise the Confidential Information as soon as practicable but no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or, in the absence of any legally required notification period, within five (5) calendar days of becoming aware of the occurrence; or, (ii) reimburse Authority for any costs in notifying the affected individuals; (d) in the case of Confidential Information, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the Confidential Information for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Consultant's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless Authority for any and all Claims (as defined herein), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from Authority in connection with the occurrence; (g) be responsible for recreating lost Data in the manner and on the schedule set by Authority without charge to Authority; (h) provide to Authority a detailed plan within ten (10) calendar days of the occurrence describing the measures Consultant will undertake to prevent a future occurrence and (i) upon conclusion of the occurrence, or at Authority's request, provide to Authority a comprehensive summary of the occurrence, including reason for occurrence, details of occurrence, how occurrence was addressed and any other information required by Authority, which shall be executed by Consultant and may be relied upon by Authority as a true and accurate account of the occurrence. Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Consultant's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Consultant has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Consultant. This Section shall survive the termination of this Agreement.

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

8. Consultant shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or

prevent any actions by Authority directly against such employees or representatives for improper disclosure and/or use. In no event shall Consultant or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Consultant shall immediately notify Authority in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Consultant or any of its employees or representatives. However, nothing in this Agreement shall obligate the Authority to monitor or enforce the Consultant's compliance with the terms of this Agreement.

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

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

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

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

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

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1h

Item 1h:	**Authorize the Chief Executive Officer to Execute Agreement with Maher Accountancy for Accountant Services**
From:	Girish Balachandran, CEO
Prepared by:	Amrit Singh, CFO / Director of Administrative Services Nik Zanotto, Sr. Manager of Technology and Administrative Services
Date:	9/13/2023

RECOMMENDATION

Staff recommends the Board of Directors approve and authorize the Chief Executive Officer to execute an agreement with Maher Accountancy for $293,500 through September 30, 2024.

BACKGROUND

SVCE has been utilizing the services of Maher Accountancy since March 2017 with the current agreement expiring on September 30, 2023. There is a modest increase in cost ($20,000) between the proposed agreement and the current agreement, to adjust for inflation (7.3% year over year – in line with Bay Area Consumer Price Index data from the Bureau of Labor Statistics). In addition to service costs, the contract includes a $10,000 contingency for business continuity support services. This contingency is in place to provide ad hoc support, should staff become unavailable due to leave, separation, or another event.

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

ANALYSIS & DISCUSSION

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

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

Agenda Item: 1h **Agenda Date: 9/13/2023**

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

STRATEGIC PLAN

The recommendation supports the financial goals of the Strategic Plan.

ALTERNATIVE

Staff is open to alternatives from the Board.

FISCAL IMPACT

This recommendation results in a $293,500 fiscal impact to the agency but is offset with the avoidance of SVCE hiring internal staff to perform these duties. The recommended contract is an increase of $20,000 consisting solely of the inflationary adjustment.

ATTACHMENTS

1. Draft Agreement with Maher Accountancy

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

THIS AGREEMENT ("Agreement"), is entered into this 1st day of October, 2023, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and MAHER ACCOUNTANCY, a California Corporation whose address is 1101 Fifth Avenue, Suite 200, San Rafael, CA 94901 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties" and individually as a "Party").

RECITALS:

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

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

C. Authority and Consultant desire to enter into an agreement for Accounting Services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2023, and shall terminate on September 30, 2024, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

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

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed two hundred ninety-three thousand five hundred dollars and no/100 ($293,500.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

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

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

Authority and Consultant intend that the relationship between them created by this Agreement is that of an independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by Authority to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from Authority to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant. Consultant shall indemnify and hold harmless Authority and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of Authority officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. Authority shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to Authority from Consultant as a result of Consultant's failure to promptly pay to Authority any reimbursement or indemnification arising under this section.

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

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

8. **NON-DISCRIMINATION**

In the performance of this Agreement, Consultant, and any subconsultant under the

Consultant, shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation, military or veteran status, or other basis prohibited by law, except as provided in Government Code section 12940. Consultant shall have responsibility for compliance with this Section.

9. **HOLD HARMLESS AND INDEMNIFICATION**

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

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

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

D. Consultant's indemnifications and obligations under this section shall survive the

expiration or termination of this Agreement.

10. **INSURANCE**

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

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

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

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

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

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

proceeds available to the named insured, whichever is greater.

11. **CONFLICT OF INTEREST**

Consultant warrants that it, its officers, employees, associates and subcontractors, presently have no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it, its officers, employees, associates and subcontractors, will not employ any person having such an interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the Authority Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this section into any subcontract that Consultant executes in connection with the performance of this Agreement. Consultant understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

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

14. **REPORTS**

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

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

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

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

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

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

15. **RECORDS**

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

services required under this agreement

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer ("Authority Representative") shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Maher Accountancy (Consultant Representative") shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION AND DOCUMENTS**

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

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

C. It is understood that Authority is subject to the California Public Records Act (Gov. Code § 7920.000 *et seq*.). If a request under the California Public Records Act is made to view any documents Consultant provided to Authority, Authority shall notify Consultant of the request and the date that such records will be released to the requester unless Consultant obtains a court order enjoining that disclosure. If Consultant fails to obtain a court order enjoining that disclosure, Authority will release the requested information on the date specified.

D. In the event Authority gives Consultant written notice of a "litigation hold" or request under the Public Records Act, then as to all data identified in such notice or request, Consultant shall, at no additional cost to Authority, isolate and preserve all such data pending receipt of further direction from the Authority.

E. Consultant agrees to comply with the confidentiality and data protection provisions set forth in Exhibit "E," attached hereto and incorporated herein by this reference.

F. Consultant's covenants under this section shall survive the expiration or termination of this Agreement.

18. **NOTICES**

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

TO AUTHORITY:
333 W. El Camino Real
Suite 330
Sunnyvale CA 94087
Attention: Chief Executive Officer

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

19. **TERMINATION**

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

In the event of Authority's termination of this Agreement due to no fault or failure of performance by Consultant, Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. Upon termination, Consultant shall immediately deliver to the Authority any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by Consultant or given to Consultant, in connection with this Agreement. Such materials shall become the property of Authority. Consultant shall have no other claim against Authority by reason of such termination, including any claim for compensation.

20. **COMPLIANCE WITH LAWS**

Consultant shall keep itself informed of all applicable federal, state and local laws, ordinances, codes, regulations and requirements which may, in any manner, affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall, at all times, observe and comply with all such laws and regulations, including, but not limited

to the Americans with Disabilities Act, the Stored Communications Act, 18 U.S.C. Section 2701, et seq., California Civil Code Sections 1798.80 through 1798.84, and the California Consumer Privacy Act, Civil Code Section 1798.100 *et seq*. Authority, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the Consultant to comply with this paragraph.

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

21. **CONFLICT OF LAW**

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

22. **ADVERTISEMENT**

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

23. **WAIVER**

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

24. **INTEGRATED CONTRACT**

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

25. **AUTHORITY**

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

26. **INSERTED PROVISIONS**

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

correctly inserted, the Agreement shall be amended to make such insertion on application by either Party.

27. **CAPTIONS AND TERMS**

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

28. **AUTHORITY'S RIGHTS TO EMPLOY OTHER CONSULTANTS**

Authority reserves the right to employ other consultants in connection with the subject matter of the Scope of Services.

29. **EXHIBITS**

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

30. **FORCE MAJEURE**

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

31. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**

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

32. **ATTORNEY FEES**

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

33. **SEVERABILITY**

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

34. **SUCCESSORS AND ASSIGNS**

The terms and conditions of this Agreement shall be binding on the successors and assigns of the Parties to this Agreement.

35. **NO THIRD PARTY BENEFICIARIES INTENDED**

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

36. **COUNTERPARTS; FACSIMILE/PDF/ELECTRONIC SIGNATURE**

This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument. The Parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.

37. **DRAFTING PARTY**

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

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

RECOMMENDED FOR APPROVAL

_____

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
MAHER ACCOUNTANCY

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

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

_____
Counsel for Authority

ATTEST:

_____
Authority Clerk

Exhibit A
Scope of Services

Monthly Financial Operational Assistance:

1. Assist in development of operating budget in collaboration with management and technical consultants.
2. Maintain the general ledger by:
    a. Posting billings, accrued revenue, cash receipts, accounts payable, cash disbursements, payroll, accrued expenses, etc.

    b. Prepare or maintain the following monthly analysis regarding general ledger account balances:

        i. Reconciliation to statements from Authority's financial institution for cash activity and balances;
        ii. Reconcile customer data manager reports of customer activity and accounts receivable;
        iii. Estimated user fees earned but not billed as of the end of the reporting period;
        iv. Schedule of depreciation of capital assets;
        v. Aged schedule of accounts payable;
        vi. Schedules of details regarding all remaining balance sheet accounts.
3. Manager accounts payable: Consultant utilizes a cloud-based accounts payable document management system to provide for documentation of management review, proper segregation of duties, and access to source data. Consultant ensures that required authorization is documented, and that account coding is correct. SVCEA staff then authorizes the release of payment by an independent payment service in order to provide an additional safeguard.

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

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

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

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

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

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

10. Assist the treasury function.

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

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

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

Exhibit B
Schedule of Performance

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

Task	Begin	Complete
1. Accounting Services Monthly	October 2023	September 2024
2. Prepare annual financial statements and coordinate with external auditor (Annual)	October 2023	September 2024
3. Contract Portal Management (Annual)	October 2023	September 2024
4. Business Continuity Support	October 2023	September 2024

Exhibit C
Compensation

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of two hundred ninety-three thousand five hundred dollars and no/100 ($293,500.00) as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	**Estimated Budget**
1. Accounting Services (monthly)	$ 21,000
2. Prepare annual financial statements and coordinate with external auditor (annual)	$ 16,500
3. Contract Portal Management (annual)	$15,000
4. Business Continuity Support	$10,000
Total	$293,500

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed). Authority shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth herein. Authority does not pay interest on past due amounts.

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

Additional Services
Consultant shall provide additional services outside of the services identified in Exhibit A only by advance written authorization from Authority Representative prior to commencement of any additional services. Consultant shall submit, at the Authority Representative's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

Exhibit D
Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE**:

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

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

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

(4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least $1,000,000.

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

Exhibit E
Confidentiality and Data Security Requirements

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

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

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

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

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

their duties with respect to the Consultant program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement. Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority. Without limiting Consultant's obligation of confidentiality as further described herein, Consultant shall be responsible for establishing, maintaining, and providing a written description to Authority of, a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that comply with or are substantial similar to the security controls identified in the current version of NIST SP800-53, and that is designed to: (a) ensure the security and confidentiality of the Authority's Data; (b) protect against any anticipated threats or hazards to the security or integrity of the Data; (c) protect against unauthorized disclosure, access to, or use of the Data; (d) ensure the proper disposal of Data; and, (e) ensure that all employees, agents, and subcontractors of Consultant, if any, comply with all of the foregoing. In no case shall the safeguards of Consultant's data privacy and information security program used to protect Data be less stringent than the safeguards used by Consultant for its own data. If the services include handling credit card information, then the Consultant shall comply at all times with all applicable Payment Card Industry Data Security Standards (PCI-DSS). Consultant agrees and warrants that it is responsible for the security of "cardholder data" that Consultant possesses, stores, processes or transmits on behalf of the Authority, and for any impact on the security of Authority's cardholder data environment adversely affected by any failure of Company to maintain compliance with provisions of the PCI-DSS applicable to the services. No less than annually, Consultant shall conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to Authority. The required audit shall be a SAS-70 (or successor standard) compliant audit, and Consultant shall provide the audit findings in the form of an SAS-70 Type II report.

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

6. In the event of any act, error or omission, negligence, misconduct, or breach that permits any unauthorized access to, or that compromises or is suspected to compromise the security, confidentiality, or integrity of the Authority's Data or the physical, technical, administrative, or organizational safeguards put in place by Consultant that relate to the protection of the security, confidentiality, or integrity of the Data, Consultant shall, as applicable: (a) notify Authority as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with Authority in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise

required by Authority; (c) in the case of Confidential Information, at Authority's sole election, (i) notify the affected individuals who comprise the Confidential Information as soon as practicable but no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or, in the absence of any legally required notification period, within five (5) calendar days of becoming aware of the occurrence; or, (ii) reimburse Authority for any costs in notifying the affected individuals; (d) in the case of Confidential Information, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the Confidential Information for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Consultant's obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless Authority for any and all Claims (as defined herein), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from Authority in connection with the occurrence; (g) be responsible for recreating lost Data in the manner and on the schedule set by Authority without charge to Authority; (h) provide to Authority a detailed plan within ten (10) calendar days of the occurrence describing the measures Consultant will undertake to prevent a future occurrence and (i) upon conclusion of the occurrence, or at Authority's request, provide to Authority a comprehensive summary of the occurrence, including reason for occurrence, details of occurrence, how occurrence was addressed and any other information required by Authority, which shall be executed by Consultant and may be relied upon by Authority as a true and accurate account of the occurrence. Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Consultant's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Consultant has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Consultant. This Section shall survive the termination of this Agreement.

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

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

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

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

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

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

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

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1i

Item 1i:	**SVCE 2022 Annual Power Source Disclosure Report Attestation**
From:	Girish Balachandran, CEO
Prepared by:	Monica Padilla, COO and Director of Power Resources TJ Messier, Power Settlements and Compliance Analyst
Date:	9/13/2023

RECOMMENDATION

Staff recommends that the SVCE Board of Directors approve the use of statistics reflected in SVCE's 2022 annual Power Source Disclosure reports for purposes of preparing SVCE's 2022 Power Content Label and endorse the accuracy of information presented in SVCE's 2022 Power Source Disclosure report for Green-Start service.

BACKGROUND

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

Information presented in the PCL includes the proportionate share of total energy supply attributable to various resource types, including both renewable and conventional fuel sources. SVCE's Public Affairs team is in the process of designing the 2022 Power Content Label.

ANALYSIS & DISCUSSION

During the 2022 calendar year, SVCE successfully delivered a substantial portion of its electric energy supply from various renewable energy sources, including wind, solar, geothermal, hydroelectricity, biomass and biogas – for Green-Start customers, the percentage of supply attributable to renewable energy sources approximated 44.9 percent; SVCE's actual Green Start procurement equaled 50.4 percent RPS eligible resources.[2] For Green-Prime customers, renewable energy comprised 100 percent of the supply portfolio - 95

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

2 Assembly Bill 1110, passed in 9/26/16, California Energy Commission "Modification of Regulations Governing the Power Source Disclosure Program" 5/15/20, modified the PCL reporting requirements starting with reporting year 2020 to include emissions associated with power supply and treatment of over procurement of resources. As such, for 2022 while SVCE has procured 50.4% RPS eligible resources under Green Start, because SVCE had more clean resources than load only 44.9% will be shown on the PCL.

percent of load was met with PCC1 and 5 percent of load was met with PCC3[3], which is reflected as a system power resource.

Consistent with applicable regulations, SVCE will complete requisite customer communications following the Board's approval of pertinent information to be included in the 2022 PCL. Customers receiving PCL communications will include those enrolled in the SVCE program as of December 31, 2023 – the distribution list was derived based on prior discussions with designated CEC staff.

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

While preparing SVCE's 2022 annual PSD report, staff performed a detailed review of all power purchases completed for the 2022 calendar year. This review included an inventory of all renewable energy transfers within SVCE's Western Renewable Energy Generation Information System (WREGIS) accounts, pertinent transaction records, and requisite independent audits for SVCE's voluntary Green-Prime, 100% renewable energy program, which also provides 100% renewable energy to participating customers. Based on staff's review of available data and findings of the independent auditor (related to the Green-Prime product offering), the information presented in the annual report was determined to be accurate. Again, such information will be reflected in SVCE's upcoming PCL for 2022 operations.

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

Because SVCE's Green-Prime product offering is independently audited (a process that was completed in June 2023 for the 2022 operating year), SVCE is proceeding with self-certification of its annual report for the Green-Start & Green-Prime product offering, consistent with PSDP regulations. Evidence of such attestation must be provided to the CEC by October 1st.

Should the Board endorse staff's recommendation, a copy of this staff report, related meeting minutes and a copy of SVCE's 2022 Audit Report for the Green-Prime product offering will be forwarded to the CEC, thereby completing SVCE's obligations under the PSD Program for the 2022 calendar year.

STRATEGIC PLAN

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

ALTERNATIVE

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

FISCAL IMPACT

N/A

ATTACHMENTS

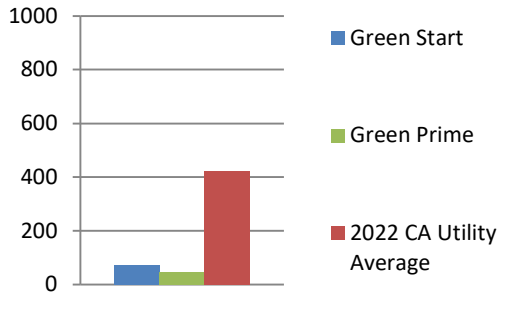
1. 2022 SVCE Power Content Label

[3] Pub. Util. Code § 399.16(b)(3).

2022 POWER CONTENT LABEL
SILICON VALLEY CLEAN ENERGY
https://www.svcleanenergy.org/

Greenhouse Gas Emissions Intensity (lbs CO_2e/MWh)

Green Start	Green Prime	2022 CA Utility Average
72	**47**	**422**



Energy Resources	Green Start	Green Prime	2022 CA Power Mix
Eligible Renewable[1]	**44.9%**	**95.0%**	**35.8%**
Biomass & Biowaste	1.4%	0.0%	2.1%
Geothermal	24.7%	0.0%	4.7%
Eligible Hydroelectric	0.3%	0.0%	1.1%
Solar	15.0%	0.0%	17.0%
Wind	3.4%	95.0%	10.8%
Coal	**0.0%**	**0.0%**	**2.1%**
Large Hydroelectric	**30.8%**	**0.0%**	**9.2%**
Natural Gas	**0.0%**	**0.0%**	**36.4%**
Nuclear	**24.3%**	**0.0%**	**9.2%**
Other	**0.0%**	**0.0%**	**0.1%**
Unspecified Power[2]	**0.0%**	**5.0%**	**7.1%**
TOTAL	**100.0%**	**100.0%**	**100.0%**
Percentage of Retail Sales Covered by Retired Unbundled RECs[3]**:**	**0%**	**5%**	

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

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

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

For specific information about this electricity portfolio, contact:	**Silicon Valley Clean Energy** **1-844-474-SVCE (7823)**
For general information about the Power Content Label, visit:	https://www.energy.ca.gov/programs-and-topics/programs/power-source-disclosure-program

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1j

Item 1j:	**Authorize the Chief Executive Officer to Execute a Second Amendment to the PCE Cost Share Agreement for Technical Support for the Reach Code Program**
From:	Girish Balachandran, CEO
Prepared by:	Justin Zagunis, Director of Decarbonization Programs and Policy Zoe Elizabeth, Deputy Director of Decarbonization Programs and Policy
Date:	9/13/2023

RECOMMENDATION

Staff recommends the Board approve the amended the reimbursement agreement between Peninsula Clean Energy (PCE) and Silicon Valley Clean Energy (SVCE) to extend the term through July 31, 2024, and increase SVCE's not to exceed amount to $740,000.

BACKGROUND

On December 12, 2018, the SVCE Board approved an agreement entitled "Reimbursement Agreement Between the Silicon Valley Clean Energy Authority and the Peninsula Clean Energy Authority for Professional Services Cost Reimbursement," ("Reimbursement Agreement"), whereby SVCE and PCE agreed to issue a Request for Proposals and to jointly select and share the costs of a Building and EV Reach Code Consultant. These services were sought to support the adoption of local reach codes by SVCE's member agencies through the development of model code language and analysis, tailored technical assistance to member agencies, and support for code implementation. TRC Engineers Inc was selected to conduct the work. SVCE's budget for the reach code work was set to not exceed $400k, including this cost share agreement.

On March 11, 2020, the SVCE Board approved an increase in budget of $200k for reach code work and to extend the availability of technical support from TRC Engineers Inc via an amendment to the cost share agreement with PCE.

PCE and SVCE seek to extend this cost share agreement a second time, through July 31, 2024, to provide on-going support for the most recent electrification reach codes to our member agencies. PCE has already amended their agreement with TRC to allow for the extended term.

ANALYSIS & DISCUSSION

Thirteen of SVCE's member agencies adopted an electrification reach code in 2022. With the recent passage of BAAQMD's zero-NOx appliance standards and the Ninth Circuit's ruling against Berkeley's municipal gas ban, staff feels it is prudent to continue to provide these resources and services to member agencies.

On November 13, 2020, the SVCE Board approved the Building Decarbonization Joint Action Plan ("Plan"), which dedicated $6M to a handful of new programs. Included in this Plan was an estimated $400k for reach code work for the 2022 cycle. Cumulatively, the SVCE Board has approved $1M to support reach code development and implementation from 2018 through the near future. To date, SVCE has already committed approximately $770k total on reach codes: $520k on TRC Engineers Inc and $250k on grants directly to member agencies. This second amendment to the cost share agreement with PCE has a not-to-exceed of $740k, which will keep the total spend for the reach code work within the Board-approved $1M.

Agenda Item: 1j **Agenda Date: 9/13/2023**

STRATEGIC PLAN

The proposal supports SVCE's Strategic Plan Goal 10, coordinate development of decarbonization and resilience strategy, lead design of local policy, and design and deploy programs.

ALTERNATIVE

If the Board does not approve this amendment, then the services from TRC Engineers Inc would no longer be available to member agencies. There would be a loss in continuity given that TRC Engineers Inc has been providing support across two reach code cycles and working with member agencies for years, in addition to a loss of alignment with agencies in San Mateo County. Staff would need to consider securing a new technical services provider or ceasing to provide the same level of technical support.

FISCAL IMPACT

Approval of the amended agreement with PCE will have no additional fiscal impact, as it will be funded through budget that has already been approved by the Board for reach code work.

ATTACHMENTS

1. Second Amendment to Reimbursement Agreement Between the Silicon Valley Clean Energy Authority and the Peninsula Clean Energy Authority for Professional Services Cost Reimbursement
2. First Amendment to Reimbursement Agreement Between the Silicon Valley Clean Energy Authority and the Peninsula Clean Energy Authority for Professional Services Cost Reimbursement
3. Reimbursement Agreement Between the Silicon Valley Clean Energy Authority and the Peninsula Clean Energy Authority for Professional Services Cost Reimbursement

SECOND AMENDMENT TO REIMBURSEMENT AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND THE PENINSULA CLEAN ENERGY AUTHORITY FOR PROFESSIONAL SERVICES COST REIMBURSEMENT

THIS SECOND AMENDMENT TO REIMBURSEMENT AGREEMENT ("Second Amendment") is made and entered into as of September 13, 2023 ("Effective Date") by and between the Silicon Valley Clean Energy Authority ("SVCE") and the Peninsula Clean Energy Authority ("PCE") for the reimbursement of costs incurred by PCE in connection with the performance of professional services for the development, review, adoption and implementation of reach ordinances as more fully described below. SVCE and PCE are individually referred to herein as "Party" and collectively referred to as "the Parties."

RECITALS

A. SVCE and PCE are joint powers authorities organized for the purpose of conducting community choice aggregation programs and other energy-related climate change programs.

B. Staff at SVCE and PCE worked together to develop a scope of work for consultant services to research and prepare model reach codes related to building electrification and electric vehicle ("EV") infrastructure, and to work with SVCE and PCE and their member agencies in the adoption of such codes by member agencies.

C. SVCE and PCE entered into an agreement entitled "Reimbursement Agreement Between the Silicon Valley Clean Energy Authority and the Peninsula Clean Energy Authority for Professional Services Cost Reimbursement," dated December 15, 2018 ("Reimbursement Agreement"), whereby SVCE and PCE agreed to issue a Request for Proposals and to jointly select and share the costs of a Building and EV Reach Code Consultant to undertake the scope of services described in the Request for Proposals, attached as Exhibit A thereto.

D. PCE entered into an agreement with the consultant selected to be the Building and EV Reach Code Consultant, TRC Engineers Inc., on January 25, 2019 ("Original TRC Contract").

E. SVCE and PCE both desire to continue using TRC Engineers, Inc. to provide reach code assistance to member agencies through the end of December 2021, and to expand the scope of services to offer additional technical support to stakeholders such as developers, designers and contractors.

F. On January 23, 2020, the PCE Board of Directors authorized the PCE Chief Executive Officer to extend the Original TRC Agreement, and PCE and TRC Engineers, Inc. executed an amendment to the agreement on April 7, 2020 ("Amended TRC Contract"). The First Amended TRC Contract describes the expanded scope of services and revised budget in Exhibits A and B thereto.

G. On March 11, 2020, the SVCE Board of Directors approved the allocation of an additional $200,000 to SVCE's Reach Code Initiative.

H. SVCE and PCE desire to amend the Reimbursement Agreement to increase the cost to a NTE: $740,000.

I.

NOW, THEREFORE, SVCE and PCE mutually agree to the following:

1. Recitals. The Recitals stated above are true and correct and are incorporated by this reference into this First Amendment.

2. Increase Costs Subject to Reimbursement. The Parties hereby agree that the terms of the Reimbursement Agreement shall increase the Costs to a NTE $740,000.

3. Reimbursement Agreement in Effect. All terms and conditions of the Reimbursement Agreement not specifically modified by this Second Amendment shall remain in full force and effect.

4. Counterparts. This Second Amendment may be executed in counterpart originals, each of which is deemed to be an original for all purposes.

IN WHITNES WHEREOF, the Parties have executed this First Amendment on the date first written above.

Silicon Valley Clean Energy Authority **Peninsula Clean Energy Authority**

By: _____ By: _____

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FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND THE PENINSULA CLEAN ENERGY AUTHORITY FOR PROFESSIONAL SERVICES COST REIMBURSEMENT

THIS FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT ("First Amendment") is made and entered into as of April 7, 2020 ("Effective Date") by and between the Silicon Valley Clean Energy Authority ("SVCE") and the Peninsula Clean Energy Authority ("PCE") for the reimbursement of costs incurred by PCE in connection with the performance of professional services for the development, review, adoption and implementation of reach ordinances as more fully described below. SVCE and PCE are individually referred to herein as "Party" and collectively referred to as "the Parties."

RECITALS

A. SVCE and PCE are joint powers authorities organized for the purpose of conducting community choice aggregation programs and other energy-related climate change programs.

B. Staff at SVCE and PCE worked together to develop a scope of work for consultant services to research and prepare model reach codes related to building electrification and electric vehicle ("EV") infrastructure, and to work with SVCE and PCE and their member agencies in the adoption of such codes by member agencies.

C. SVCE and PCE entered into an agreement entitled "Reimbursement Agreement Between the Silicon Valley Clean Energy Authority and the Peninsula Clean Energy Authority for Professional Services Cost Reimbursement," dated December 15, 2018 ("Reimbursement Agreement"), whereby SVCE and PCE agreed to issue a Request for Proposals and to jointly select and share the costs of a Building and EV Reach Code Consultant to undertake the scope of services described in the Request for Proposals, attached as Exhibit A thereto.

D. PCE entered into an agreement with the consultant selected to be the Building and EV Reach Code Consultant, TRC Engineers Inc., on January 25, 2019 ("Original TRC Contract").

E. SVCE and PCE both desire to continue using TRC Engineers, Inc. to provide reach code assistance to member agencies through the end of December 2021, and to expand the scope of services to offer additional technical support to stakeholders such as developers, designers and contractors.

F. On January 23, 2020, the PCE Board of Directors authorized the PCE Chief Executive Officer to extend the Original TRC Agreement, and PCE and TRC Engineers, Inc. executed an amendment to the agreement on April 7, 2020 ("Amended TRC Contract"). The First Amended TRC Contract describes the expanded scope of services and revised budget in Exhibits A and B thereto.

G. On March 11, 2020, the SVCE Board of Directors approved the allocation of an additional $200,000 to SVCE's Reach Code Initiative.

H. SVCE and PCE desire to amend the Reimbursement Agreement to include the expanded scope of services for TRC Engineers, Inc.

NOW, THEREFORE, SVCE and PCE mutually agree to the following:

1. Recitals. The Recitals stated above are true and correct and are incorporated by this reference into this First Amendment.

2. Scope of Services Subject to Reimbursement. The Parties hereby agree that the terms of the Reimbursement Agreement, including but not limited to Section C(2) "Responsibilities of PCE" and Section C(3) "Responsibilities of SVC", shall apply to and govern payments and reimbursements required pursuant to the expanded scope of services set forth in Exhibit A of the First Amended TRC Contract. Wherever the term "Contract" is used in the Reimbursement Agreement, it shall be deemed to include both the Original TRC Contract and the First Amended TRC Contract, including all revised attachments.

3. Reimbursement Agreement in Effect. All terms and conditions of the Reimbursement Agreement not specifically modified by this First Amendment shall remain in full force and effect.

4. Counterparts. This First Amendment may be executed in counterpart originals, each of which is deemed to be an original for all purposes.

IN WHITNES WHEREOF, the Parties have executed this First Amendment on the date first written above.

Silicon Valley Clean Energy Authority

By: DocuSigned by: Girish Balachandran
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Peninsula Clean Energy Authority

By: Janis C. Pepper

DocuSign Envelope ID: 1A0E6AA7-6096-4F34-B5E3-5FC74026252D

REIMBURSEMENT AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND THE PENINSULA CLEAN ENERGY AUTHORITY FOR PROFESSIONAL SERVICES COST REIMBURSEMENT

This REIMBURSEMENT AGREEMENT ("Agreement") is made and entered into on December 15, 2018, by and between the Silicon Valley Clean Energy Authority ("SVCE") and the Peninsula Clean Energy Authority ("PCE") for the reimbursement of costs incurred by PCE in connection with the performance of professional services for the development, review, adoption and implementation of reach ordinances as more fully described below. SVCE and PCE are individually referred to herein as "Party" and collectively referred to as "the Parties."

RECITALS

A. SVCE and PCE are joint powers authorities organized for the purpose of conducting community choice aggregation programs and other energy-related climate change programs.

B. Staff at SVCE and PCE have worked together to develop a scope of work for consultant services to be obtained from a Request for Proposals process that will be administered by PCE. The scope of services provides for the selected qualified consultant to research and prepare model reach codes related to building electrification and electric vehicle ("EV") infrastructure and to work with SVCE and PCE and their member agencies in the adoption of such codes by the member agencies. A more detailed description of the consultant's scope of services is set forth in the "2018 Request for Proposals for Building and EV Reach Code Consultant" attached hereto as Exhibit A and hereinafter referred to as the "Reach Codes RFP."

C. SVCE and PCE have agreed to share the costs of the selected Building and EV Reach Code consultant whose services will benefit both Parties as provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, SVCE and PCE mutually agree to the following:

1. Recitals. The Recitals stated above are true and correct and are incorporated by this reference into this Agreement.

2. Responsibilities of PCE. PCE shall be responsible for the following:

   a. PCE shall issue and administer the Reach Codes RFP.

   b. PCE shall jointly select with SVCE the consultant to perform the scope of services described in the Reach Codes RFP.

   c. PCE shall enter into a written professional services contract ("Contract") with the consultant jointly selected by SVCE and PCE upon the completion of the Reach

Codes RFP process. The terms of the Contract shall be mutually agreed upon by SVCE and PCE.

d. PCE shall make timely payments to the selected consultant under the terms of the Contract and administer and manage the Contract.

e. PCE shall directly supervise the professional services provided by the selected consultant for the EV reach code work and for any services provided by the consultant that exclusively benefit PCE or its member agencies.

f. PCE shall work cooperatively with SVCE in the development, review, adoption, and implementation of the model reach codes provided by the selected consultant pursuant to the Contract.

3. Responsibilities of SVCE. SVCE shall be responsible for the following:

a. SVCE shall assist PCE in reviewing and evaluating the proposals received by PCE in response to the Reach Code RFP.

b. SVCE shall jointly select with PCE the consultant to perform the scope of services described in the Reach Codes RFP.

c. SVCE shall reimburse PCE for 50% of the payments made by PCE to the selected consultant pursuant to the Contract for services benefiting both Parties. SVCE shall reimburse PCE for 100% of the payments made by PCE to the selected consultant pursuant to the Contract for services exclusively benefiting SVCE or its member agencies. SVCE will not reimburse PCE for any payments made by PCE for services exclusively benefiting PCE or its member agencies. Prior to the execution of the Contract, SVCE and PCE shall prepare a written list of the selected consultant's services that benefit both Parties and the services that exclusively benefit one Party or the other. All amounts owed by SVCE to PCE shall be paid within 30 days after SVCE receives the selected consultant's detailed invoice paid by PCE.

d. SVCE shall directly supervise the professional services provided by the selected consultant for the building electrification reach code work and for any services provided by the consultant that exclusively benefit SVCE or its member agencies.

e. SVCE shall work cooperatively with PCE in the development, review, adoption and implementation of the model reach codes provided by the selected consultant pursuant to the Contract.

4. Term and Termination. The term of this Agreement shall commence on the date first written above and terminate on the date that SVCE makes its final payment under the provisions of this Agreement. Either party may terminate this Agreement without cause upon 30 days written notice. Either Party also may terminate this Agreement by written notice of a default by the other Party ("Defaulting Party") of a material term of this Agreement, provided that the terminating Party has given written notice of default to the Defaulting Party and has given the Defaulting Party a

reasonable period of time to cure the default, which in no case shall be less than 15 days. Upon termination of this Agreement, SVCE shall reimburse PCE for any unpaid consultant fees incurred prior to the date of termination that PCE is obligated to pay under the Contract.

5. Hold Harmless and Indemnification. The indemnification obligations of the Parties shall be as follows:

a. PCE shall defend, hold harmless and indemnify SVCE, and its directors, officers, agents and employees from any and all claims for injuries or damage to persons and/or property which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions or other wrongful conduct of PCE, its directors, officers, agents and/or employees.

b. SVCE shall defend, save harmless, and indemnify the PCE, and its directors, officers, agents and employees from any and all claims for injuries or damage to persons and/or property which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions or other wrongful conduct of SVCE, its directors, officers, agents and/or employees.

c. In the event of concurrent negligence of PCE, its directors, officers, agents and/or employees, and SVCE, its directors, officers, agents and/or employees, then the liability for any and all claims for injuries or damage to persons and/or property which arise out of terms and conditions of this Agreement shall be apportioned according to the California theory of comparative negligence.

d. This provision shall survive expiration or termination of this Agreement.

6. Amendment and Waiver. No change or modification of this Agreement shall be valid unless the same is in writing and signed by both Parties, and no verbal understanding or agreement not incorporated herein shall be binding on either Party hereto.

7. Governing Law. This Agreement shall be construed and governed by the laws of the State of California, and any suit or action initiated by either Party shall be brought in the Superior Court for the County of San Mateo, California, or the United States District Court for the Northern District of California.

8. Time of Essence. Time is of the essence for every provision hereof in which time is a factor.

9. Benefit of Parties. The terms of this Agreement shall be binding and inure to the benefit of the Parties hereto and their successors and assigns. Neither Party shall assign this Agreement or any portion thereof to a third party without the prior written consent of the other Party. Any such assignment without prior written consent by one Party shall give the other Party the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Entire Agreement of the Parties. This Agreement supersedes any and all agreements, either oral or written, between the Parties with respect to the subject matter of this Agreement and contains all of the representations, covenants, and agreements between the Parties with respect to

the subject matter of this Agreement. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not contained in this Agreement.

11. Independent Counsel. Each Party has had the opportunity to consult with its own attorney with respect to this Agreement, and in the event that any language contained herein is construed to be vague or ambiguous, this Agreement shall not be strictly construed against any Party.

12. Notice. Notice given under or regarding this Agreement shall be deemed given upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), or reputable overnight commercial delivery service. Notice shall be sent to the respective Party at the address indicated below or to any other address as a Party may designate from time to time by a notice given in accordance with this paragraph.

If to SVCE:

Aimee Bailey, PhD
Director of Decarbonization & Grid Innovation
Silicon Valley Clean Energy
333 W. El Camino Road #290
Sunnyvale, California 94087

If to PCE:

Rafael Reyes
Director of Energy Programs
Peninsula Clean Energy
2075 Woodside Road
Redwood City, California 94061

13. Invalid Provision. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

14. Headings and Captions. The headings and captions used in this Agreement are for convenience only and shall in no way define, limit, or describe the scope or intent of the Agreement or any part thereof.

15. Counterparts. This Agreement may be executed in counterpart originals, each of which is deemed to be an original for all purposes.

IN WITNESS WHEREOF, the Parties have executed this Agreement below on the date first written above.

Silicon Valley Clean Energy Authority

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

Peninsula Clean Energy Authority

By: _____

EXHIBIT A

2018 Request for Proposals for Building and EV Reach Code Consultant

2018 Request for Proposals for Building and EV Reach Code Consultant

Peninsula Clean Energy is San Mateo County's locally-controlled electricity provider. We are reducing greenhouse gas emissions and offering customer choice at competitive rates.

Offers due Thursday, January 3rd at 5:00 pm Pacific Time

1 Contents

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2 RFP Overview

Peninsula Clean Energy (PCE) programs include advancing the adoption of electric vehicles and transitioning building fossil fuel uses to low-carbon electricity. With this request for proposals (RFP), PCE requests information about the experience and qualifications your company may have relating to the development of model building "reach" codes to address electric vehicle infrastructure and building electrification needs as described in this RFP scope of work.

This RFP is being executed in collaboration with Silicon Valley Clean Energy (SVCE) as a prospective joint project. SVCE's participation is subject to SVCE Board of Directors' review and approval[1].

This RFP

- Provides general background on PCE
- Describes the service sought by PCE (scope of work)
- Provides an opportunity for Proposers to describe their qualifications and assets, and to explain how they could contribute to the program

By participating in PCE's RFP process, a Proposer acknowledges that it has read, understands, and agrees to the terms and conditions set forth in these RFP Instructions. PCE reserves the right to reject any offer that does not comply with the requirements identified herein. Furthermore, PCE may, in its sole discretion and without notice, modify, suspend, or terminate the RFP without liability to any organization or individual. The RFP does not constitute an offer to buy or create an obligation for PCE to enter into an agreement with any party, and PCE shall not be bound by the terms of any offer until PCE has entered into a fully executed agreement.

3 Peninsula Clean Energy Overview

Peninsula Clean Energy (PCE), a community choice energy (CCE) program, is San Mateo County's official electricity provider. PCE is a joint powers agency, formed in February, 2016, consisting of the County of San Mateo and all twenty of its cities. PCE provides cleaner and greener electricity, and at lower rates, than the incumbent investor-owned utility (IOU), Pacific Gas & Electric Company (PG&E). PCE plans for and secures commitments from a diverse portfolio of energy-generating resources to reliably serve the electric energy requirements of its customers over the near-, mid-, and long-term planning horizons. For more information on PCE, please go to www.peninsulacleanenergy.com.

PCE's Strategic Goals:

[1] SVCE staff anticipates taking the request to their Board at the meeting on December 12, 2018.

1. Design a diverse power portfolio that is greenhouse gas free.
    a. 100% GHG free by 2021
    b. sourced by 100% CA RPS eligible renewable energy by 2025
    c. create a minimum of 20 MWs of new local power by 2025
2. Continually strive to offer ECOPlus at rates that are at parity or lower than PG&E rates.
3. Stimulate development of new renewable energy projects and clean-tech innovation in San Mateo County and California through PCE's procurement activities.
4. Demonstrate quantifiable economic benefits to the County/region and place a priority on local hiring and workforce development practices and environmental justice.
5. Implement programs to further reduce greenhouse gas emissions by investing in programs such as local clean power production, electric vehicles, energy efficiency, and demand response, and partnering effectively with local business, schools, and nonprofit organizations.
6. Maximize and maintain customer participation in PCE.
7. Provide a superior customer experience
8. Build a financially sustainable organization.
9. Foster a work environment that espouses sustainable business practices and cultivates a culture of innovation, diversity, transparency, integrity, and commitment to the organization's mission and the communities it serves.

4 RFP Schedule

Date	***Event***
Monday, November 26, 2018	PCE launches RFP: publishes RFP Instructions.
Friday, December 7, 2018	Deadline for Proposers to submit questions (see below)
Friday, December 14, 2018	PCE provides responses to questions on PCE's website.
Thursday, January 3, 2019, 5:00 pm PT	Deadline for Proposers to submit proposals
Thursday, January 10, 2019 and Friday, January 11, 2019	Possible in-person interviews of top proposers
Wednesday, January 16, 2019, 5:00 pm PT	Anticipated date PCE will notify awardee
Thursday, January 24, 2019	Anticipated date for Board execution of contract

Questions:

- **Question & Answer:** Proposers may submit questions concerning the RFP at programs@peninsulacleanenergy.com. All questions and answers will be shared with all Proposers and will be posted on PCE's website.

- **Proposal Review:** PCE may request clarifications by email or phone January 3, 2019, through January 7, 2019. Prompt responses will be requested.

- **Proposer Interviews:** PCE may conduct in-person interviews of the top proposers on January 10 and January 11, 2019.

5 Proposal Submittal

Proposals must be received on or before the above deadline and submittal must be by email to programs@peninsulacleanenergy.com with the subject "Proposal - <Organization> - Reach Codes Consultant".

Only electronic submittals will be accepted.

Proposals must include:

1. Organization qualifications (4 pg. max)
2. Considerations and approach for development of model codes (4 pg. max)
3. Stakeholder engagement process (3 pg. max)
4. Schedule (table or chart, 1 pg. max)
5. Cost proposal (2 pg. max, include rate schedule)
6. Confirmation of acceptance of contract terms or explanation of proposed contract modifications (see Agreement Terms)
7. Project staff credentials (no limit)

6 Review and Selection Process

PCE staff will evaluate the proposals provided based on the following criteria:

1. Completeness of Proposal
2. Qualifications of the firm and staff
3. Proposed approach to implement project
4. Past experience
5. Cost structure
6. Exceptions to PCE's contract template

7 Agreement Terms

Awardees will be required to enter into a contract using PCE's standard contract terms. Modification of the contract terms may be proposed by the Proposer for consideration by PCE but are not guaranteed to be accepted. Rejection of the final terms from PCE is grounds for disqualification.

PCE's standard contract terms are available for review here:

https://tinyurl.com/pcecontractemplate

8 Inclusion of Non-Participating Agencies

PCE is asking all responding vendors to indicate their willingness to extend the terms of resulting contracts, inclusive of price, to other interested California-based municipalities, municipally-owned utilities and community choice energy programs. While this clause in no way commits these agencies to contract with PCE's awarded consultant, nor does it guarantee any additional orders will result, it does allow other agencies, at their discretion, to make use of PCE's competitive process (provided said process satisfies their own procurement guidelines) and purchase directly from the awarded contractor. All purchases made by other agencies shall be understood to be transactions between that agency and the awarded vendor; PCE shall not be responsible for any such purchases.

9 PCE Legal Obligations

PCE is not obligated to respond to any offer submitted as part of the RFP. All parties acknowledge that PCE is a public agency subject to the requirements of the California Public Records Act, Cal. Gov. Code section 6250 et seq. PCE acknowledges that another party may submit information to PCE that the other party considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255) ("Confidential Information"). Any such other party acknowledges that PCE may submit to the other party Confidential Information. Upon request or demand of any third person or entity not a party to this RFP ("Requestor") for production, inspection and/or copying of information designated as Confidential Information by a party disclosing such information ("Disclosing Party"), the party receiving such information ("Receiving Party"), as soon as practical but within three (3) business days of receipt of the request, shall notify the Disclosing Party that such request has been made, by telephone call, letter sent via email and/or by US Mail to the address or email address listed on the cover page of the RFP. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action, after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it.

10 Scope of Work

See following page.

Scope of Work

1 Program Overview

Peninsula Clean Energy's and Silicon Valley Clean Energy's (SVCE) missions are to reduce greenhouse gas (GHG) emissions in San Mateo County and Santa Clara County (in the cities that SVCE covers), respectively. Emissions from transportation and building natural gas use comprise the largest sources of GHGs within the territories. This program aims to develop and advance Building Electrification and Electric Vehicle (EV) Infrastructure "reach" codes with member municipalities to update local building codes for new residential and commercial construction and major remodels. These codes are to be developed in alignment with and build on the 2019 California statewide building code updates. Codes for new buildings and major modifications are the most cost-effective points at which to install Electric Vehicle charging infrastructure and electric appliances (such as heat pump water heaters) compared to retrofitting existing buildings.

2 Consultant Responsibilities

2.1 Research Existing State and Local Codes

Consultant will research relevant state and local building codes to be developed related to building electrification and EV infrastructure. These codes may serve as models or foundations for the local model reach codes. This research must include both mandate- and incentive-based codes. The key features will be summarized in format easy to review for stakeholders.

2.2 Lead Development of Model Reach Codes

Consultant will work with PCE, the San Mateo County Office of Sustainability (OOS), and SVCE to provide key education to, and take input from, municipalities and other identified stakeholders to draft model reach codes to achieve program objectives. OOS and SVCE will provide facilitation support for their respective territories. The model reach code options must extend and be compliant with California's 2019 Building Code and are expected to leverage the cost-effectiveness analysis results from the 2019 Statewide Codes & Standards Program, as needed.

Stakeholders to include in the reach code development process will be jointly determined but are anticipated to include elected officials, municipal staff, developers, electric vehicle experts, building electrification experts, Pacific Gas & Electric, building trades, and other members of the community. The facilitated processes for EV infrastructure and for building electrification may be handled separately as deemed appropriate.

The process will include a minimum of one revision and one charette per reach code focus area (i.e. EV and building electrification) and per service territory (PCE and SVCE). It is also anticipated that the final product may include two to four versions of each model reach code with varying levels of stringency. For example, this may include prescriptive or performance-based options for building electrification. The process and schedule will be refined in consultation with the Consultant.

2.3 Identify Tools and Processes for Adoption and Implementation

This task includes identifying tools and process improvements to consider for 2.5 and 2.6. This may include but is not limited to:

a. Adoption tools: This includes template staff reports, findings for local governments to use when submitting Building codes to the California Building Standards Commission for acceptance, and/or other tools needed to move forward with the code adoption process at the local government and State level.
b. Implementation tools: This includes building department training, permit and inspection processes streamlining (including documenting all process efficiencies and benefits enabled by a suite of proposed streamlined permitting processes), educating builder community, and/or other tools needed to move forward with the code implementation process.

Any recommendations and deliverables will be developed with and vetted by the interested municipalities, development community, and other key stakeholders.

2.4 Develop EV Cost-Benefit Analysis

For the EV model codes, Consultant will also carry out an analysis including all costs and benefits – monetary and non-monetary (e.g. emissions impacts) – of the measures included. This will include the incremental construction costs resulting from the reach code ("first costs"). The EV cost-benefit analysis will be developed in a manner consistent with State and industry standards.

Municipalities will be encouraged to utilize the Statewide Codes & Standards program cost-benefit analysis for evaluating the efficacy of the Building Electrification model codes. The Consultant may be requested to provide additional enhanced analysis to supplement the Statewide cost-benefit analysis. If so, this will be treated as technical assistance under item 2.5.

2.5 Provide Technical Assistance to Municipalities for Adoption

For each territory (PCE and SVCE), the Consultant will provide technical assistance to interested municipalities for the adoption process, including developing the tools mutually agreed to in 2.3, and which may include presentations or answering technical questions at Commissions and Councils. PCE and SVCE have a total of thirty-four jurisdictions (21 and 13, respectively). The Consultant should assume that all municipalities will participate, however, only a subset of municipalities may participate in the reach code development and adoption process.

2.6 Provide Technical Assistance to Municipalities for Code Implementation

For each territory (PCE and SVCE), the Consultant will provide technical assistance to municipalities for the implementation process, including developing the tools mutually agreed to in 2.3, and which may include staff training sessions as requested.

3 Timing

All work must be completed with sufficient time for municipalities to execute ordinances in 2019 that will go into effect on January 1st, 2020.

4 Budgeting

The budget should include fixed costs for tasks 2.1 through 2.4. Tasks 2.5 and 2.6 should be provided as a variable cost (e.g. on a costs per-municipality basis).

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1k

Item 1k:	**Executive Committee Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Tina Walia, Executive Committee Chair
Date:	9/13/2023

The Executive Committee met August 25, 2023 and heard discussion items from staff on the FY 23-24 strategic focus areas, an update on virtual power plants and potential plans for 2024, and a program snapshot on commercial and industrial program offerings.

CEO Girish Balachandran provided an update on the FY 23-24 Strategic Focus Areas, which included: Expand Clean and Reliable Grid Actions; Expand Customer Base & Interaction; Accelerate Building & Transportation Electrification; Implement Innovative Financing Solutions; and Attract & Retain Employees. CEO Balachandran noted the focus areas were the same as presented at the June board meeting, with one addition under the *Attract & Retain* focus area to include the hiring of a CEO. The item was identified as a discussion item, and committee members were in consensus to support staff presenting the focus areas to the Board of Directors for approval at the September Board of Directors meeting.

Don Bray, Director of Strategic Development, presented information on virtual power plants (VPP), and how SVCE could refine its approach to VPP in the future to help shape customer demand to match low-cost supply. The topic was especially engaging for committee members in thinking about the bigger picture in how to further support SVCE's mission and meet future electrification goals.

Adam Selvin, Director of Energy Services and Community Relations, shared a presentation on commercial and industrial programs, which included information on the Small-to-Medium Business Rebates, a future commercial and industrial strategic energy management for decarbonization program for large commercial and industrial SVCE customer facilities, and a highlight of SVCE's Electrification Discount Rate (E-ELEC).

Materials from this meeting can be found on SVCE's website: SVCE Executive Committee Meeting, August 25, 2023

The regularly scheduled September 22, 2023 Executive Committee meeting will be cancelled. The next meeting of the Executive Committee is scheduled for October 27, 2023 at 10:00 a.m.; materials will be posted no later than 72 hours in advance of the meeting.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1l

Item 1l:	**California Community Power Report**
To:	Silicon Valley Clean Energy Board of Directors
From:	Girish Balachandran, CEO
Date:	9/13/2023

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, August 16, 2023.

Attached is a summary report from General Manager Alex Morris; materials from the August board meeting can be found here on the CC Power website: CC Power Meeting, 8/16/23

The next meeting of the board will be September 20, 2023 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 General Manager Alex Morris, August 16, 2023

California Community Power

901 H St, Ste 120 PMB 157, Sacramento, CA 95814 | cacommunitypower.org

TO: CC Power Board of Directors and Alternates **DATE:** 8/16/2023
FROM: Alex Morris – General Manager
SUBJECT: **Report on CC Power Regular Board of Directors Meeting – August 16, 2023**

The CC Power Board of Directors held its regularly scheduled meeting on Wednesday, August 16, 2023, 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: Meetings and Agendas – ca community power

Highlights of the meeting included the following:

- **Matters subsequent to posting the Agenda.** None.
- **Public Comment.** None.
- **Consent Agenda** - The Board approved the following items:
  - Minutes of the Regular Board Meeting held on June 21, 2023.
  - Adoption or provider for 401(a) Defined Contribution Plan and 457(b) Deferred Compensation Plan, in line with CC Power Benefits package as approved June 21, 2023.
- **General Manager Report –** the Board reviewed updates regarding multiple areas of CC Power's operations, including: i) CC Power's Getting It Built Right event, scheduled for November 3, 2023, ii) planning and preliminary actions related to a future CC Power Request for Offers for CA Offshore Wind, with RFO anticipated to occur in 2025-2027, iii) research findings and likely areas for CC Power project exploration due to the Inflation Reduction Act, iv) new participation policies for member staff and v) up-and-coming work areas, in line with the CC Power Strategic Plan.
- **Discussion of Any Individual Member Items –** none

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1m

Item 1m:	**Additional Committee Reports**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Andrea Pizano, Board Clerk/Executive Assistant
Date:	9/13/2023

There are no reports for the 1) Audit Committee, 2) Finance and Administration Committee, and 3) Legislative Response to Industry Transition 2023 Ad Hoc Committee as they have not met since the last report.

The next meeting of the Audit Committee will be Tuesday, September 19, 2023, at noon, and the next Finance and Administration Committee meeting will be Tuesday, October 3, 2023 at 2:00 p.m.; the next meeting of the Legislative Response to Industry Transition 2023 Ad Hoc Committee will be scheduled based on member availability.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 2

Item 2:	**CEO Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Girish Balachandran, CEO
Date:	9/13/2023

REPORT

Staff Updates
On September 11, 2023, Julianne Miller joined Silicon Valley Clean Energy as the Community Outreach Fellow, through the Climate Corps fellowship program. Julianne will work on the agency's annual education initiatives, such as the Education Fund and scholarship competition, among other outreach support. Julianne most recently worked as a special education teacher at elementary schools in the Bay Area. She has a Master's in Education from National University and a Bachelor's Degree in Environmental Studies from NYU.

Sophia Zhang joined SVCE on September 11, 2023 as a Power, Policy, Planning, Procurement, Regulatory and Operations Fellow with SEI Climate Corps. Prior to SVCE, Sophia was a Management Consulting intern for Arthur D. Little, working with the Energy & Utilities and Information Technology teams. Sophia also has experience in sustainability consulting, product marketing, and market research as a student consultant for Intel, REI, eBay, and Western Digital. Sophia graduated from the University of California, Berkeley with a B.S. in Environmental Economics & Policy and a minor in Political Economy.

Personnel Officer Update
As announced at the August board meeting, we had three internal promotions for the following staff: 1) Bena Chang, former Senior Government Affairs Manager and now Director of Government and Legislative Affairs; 2) Pamela Leonard, former Senior Communications Manager and now Deputy Director of Marketing and Communications; and 3) Nik Zanotto, former Manager of IT and Administrative Services and now Senior Manager of IT and Administrative Services.

An offer has been made and accepted for the position of Director of Human Resources, and the new employee will be introduced at the October board meeting. SVCE has five posted positions, one being Chief Executive Officer, which are posted to SVCE's website: Current Job Openings

2022 Greenhouse Gas Emissions Update
An analysis of 2022 Greenhouse Gas (GHG) emissions has been completed by staff. Slides summarizing the findings are attached to this report. In addition to the attached slides, additional information regarding the 2022 analysis is provided below.

The 2022 energy- and transportation-related emissions for the SVCE service territory was 3.08 million MT CO_2e. The analysis shows that 2022 emissions are 23.4% lower than the base year's 2015 emissions, returning to 2019 emission levels. Driving factors include:

- While SVCE continues to meet its goals of providing electricity from renewable and clean sources, emissions ascribed to a geothermal facility that SVCE contracts with for renewable and reliable baseload power increased the emissions intensity for GreenStart to 72 $lbCO_2/MWh$ compared to 2.34

$lbCO_2/MWh$ in 2019 and 18 $lbCO_2/MWh$ in 2021. This resource helps achieve state-mandated reliability goals. While total electricity consumption from 2022 was lower than 2019's consumption and similar to 2021's consumption, the emissions of electricity was higher for 2022 compared to both years.

- Compared to 2019, in 2022 there was a 7% decrease in electricity consumption but a 42% increase in emissions associated with electricity.
- Compared to 2021, in 2022 there was a 2% decrease in electricity consumption but a 90% increase in emissions associated with electricity.

- On-road vehicle miles traveled has increased about 10% from 2021 to 2022 due to continued recovery from COVID.

The team is also congruently working on updates to the GHG models and methods for the historical emissions analysis to provide a more robust GHG modeling capabilities to track emissions trends more closely as SVCE continues to help decarbonize the community.

Tariffed On-Bill Pilot Program Proposal Recognition

SVCE is proud to share that our proposal for a tariffed on-bill (TOB) financing pilot submitted to the CPUC's Clean Energy Financing proceeding in spring 2022 received a special shout out from Commissioner Darcie Houck. In a CPUC press release issued August 10th, Commissioner Houck applauded SVCE's non-debt based proposal designed with robust consumer protections. TOB financing is promising because it is one of the few financing mechanisms that can support rental property electrification – critical to address low-and-moderate income renters as we work to leverage private capital to support decarbonization efforts at scale. The SVCE pilot, if approved by the CPUC in 2024, would serve as a template for future, larger TOB programs in California. While the SVCE TOB pilot is still pending final approval from SVCE Board, our efforts in this area were enabled by the Board's approval of $5M for "accessible financing" in March 2022 under the Double Down funding allocation. SVCE's submitted proposal is available here.

Single-Family Home Electrification Program Update

SVCE has been coordinating with Peninsula Clean Energy (PCE) to scope out a Single Family Electrification Program. The Program would provide single-family homes with no- or low-cost turnkey home electrification services and an emergency water heater replacement service. Through the Program, single-family homeowners would use CCA-selected contractors to make electrification upgrades, rather than having to go through the process of identifying and vetting contractors, getting quotes, and applying for incentives themselves. This concept would add a layer of ease for interested single-family homeowners on top of SVCE's existing FutureFit Homes incentives and the upcoming Concierge support. PCE issued an RFP for this program in late August to find a program administrator and team of contractors. SVCE is participating in the evaluation process for PCE and may later choose to piggyback on PCE's selection to have the selected vendor provide similar services in SVCE territory. Staff expects to bring this program concept and possibly a vendor contract to the Board for approval towards the end of the year.

CEO Agreements Executed

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

1) ADM, Task Order: Program Design Consultant for Evaluation, Measurement & Verification, not to exceed $16,150
2) Wilson Sonsini Goodrich & Rosati, Amendment: Legal Services, extension of end date to 9/30/24
3) Claremont Partners, Inc., Agreement: Human Resources Services, not to exceed $31,332, 10/1/23 – 9/30/24
4) PFM Financial Advisors, Amendment: Financial Advisors Services, extends date to 9/30/24
5) Bryce Consulting, Agreement: Human Resources Consulting Services, not to exceed $34,500, 10/1/23 – 9/30/24
6) City of Los Altos, Agreement: Capital Projects Grant, not to exceed $125,713, ends 12/31/24
7) MRW, Amendment: IRP Development Services, extends date to 11/30/24

8) PowerMC, Amendment: Business Process Optimization, not to exceed $424,184, extends date to 9/30/24, approved at August board meeting

9) The Ferneborg Group, Agreement: CEO Search Committee, not to exceed $10,000

SILICON VALLEY CLEAN ENERGY

CEO Power Supply Agreements Executed

Counterparty Name	Execution/Effective Date	Transaction Type	Product	Start Date	End Date	Notional Value
Shell Energy North America	1/11/2023	Sale	Resource Adequacy	4/1/2023	4/30/2023	$200,000
Morgan Stanley Capitol Group	8/11/2023	Purchase	Resource Adequacy & Carbon-Free Energy	6/1/2024	9/1/2024	$7,661,750
San Diego Community Power	8/22/2023	Sale	Resource Adequacy	10/1/2023	10/31/2023	$80,500

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

SILICON VALLEY CLEAN ENERGY

Presentations & Relevant Meetings Attended by CEO

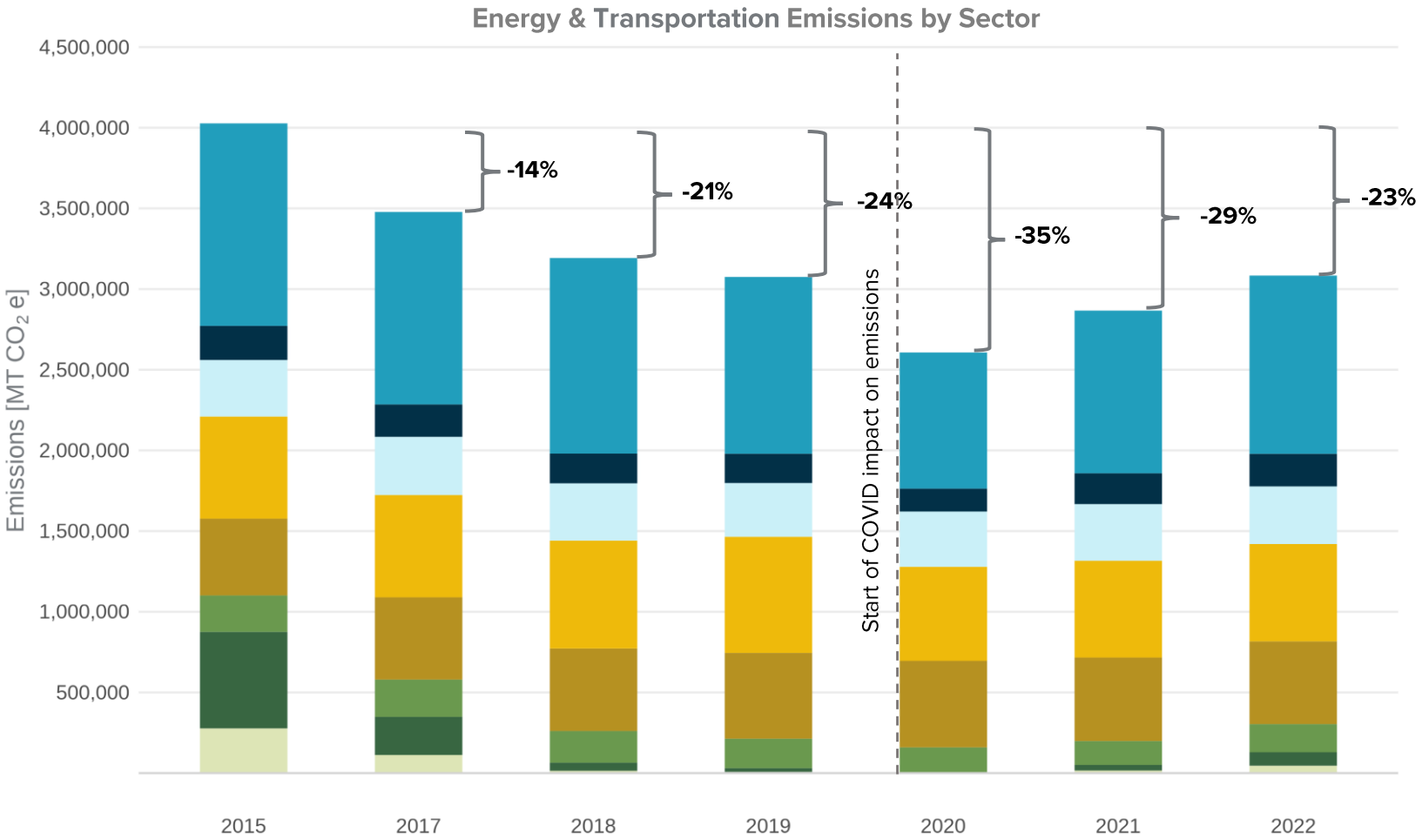
- Participated in CalCCA Monthly board, executive, and legislative meetings
- CC Power Board Meeting, August 16, 2023 (General Manager report is on Consent Calendar)

ATTACHMENTS

1. 2022 GHG Emissions
2. Clean Power Update, September 2023
3. Decarb Programs & Policy Update, September 2023
4. Energy Services & Community Relations Update, September 2023
5. Regulatory and Legislative Update, September 2023
6. Agenda Look Ahead, September 2023 – January 2024

2022 GHG Inventory Update

2022 emissions were 23.4% below 2015



2022 emissions:
3.08 million MT CO_2e

SVCE GHG Reduction Targets
2021: 30% below 2015
2025: 40% below 2015
2030: 50% below 2015



With operations rebounding from COVID, emissions return to 2019 levels

SVCE's 2022 electricity emissions factor and an increase in vehicle miles traveled due to a rebound from COVID contributes to SVCE's emissions returning to pre-COVID levels

SVCE is working on more robust GHG modeling capabilities to track and forecast trends more closely

- Compared to 2021, 2022…
  - On-road vehicle miles traveled (VMT) **increased** 10%*
  - Residential electricity consumption **decreased** 1%
  - Residential gas consumption **decreased** 1%
  - Non-residential electricity consumption **increased** 3%
  - Non-residential gas consumption **increased** 0.5%

- Compared to 2019 (pre-COVID), 2022…
  - On-road VMT **increased** 1%
  - Residential electricity consumption **decreased** 1%
  - Residential gas consumption **decreased** 4%
  - Non-residential electricity consumption **decreased** 9%
  - Non-residential gas consumption **decreased** 16%

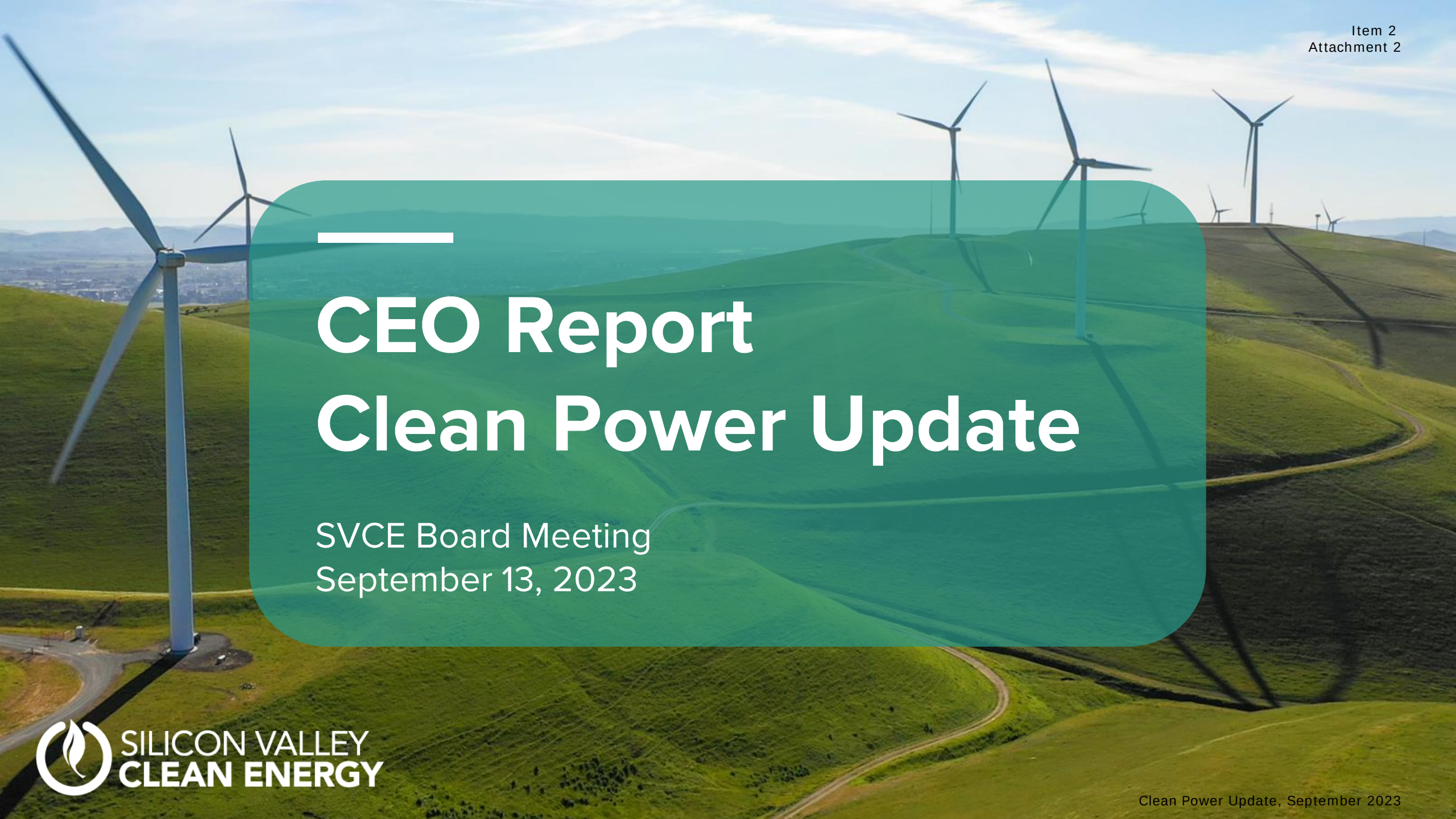
*due to a COVID rebound

With operations rebounding from COVID, emissions return to 2019 levels

SVCE's 2022 electricity emissions factor and an increase in vehicle miles traveled due to a rebound from COVID contributes to SVCE's emissions returning to pre-COVID levels

SVCE is working on more robust GHG modeling capabilities to track and forecast trends more closely

- Compared to the 2015 baseline, 2022…
  - On-road vehicle miles traveled (VMT) **increased** 4%
  - Residential electricity consumption **decreased** 3%
  - Residential gas consumption **increased 8**%
  - Non-residential electricity consumption **decreased** 14%
  - Non-residential gas consumption **decreased** 5%

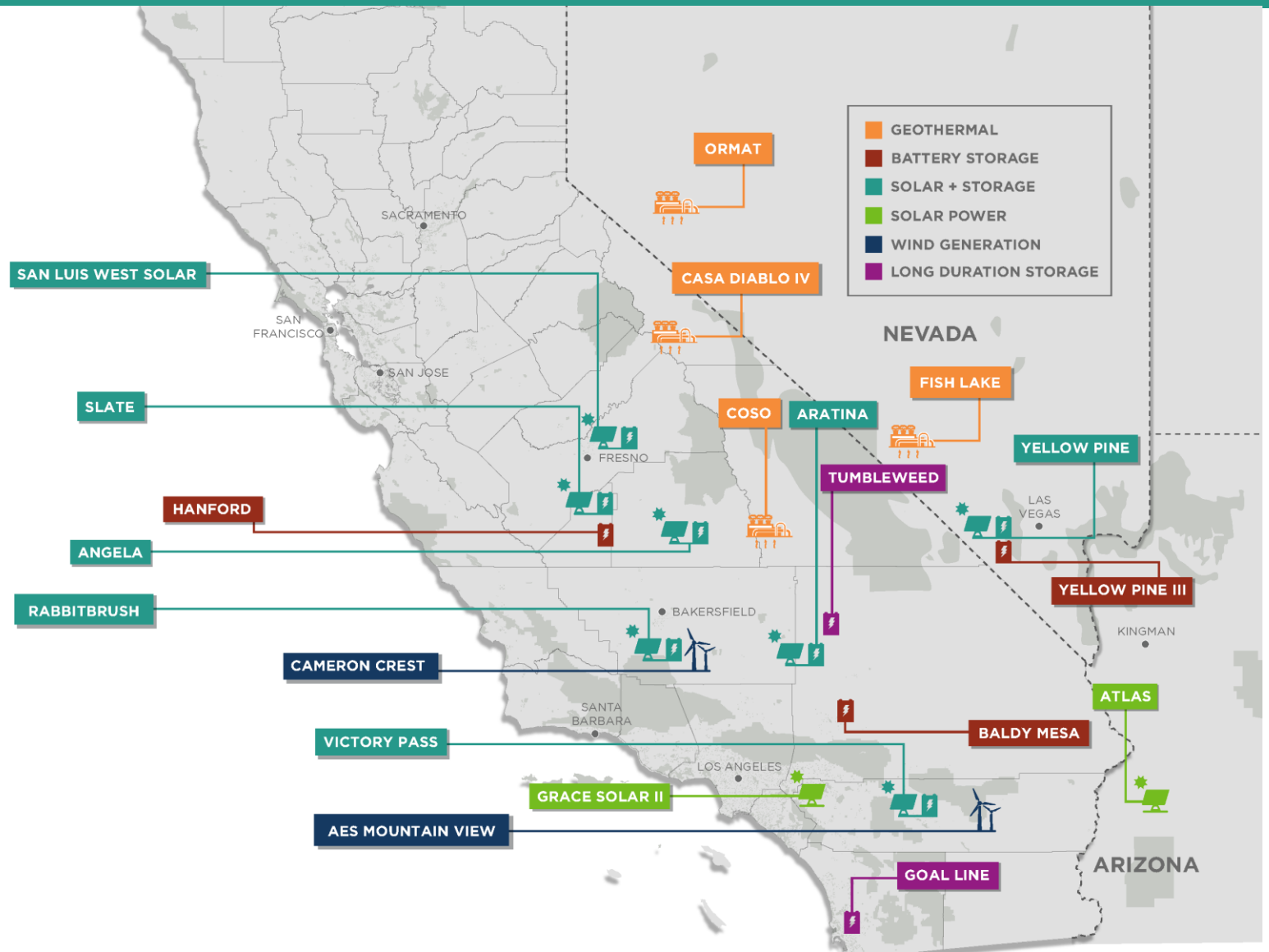


CEO Report
Clean Power Update

SVCE Board Meeting
September 13, 2023

SILICON VALLEY CLEAN ENERGY

Clean Long-term Power Agreements



- $3.2B+ in commitments
- 20 PPAs signed
  - 17 new build projects
- 796 MW of Renewable Power
- 1,845 MWh of Battery Storage

7 Projects now delivering to SVCE meeting ~33% of 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
- Terra-Gen Wind – January 2023
- Yellow Pine Solar + Storage – July 2023

SVCE Long-Term Clean Energy Contracts

	Seller	Project Name	Technology	Generation MW	Storage MWh	Approximate % of Annual load in 2028	Term (years)	Lifetime Not to Exceed Authority (MM$)	SVCE Board Approval	Status
1	MN8	Slate	Solar + Storage	93	186	6.60%	17	$198	Oct-18	Online
2	Ormat	Casa Diablo	Geothermal	7		1.40%	10	$43	Feb-20	Online
3	Atlantica	Coso	Geothermal	43.8		6.50%	15	$331	Mar-20	Online
4	Leeward	Rabbitbrush	Solar + Storage	40	20	3.00%	15	$64	Apr-20	Online
5	NextEra	Yellow Pine	Solar + Storage	50	104	4.00%	20	$128	May-20	Online
6	Avantus	Aratina	Solar + Storage	80	60	6.60%	20	$174	Jun-20	Pre-construction
7	174 Power Global	Atlas	Solar	50		3.80%	10	$32	Jan-21	Pre-construction
8	SB Energy	Angela	Solar + Storage	20	40	1.40%	15	$35	Mar-21	Pre-construction
9	AES	Mountain View	Wind	33.3		3%	20	$128	Apr-21	Online
10	Origis	San Luis West	Solar + Storage	62.5	62.5	4%	15	$74	Apr-21	Pre-construction
11	Clearway	Victory Pass	Solar + Storage	100	100	8%	15	$173	May-21	Construction
12	Terra-Gen	Cameron Crest	Wind	77.7		5%	15	$150	May-21	Online
13	Rev Renewables	Tumbleweed	Long Duration Storage		127.5		15	$100	Feb-22	Pre-construction
14	Onward	Goal Line	Long Duration Storage		113.6		15	$100	Mar-22	Pre-construction
15	Ormat	Geothermal Portfolio	Geothermal	16.75		4.40%	20	$256	Jun-22	Pre-construction
16	OME	Fish Lake	Geothermal	1.82		0.40%	20	$30	Jun-22	Pre-construction
17	AES	Baldy Mesa (RA-only)	Storage	0	300		10	$81	Sep-22	Construction
18	MRP	Hanford	Thermal + BESS	99.4	131.4		12	$280	Apr-23	Pre-construction
19	NextEra	Grace	Solar	120		9.00%	15	$286	Aug-23	Pre-construction
20	NextEra	Yellow Pine III	Storage	0	460		15	$420	Aug-23	Pre-construction

Clean Energy Resources Online Progress
as of 8/31/2023

2023 – Q4	• San Luis West Solar + Storage: *Pre-construction – delayed*
2024 – Q1	• Victory Pass Solar + Storage: *Construction mode – delayed* • Angela Solar + Storage: *Pre-construction – delayed*
2024 – Q2	• Fish Lake Geothermal: *Pre-construction* • Baldy Mesa (RA-Only Storage): *Construction mode*
2024 – Q4	• Hanford BESS on Peaker: *Pre-construction*
2025 – Q2	• Goal Line Long Duration Storage: *Pre-construction* • Aratina Solar + Storage: *Pre-construction – delayed*
2025 – Q3+	• Ormat Geothermal Portfolio: *Pre-construction* • Tumbleweed Long Duration Storage: *Pre-construction* • Atlas Solar: *Pre-construction – delayed* • Yellow Pine III Storage: *Pre-construction* • Grace Solar: *Pre-construction*

THANK YOU!



PROGRAMS AT A GLANCE

Q2 2023

Click for More Information

Active | In Development | Complete

POWER SUPPLY	Complete	C&I Clean Power Offerings
BUILT ENVIRONMENT	Active	FutureFit Fundamentals
	Complete	FutureFit Heat Pump Water Heater
	Active	Permit Modernization
	Active	Resilience at Community Facilities
	Active	Medical Baseline Battery Program
	Active	CRCR Bill Relief
	Complete	Reach Codes
	Active	Electric Showcase Awards
	In Development	Accessible Financing
	In Development	Feasibility Assessment - Natural Gas Phase Out By 2045
	Active	FutureFit Homes & Buildings
	In Development	Multifamily Building Electrification Direct Install
	In Development	Existing Building Policy Experimentation
	In Development	Regional Coordination
	In Development	SV Building Electrification
MOBILITY	Active	CA Electric Vehicle Infrastructure Project (CALeVIP)
	Active	Future Fit Assist
	Active	Multifamily EV Charging Installation Incentive Program
	In Development	Multifamily EV Charging Direct Install
	Active	Priority Zone DCFC
	Active	SV Transportation Electrification Clearinghouse (SVTEC)
	Active	Fleet Electrification Program
GRID INTEGRATION	Active	GridShift EV Charging
	Active	Lights On Silicon Valley
	In Development	Other Virtual Power Plant
EDUCATION & OUTREACH	Active	Customer Resource Center (eHub)
	Active	Data Hive
	Active	Building Decarbonization Demonstration Grants
	Active	Decarbonization Engagement Grants
INNOVATION	Complete	Innovation Onramp Pilots















DECARBONIZATION PROGRAMS UPDATE

AUGUST HIGHLIGHTS

SILICON VALLEY CLEAN ENERGY



Electric Showcase Awards Winners Announced

The SVCE Electric Showcase Awards are designed to highlight and recognize community members who are reducing local emissions by upgrading to clean, electric technologies in their homes or businesses. We received 150 applications representing properties located throughout Santa Clara County and selected 13 residential and 3 non-residential properties to award with cash prizes of $5,000-$10,000. Learn more about our winners here! Each winner is in a different phase of their journey transitioning away from gas use in their home or business. We will be promoting winners' stories throughout the fall and some winners will be featured in the Electric Home Tour on October 14th.

This is the second time SVCE held the Electric Showcase Awards, the first round was held in 2019. You can view those winners here.



Maximize Bill Savings with the E-ELEC Rate

Customers with a heat pump (water heater or HVAC) and/or an electric vehicle (EV) can now enroll in the SVCE Electric Home (E-ELEC) rate. The rate offers a lower rate on electricity consumed between 12 a.m. and 3 p.m. all year-round. But that's not all – SVCE is taking the E-ELEC rate to the next level by offering a super discount: customers who shift electricity consumption to off-peak hours can enjoy up to a 20% discount on their electric generation charges. The SVCE Electric Home Rate is a pilot rate and is available to the first 1,000 customers to enroll; the discount is guaranteed through January 1, 2027. Visit our website to see if the E-ELEC rate is right for you.

ONGOING METRICS

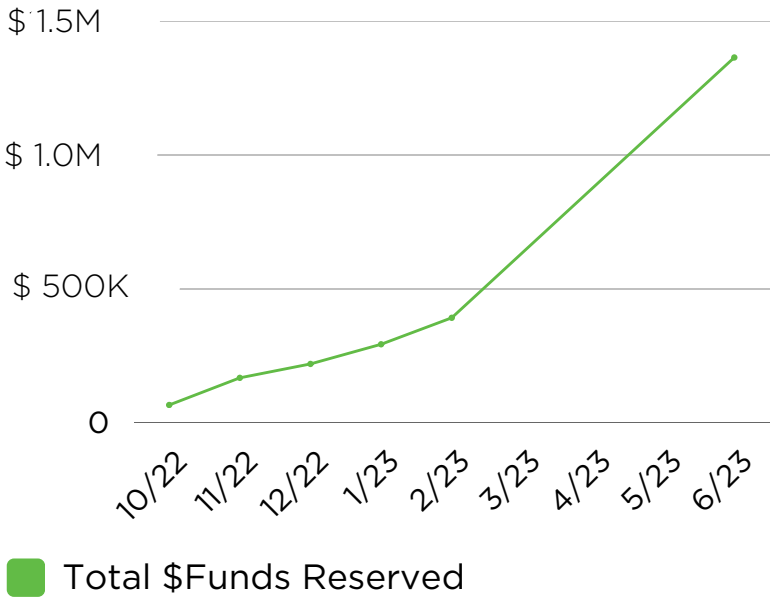
Q2 2023

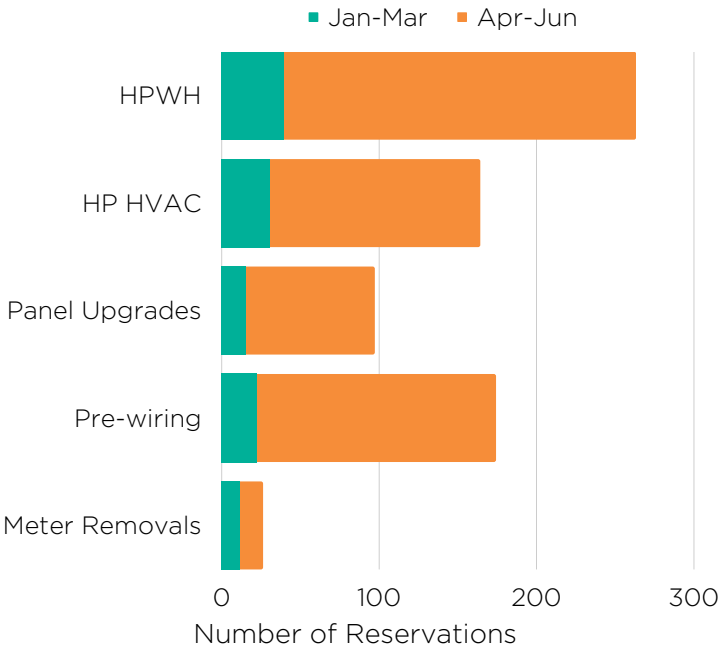
FutureFit Homes

Provide incentives to residents for electric heat pump water heaters (HPWH), heat pump HVAC systems, service panel upgrades, and pre-wiring upgrades to replace gas appliances.

Rebates claimed: $446K

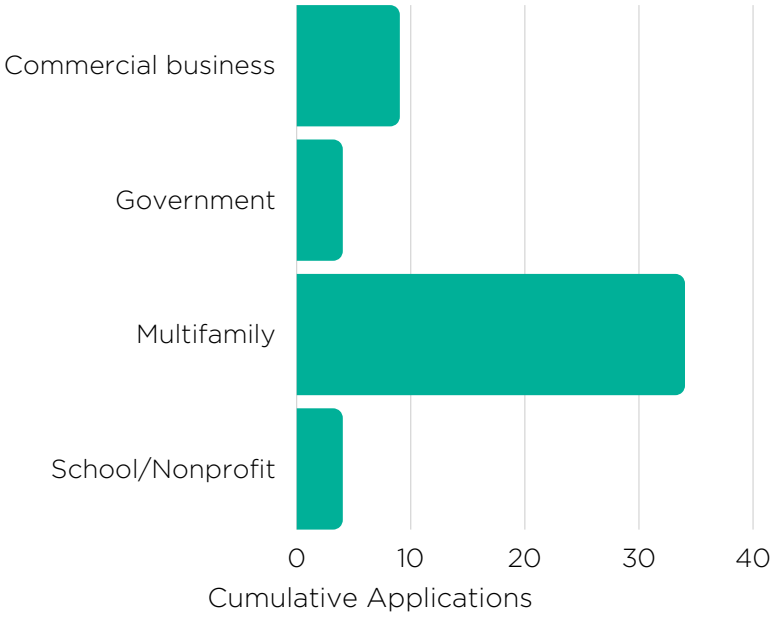
Rebates reserved: $1.37M





Future Fit Assist

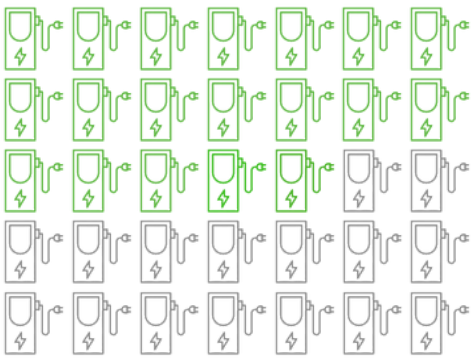
Assistance in site assessment, preliminary design, and applying to rebates for charging at multifamily housing and small and medium workplace properties.



Charging Installation Incentive Program

Incentive program for L1 and L2 EV charging infrastructure at multifamily properties

Funds Reserved: $823K
Approved Reservations: 19
Goal: 35 Sites, 150 ports



ONGOING METRICS

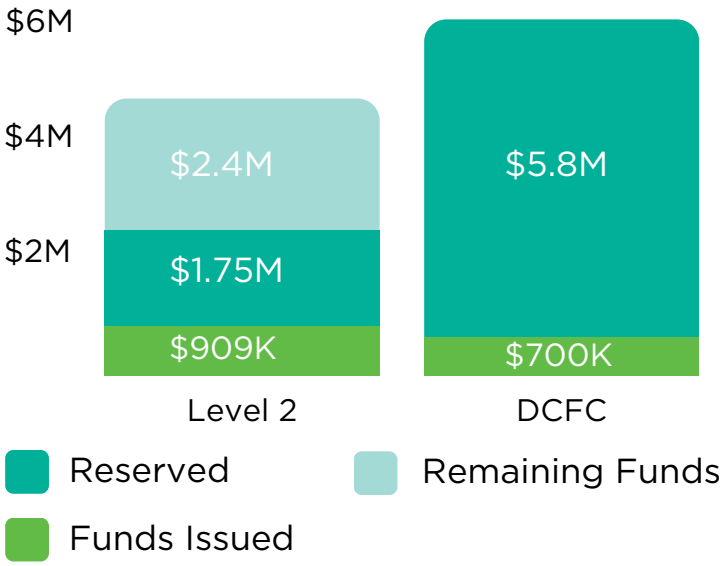
Q2 2023

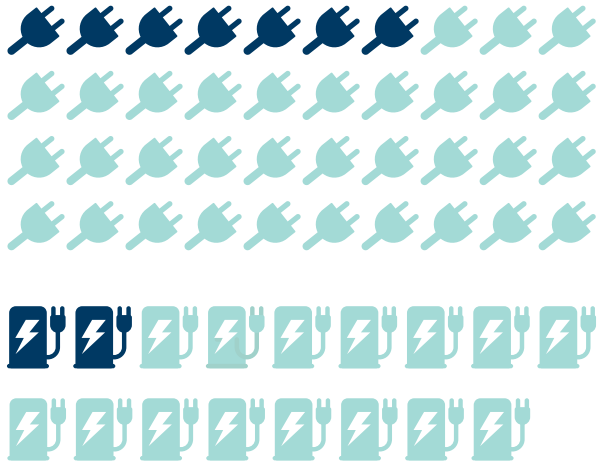
CALeVIP

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

Funding: $11.58M

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





= 25 Level 2 Installations

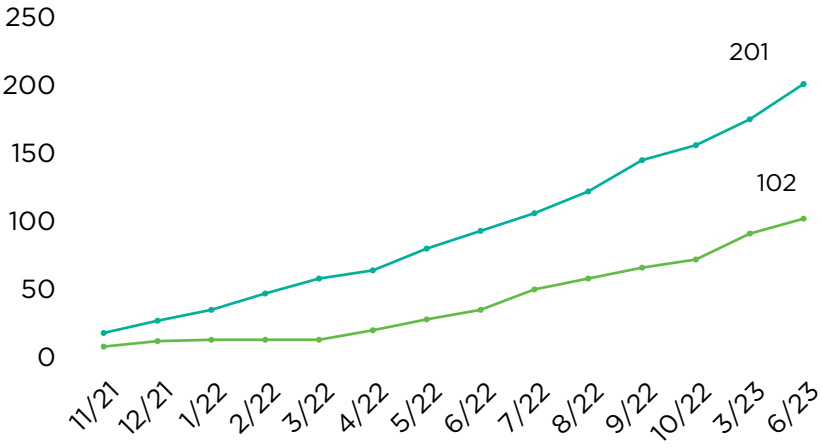
= 5 DCFC Installations

FutureFit Fundamentals

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

Funding: $1.5M

Goal: 150 Participants Complete the Course (Phase 1)





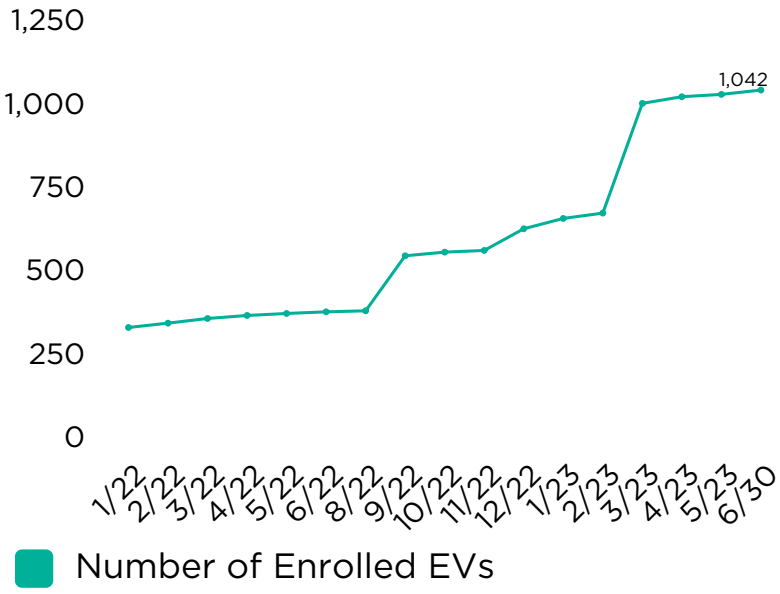
= 5 Participants Complete Course

ONGOING METRICS

Q2 2023

GridShift EV Charging

Managed EV charging app that optimizes charging to reduce associated costs and emissions.



Charger Rebate Funds Reserved: $120K

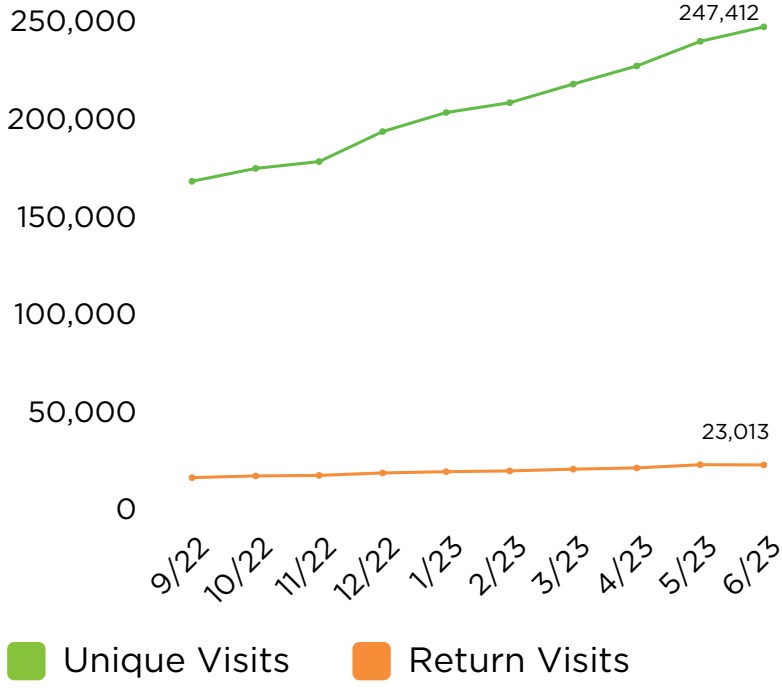
Charger Rebate goal: 120



Charger Rebates Reserved: 52

eHUB Report

Online customer resource center to enable engagement, education and action related to clean electricity, EVs and home electrification.



eHub visitor Goals:
Reach 275K Unique Visitors by EOY

Goal:
Conduct 10 full-scale email campaigns



= 1 email campaign completed

1. Outreach Events & Sponsorships

Date	Event	Location
9/9/2023	**Silicon Valley Fall Fest** 10:00 a.m. - 7:00 p.m. *Sponsorship*	Cupertino Memorial Park 21121 Stevens Creek Blvd Cupertino, CA 95014
9/9/23 – 9/10/23	**Mountain View Arts & Wine Festival** 9/9 - 10:00 a.m. - 7:00 p.m. 9/10 - 9:00 a.m. - 6:00 p.m. *Sponsorship and tabling*	Downtown Mountain View Castro St. Mountain View, CA 94041
9/14/2023	**SPUR Digital Discourse** 12:30 p.m. – 1:30 p.m. *Sponsorship*	Webinar: Affordable Home Electrification: How the Bay Area Can Embrace Clean Appliances Without Hurting Our Pocketbooks
9/23/2023	**Sunnyvale State of the City** 9:00 a.m. - 1:00 p.m. *Tabling*	Sunnyvale City Hall 465 W. Olive Ave Sunnyvale, CA 94086
9/26/2023	**Santa Clara County Induction Cooking Demonstration** 6:30 p.m. – 7:30 p.m. *Tabling*	Okayama Room, Leininger Center inside Kelley Park 1300 Senter Road San Jose, CA 95112

1. Outreach Events & Sponsorships

Date	Sponsorship	Location
9/27/2023	**CPUC Small and Diverse Business Expo** 9:00 a.m. – 2:00 p.m. *Tabling*	California Center of Arts 340 N. Escondido Blvd Escondido, CA 92025
9/30/2023	**Senator Cortese Day by the Lake** 10:00 a.m. – 3:00 p.m. *Sponsorship and tabling*	Hellyer County Park 985 Hellyer Ave San Jose, CA 95111
9/30/2023	**Assemblymember Berman Health & Wellness Fair** 1:00 p.m. - 4:00 p.m. *Tabling*	Castlemont Elementary School 3040 Payne Ave San Jose, CA 95008
9/30/2023	**Los Altos Greentown Garden Party & Fundraiser** 2:00 p.m. – 4:30 p.m. *Sponsorship and staff attendance*	Location TBA Los Altos, CA
10/7/2023	**Morgan Hill Clean Air Day** Time TBA *Tabling*	Magical Bridge Playground 171 W Edmundson Ave Morgan Hill, CA 95037

1. Outreach Events & Sponsorships

Date	Sponsorship	Location
10/14/2023	**Electric Home Tours** Time TBA *Sponsorship and staff attendance*	Home Tour Locations TBA
10/14/2023	**Day on the Bay** 10:00 a.m. - 3:00 p.m. *Sponsorship and tabling*	Alviso Marina 1195 Hope St Alviso, CA 95002
10/22/2023	**Congregation Beth Am Sustainability Faire** Time TBA *Tabling*	Congregation Beth Am 26790 Arastradero Road Los Altos Hills, CA 94022
10/28/2023	**Gilroy La Ofrenda Festival** 1:00 p.m. - 5:00 p.m. *Sponsorship and tabling*	Location TBA Downtown Gilroy

2. Customer Participation

	Participation Rate	Overall Participation Rate
Residential	96.31%	96.35%
Commercial	96.64%	

SILICON VALLEY CLEAN ENERGY

3. Member Agency Working Group – August Update

The most recent MAWG meeting was held on August 24, 2023, and was attended by 8 different agencies and organizations with a total of 12 participants.

The following agenda items were presented and discussed:

- SVCE Briefs (Budget, PPAs, Program Updates)
- Community Resilience Grant: New Deadlines, Projects Approved, Website
- All-Electric Showcase Awards
- Member Agency Services EM&V

4. Summer Appliances Assistant Promotion

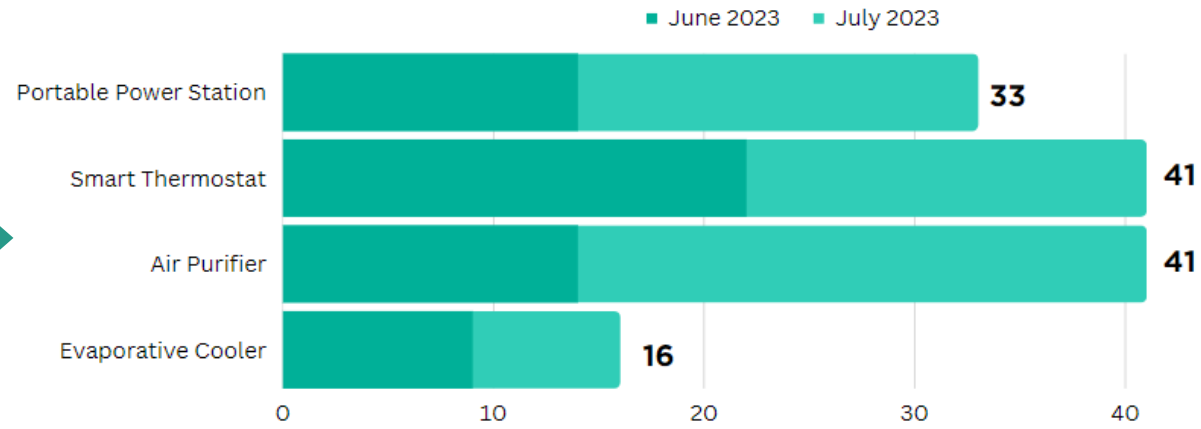


Purpose of Promotion: Encourage customers to learn about electrification and upgrade their appliances to electric.

Promotion Details: Customers can get $50 off a portable power station, smart thermostat, air purifier, and evaporative cooler.

Launched June 21, closes September 30

From June 21 – July 31, there have been 131 rebates claimed!



5. Press Releases & Media

Press

- City of Los Altos Receives $125K Grant to Pilot Cool Pavement Program, *press release, 08-09-23*
- Sunnyvale School District and Silicon Valley Clean Energy Team Up to Upgrade Local School With Clean, Green Heat Pumps, *press release, 08-21-23*
- Silicon Valley Clean Energy CEO, Girish Balachandran, Announces Retirement Planned for March 2024, *press release, 08-29-23*

Media

- CalCCA Requests Rehearing of CPUC Decision Restricting CCA Expansions, *California Energy Markets, 07-28-23*
- Clean Energy Rebates, *The Mercury News*, *San Francisco Daily Journal*, *07-30-23*
- Clean Energy Rebates, *Marin Independent Journal*, *The Mercury News*, *San Francisco Daily Journal*, *08-06-23*
- How do offices run on 24/7 clean energy?, *Google - The Keyword, 08-22-23*



SVCE Legislative and Regulatory Update

September 13, 2023

SILICON VALLEY CLEAN ENERGY

Policy Updates

Regulatory Update:

1. Load Management Standards
2. Distributed Energy Resources Data Access Proceeding

Legislative Update:

1. Budget Trailer Bill/AB 1373 (Garcia)
2. SVCE Legislative Positions



Regulatory Update

Key Regulatory Proceedings

Proceeding	Purpose	Status
Integrated Resource Planning (R.20-05-003)	"Umbrella proceeding" to ensure the collective procurement of Load Serving Entities (LSEs) is on target to achieve the state's clean energy and reliability goals.	On August 21st, a scoping memo was issued to discuss timing for several key topics in the IRP framework. Of particular note, the CPUC intends to update their framework for procurement orders in the IRP proceeding. This *may* result in better alignment of Resource Adequacy and IRP counting rules, a reduction or removal of CPUC procurement orders and/or an improved means of procurement order allocation, amongst other issues. It is also expected that implementation of a central procurement entity as envisioned in AB 1373 (see legislative section) will be discussed, should the bill pass. It is expected a CPUC staff proposal will be released shortly which will be the starting point for stakeholder discussion. A final decision on the future procurement framework is not expected until at least Q3 2024.



Legislative Update

Governor's Energy Reliability Budget Trailer Bill/AB 1373 (Garcia) Update

- SVCE is working closely with CalCCA on the Governor's Budget Trailer Bill on Energy Reliability.
- The concepts are now in AB 1373 (Garcia), which will be heard at the Senate Energy Committee on 9/6.

SVCE Positions

Status of the bills that SVCE has taken positions on

Bill	Summary	Legislative Platform Policy	SVCE Position	Bill Status
AB 625 (Aguiar-Curry)	Extends sunset date of the BioMAT program	Competitive Equity	Support	Died – two-year bill
SB 488 (Alvarado-Gil)	Allows CCAs to participate in the BioRAM program.	Competitive Equity	Support	Died – two-year bill
SB 410 (Becker)	Reporting, timelines, and stakeholder group for distribution-level interconnection.	Clean, Reliable Grid	Support	Assembly Energy Committee
SB 527 (Min)	Requires CPUC to establish a Neighborhood Decarb Program.	Climate Mitigation/Fuel Switching	Support	Died – two-year bill
AB 593 (Haney)	Directs CEC to create a statewide building decarb strategy	Climate Mitigation/Fuel Switching	Support	Died – two-year bill

SVCE Positions

Status of the bills that SVCE has taken positions on

Bill	Summary	Legislative Platform Policy	SVCE Position	Bill Status
AB 1393 (Garcia)	Legislative vehicle for Governor's Budget Trailer Bill on energy reliability	Competitive Equity	Oppose Unless Amended	Senate Energy Committee

Key State Legislative Milestones

- ~~January 4 – Legislature Reconvenes~~
- ~~February 17 – Last day for bills to be introduced~~
- ~~April 28 – Last day for policy committees to vote on fiscal bills~~
- ~~May 5 – Last day for policy committees to vote on non-fiscal bills~~
- ~~May 19 – Last day for fiscal committees to hear bills introduced in that house~~
- ~~June 2 – Last day for each house to pass bills introduced in that house~~
- ~~June 15 – Budget bill must pass by midnight~~
- ~~July 14 – Last day for policy committees to vote on bills~~
- ~~September 1 – Last day for fiscal committees to vote on bills~~
- September 14 – Last day for each house to pass bills
- October 14 – Last day for Governor to sign bills

September 2023	October 2023	November 2023	December 2023	January 2024
Board of Directors, September 13:	**Board Workshop, Decarbonization Programs and Policy, October 11** **Board of Directors, October 11:** Consent: Minutes August 2023 Treasurer Report Committee Reports Adopt FY23-24 Workplan Receive Q3 2023 Programs Update Scheduling Coordinator Agreement Program Portfolio Management software contract Regular Calendar: Prepay #3 Permit Modernization and Policy Experimentation Update	**Board of Directors, November 8:** Consent: Minutes September 2023 Treasurer Report Committee Reports Program Administration Consultant Agreement Program Application/Portfolio Tool Development Agreement Multifamily Direct Install Program Agreement Data Analytics Support Agreements Regular Calendar: 2024 Legislative Policy Platform Annual Customer Survey Results	**Special Meeting: SVCE End-of-the-Year Event, December 13** **Board of Directors, December 13:** Consent: Minutes October 2023 Treasurer Report Committee Reports Regular Calendar: Rate Change 2024 Legislative Policy Platform Board Elections Update	**Board of Directors, January 10:** Consent: Minutes November 2023 Treasurer Report Committee Reports Regular Calendar: Chair and Vice Chair Appointment Executive Committee Membership Selection
~~**Executive Committee, September 22:**~~ **Cancelled**	**Executive Committee, October 27:** Introduction to SVCE's Load Management Standards Compliance Plan Program Snapshot	**Executive Committee, TBD (will be a combined meeting with Nov./December):** Rate Change Discussion Program Snapshot	**Executive Committee, TBD (will be a combined meeting with Nov./December):** Rate Change Discussion Program Snapshot	**Executive Committee, TBD (tentatively scheduled for Jan. 26):** Appointment of Committee Chair and Vice Chair
Audit Committee, September 19, Noon: Audit kick-off	**Finance & Admin Committee Meeting, Oct. 3, 3pm:** Prepay #3 Review/Recommendation			

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 3

Item 3:	**Update on Strategic Plan and Adopt FY24 SVCE Focus Areas**
From:	Girish Balachandran, CEO
Prepared by:	Andrea Pizano, Board Clerk/Executive Assistant
Date:	9/13/2023

RECOMMENDATION

Staff requests the SVCE Board of Directors receive an update on the FY24 Strategic Plan and adopt the five proposed FY24 SVCE Strategic Focus Areas:

- Expand Clean and Reliable Grid Actions
- Expand Customer Base & Interaction
- Accelerate Building & Transportation Electrification
- Implement Innovative Financing Solutions
- Attract & Retain Employees

EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee met August 25, 2023 and received a presentation from staff on the proposed FY24 Strategic Focus Areas; the committee was in consensus to support the focus areas presented for the Board's consideration.

BACKGROUND

The SVCE Board of Directors has been adopting annual Strategic Focus Areas since 2021. Adopting Strategic Focus Areas is useful for the Board of Directors and CEO to establish priorities for the year.

The FY23-24 Strategic Focus Areas were previously introduced at the May Executive Committee and June Board of Directors meetings, and included in the June Executive Committee and August Finance & Administration Committee and Board of Directors meetings as part of the FY24 preliminary operating budget. As mentioned previously, the Executive Committee received the most recent Focus Areas presentation and the committee supported the focus areas presented. Although these focus areas are being considered for FY23-24, many of these areas will remain a focus topic beyond 2024 as the work that will be performed will extend well beyond one year.

ANALYSIS & DISCUSSION

FY23-24 Focus Areas

Staff is requesting the Board of Directors approve and adopt the following five focus areas (in no particular order):

- **Expand Clean and Reliable Grid Actions:** Explore 24x7 clean energy delivery at scale; evaluate SVCE role in enhancing distribution and transmission reliability
- **Expand Customer Base & Interaction:** Grow non-residential customer base; Expand Offerings & emphasize electrification to all customers

- **Accelerate Building & Transportation Electrification:** Accelerate deployment of currently adopted decarbonization strategies and goals; evaluate and capitalize on federal and state funding opportunities
- **Implement Innovative Financing Solutions:** Implement innovative financing solutions to increase impact of decarbonization program offerings, especially to lower-income customers
- **Attract & Retain Employees:** Be the Employer of Choice, and increase staffing; Hire CEO

Supporting work for these focus areas includes the risk and opportunities being updated, the strategies and measures in SVCE's workplan being updated, the utilization of Monday.com to track progress and actions during the year, and updating details under each Strategic Focus Area.

The only change since the last time this was presented to the Board is to include the hiring of a new CEO under the "Attract & Retain Employees" focus area.

FY23-24 Strategic Work Plan Update

The FY23-24 Strategic Work Plan has been in development since May, taking input from all departments to identify the goals and measures for the coming fiscal year. Based off of the initial feedback from the Executive Committee and Board of Directors on the strategic focus areas, staff has been working toward updating goals within their own working groups in addition to discussing cross-collaboration with other departments. Based on the current draft of the plan, there are 25 goals and 84 measures.

The final draft of the Strategic Work Plan will be brought to the October 11, 2023 meeting for the Board's consideration.

STRATEGIC PLAN

The focus areas support the overall SVCE Strategic Plan.

FISCAL IMPACT

N/A

ALTERNATIVE

Staff is open to suggestions and feedback from the Board on the proposed Focus Areas.

ATTACHMENT

1. FY23-24 Proposed Strategic Focus Areas

SVCE FY23-24 Proposed Strategic Focus Areas

Expand Clean & Reliable Grid Actions
Explore 24x7 clean energy delivery at scale, evaluate SVCE role in enhancing and distribution and transmission reliability

- Explore pathways to measure & achieve carbon free 24x7 for the entire portfolio and aligned with SVCE's mission
- Implement Google's Carbon Free Energy (CFE) framework and explore opportunities to offer expanded clean offerings to other customers
- Explore VPP opportunities and how we can demonstrate the "grid of the future"
- Explore targeted SVCE role to enhance distribution and transmission reliability

Expand Customer Base & Interaction
Grow non-residential customer base; expand Offerings & emphasize electrification to all customers

- Be the Supplier of Choice; attract and retain DA customers
- Maintain competitive rates; increase customer offerings and demand side programs
- Expand value proposition emphasizing electrification

Accelerate Building and Transportation Decarbonization
Accelerate deployment of currently adopted decarbonization strategies and goals; evaluate and capitalize on federal and state funding opportunities to further improve programs

- Grow our capacity and deploy programs at a much larger scale
- Operationalize equity into programs
- Assist member agencies evaluating federal and state decarbonization policies and program impacts
- Explore opportunities to influence and partner with other organizations on supporting a clean energy workforce.

Implement Innovative Finance Solutions
Leverage Balance Sheet for Structured Financing and use financing solutions to increase impact of decarbonization program offerings, especially to lower-income customers

- Continue building strong financial reserves
- Attract and retain DA customers
- Implement innovative financing solutions to customers, particularly to reach those with barriers to conventional programs (e.g., low income, renters)

Employees
Be The Employer of Choice, & Increase Staffing

- Hire CEO
- Attract and Hire New Employees, passionate about our mission and with excellent job knowledge
- Build and maintain a high-performance agency; preserve start-up culture of employee innovation, engagement, and collaboration
- Continue enhancing remote, hybrid and in-person work

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 4

Item 4:	**Adopt the FY 2023-24 Recommended Operating Budget and Updated Reserves Policy**
From:	Girish Balachandran, CEO
Prepared by:	Amrit Singh, CFO and Director of Administrative Services
Date:	9/13/2023

RECOMMENDATION

Staff recommends that the Board of Directors adopt Resolution 2023-16 approving the fiscal year (FY) 2023-24[1] Recommended Operating Budget that projects depositing $7.7 million into the reserves and approve the updated Reserves Policy that increases the reserve target from 285 days of cash on hand (DCOH) to 300.

FINANCE AND ADMINISTRATION, EXECUTIVE COMMITTEE & BOARD REVIEWS

At the May 12th Finance and Administration Committee meeting, the May 26th Executive Committee meeting, and the June 14th Board of Directors meeting, staff presented the methodology, framework, and key assumptions for developing the proposed budget and responded to the Committees and Board members' questions on the approach to developing the budget.

Staff presented a preliminary budget outlook at the June 23rd Executive Committee meeting. Staff informed the Committee that the final budget numbers will be developed using July's latest energy price market data. The Committee provided feedback on the preliminary budget, including comparing SVCE's full-time staff numbers with those of the other CCAs. Staff discussed the high volatility in the energy markets and the high prices for Resource Adequacy (RA) and Renewable Portfolio Standard (RPS) products, which added additional uncertainty to budget projections. Staff discussed removing the request to transfer funds towards an SVCE building purchase if margin projections deteriorate further.

Staff presented the Proposed Operating Budget and the recommendation to increase the target DCOH level in the reserves policy to the Finance and Administration Committee on August 1, 2023. Staff explained the difficulty in modeling RA and RPS prices, their impact on SVCE's revenue forecast, and the modeling assumptions of these prices, holding other variables constant, could create conservative budget projections. The Committee unanimously supported the potential conservative approach to modeling SVCE's revenues. Although not in the proposed budget, the Committee encouraged staff to continue assessing opportunities for purchasing an SVCE office building and to return to the Committee and the Board with any attractive opportunities. The Committee unanimously recommended that the Board adopt the Proposed Operating Budget and change the reserve policy to increase the DCOH target from 285 to 300.

At the August 9th, 2023, Board meeting, staff presented the Proposed FY 2023-24 budget and the updated Reserves policy. The Board discussed the proposed budget, supported the budget as shown, and did not propose any changes.

[1] The fiscal year 2023-24 starts on October 1, 2023, and ends on September 30, 2024.

ANALYSIS & DISCUSSION

The FY 2023-24 Proposed Operating Budget is balanced and presents Silicon Valley Clean Energy (SVCE) in stable financial condition. The projected balance available for reserves of $7.7 million is a decrease of $65.7 million from the $73.4 million presented in the FY 2022-23 Mid-Year Budget.

Energy Revenues

The Proposed budget shows a decrease in revenues of $83.6 million compared to the FY 2022-23 adjusted mid-year budget. The revenue decrease is primarily due to a forecasted increase in 2024 PCIA[2] of about 318 percent (from 0.28 cents/kWh to 1.17 cents/kWh) and a drop in the 2024 PG&E generation rate of about 28 percent on average (from 14.08 cents/kWh to 11.55 cents/kWh) because of recent declines in forward energy prices. From late March to early July, the energy prices for the calendar year 2023[3] are down about 18%, and the forward prices for the calendar year 2024 are down on average about 14%. Declining market prices typically result in a simultaneous increase in PCIA and a decrease in PG&E generation rates. The significant rise in PCIA combined with a drop in PG&E generation rates reduces SVCE margins on average by 27 percent for 2024.

Staff used the CalCCA's[4] NewGen Strategies & Solutions Model to forecast PCIA and PG&E generation rates with updated market prices and an adjustment for modeling error by calibrating the model with PG&E's May ERRA[5] forecast of 2024 rates. Staff did not update the model's forecast of RA and RPS prices. Unlike prior years, RPS prices and Resource Adequacy costs are highly volatile and at very high levels compared to those in the past, creating an additional layer of uncertainty in forecasting PCIA and PG&E generation rates.

Unlike energy prices, where there are readily available market-traded forward prices, the Resource Adequacy (RA) and Renewable Portfolio Standard (RPS) prices used in the PCIA and PG&E generation rate calculations are based on CPUC's derived market price benchmarks (MPB), which are published later in the fall of the year. It's difficult to forecast CPUC's MPB prices because CPUC calculates them using a volume-weighted average of Load Serving Entities (LSE) market transactions, which can span forward transactions entered by the LSEs during the prior two years. The NewGen Strategies & Solutions MPB prices are very low compared to the current market prices. For example, the current market price for RPS product is about $45 MWh for the calendar year 2024, but those used in the model are about $12.50 per MWh, and for RA, it's modeled at about $8.50 $kW-month versus the market price of around $12.75 $kW-month. In computing SVCE's Power Supply costs, staff computed the open RA and RPS positions cost at current market prices. Holding for other variables, this disparity in RA and RPS prices used for projecting costs versus PCIA and PG&E generation rates tends to make the budget forecast conservative. For illustrative purposes, if we used the higher RA and RPS prices in the NewGen model to estimate PCIA and PG&E generation rates, the fiscal year 2023-24 revenues would be about $100 million higher.

PG&E's forecast of 2024 rates in the ERRA filing made in May shows a very high PG&E Generation Rate of ~14.54[6] cents/kWh and a very low PCIA of negative 0.62 cents/kWh, implying an improvement in SVCE margin of about 6 percent relative to current rates. PG&E's filing, however, is based on results using market prices in late March 2023, and since then, market prices have decreased significantly, as stated earlier in the

[2] Public Utility Code Sections 366.1 and 366.2 require the CPUC to make sure that customers leaving PG&E do not burden remaining PG&E customers with costs which were incurred to serve them. To ensure customer indifference, CCAs and Direct Access, or departing load customers are required to pay a power charge indifference adjustment (PCIA).

[3] Calendar year 2023 calculation includes actuals for past months and forwards for future months.

[4] CalCCA, California Community Choice Association, is the trade association of 24 CCAs in California. SVCE has been a member of CalCCA since its inception in 2017.

[5] ERRA, the Energy Resource Recovery Account, is a balancing account utilized by PG&E to record and recover power costs associated with PG&E's authorized procurement plan. ERRA proceedings are used to determine fuel and purchased power costs which can be recovered in rates.

[6] The rates shown in this report are SVCE load-weighted average rates.

report. Based on the ERRA filing schedule, PG&E will update its rate forecast in early fall, and the CPUC is expected to approve new rates in late December.

To test the accuracy of the NewGen model, staff calibrated the model to PG&E's forecast using the same period market data PG&E used in developing its 2024 rate forecast. The calibration shows that the model results in about a 5 percent higher SVCE margin. Using the methodology discussed in the budget framework discussions to account for potential modeling errors, staff reduced the resulting margins from the current model by 10 percent.

Using the NewGen model with the latest prices and an adjustment for modeling error likely better aligns revenues closer to the rates that PG&E will update in October, and it also better aligns revenues with power supply costs because both estimates are made using the same set of energy market data. Nevertheless, the results are based on a forecast, and the actual rates won't be known until the CPUC approval, expected in late December. Between now and when the rates are finalized, market prices will change, which can create less or more favorable results. Staff recommends that SVCE change its rates when the CPUC makes the new PCIA and PG&E generation rates effective. At that time, the Board can revisit the customer discount rate. The effective SVCE rate discount is modeled at 2% starting January 2024 to set the budget. The current 4 percent discount remains until the end of December 2023. The 2 percent effective discount rate is composed of a 1 percent discount relative to comparable PG&E generation rates for all customers and an additional 1 percent converted to dollar bill credits to the CARE & FERA customers (~30,000), which amounts to $3.14 million or about $8.70 per month bill credit for 12 months. The budget shows the bill credit as a separate cost item.

The proposed budget continues to reduce revenues to account for potential write-offs that could occur. SVCE is currently budgeting revenues to include a 0.75% write-off rate, which amounts to roughly $3.3 million.

Power Supply Expenses

Power supply expenses are expected to remain close to the current fiscal year level at $391.6 million. The drop in forward prices reduces costs but only to an extent because the portfolio for the calendar year 2024 is currently hedged at 78 percent. Additional Power Purchase Agreements (PPAs) coming online also further reduce costs. However, the favorable drivers reducing costs are offset by an increase in load of about 1.5%, as the forecast assumes full recovery from COVID-19 impacts and much higher RPS and RA prices.

Reserves Policy Target Levels

At the June 14th, 2023, Board of Directors meeting, staff presented the results of the stress test analyses and emphasized the need to hold sufficient reserves to ensure SVCE can withstand risks such as those modeled in the analyses. The stress test modeled a collapse in energy prices that substantially reduced revenues and increased financial posting requirements to the Provider of Last Resort (PG&E). Staff has since updated the stress test scenario analysis with market and portfolio data consistent with those used to develop the proposed budget.

As shown in the table below, the new implied targets, derived using the methodology discussed in the stress test analysis, are close to the current targets. The methodology for deriving the targets is to set the target level such that if the modeled stress scenario were to occur, reserves remain above 120 days of cash on hand (DCOH) for the next two fiscal years and set the upper reserve target such that it remains above 90 DCOH over the next five fiscal years. Given the conservative assumptions used in modeling RA and RPS prices to derive the PCIA and PG&E generation rate forecasts and the 5-year financial projection shown in attachment 3 showing ending reserves will be below target levels in the near future, staff considered keeping the existing targets.

On July 26th, Moody's Investor Service, a credit rating agency, upgraded SVCE's issuer rating from Baa2 to Baa1 with a stable outlook. Strong liquidity and adopting a more stringent reserves policy with a higher reserve target of 285 days were cited as credit-positive elements. Moody's also indicated that "Maintenance of strong liquidity position through sound financial management with days cash on hand in excess of 300 days"

would be one of several factors that could lead to a rating upgrade. Given that 300 DCOH is close to the current level and supported by the current stress test analysis, staff recommends increasing the target reserve DCOH level to 300 from 285. This change would not only continue to align the target level to the stress test analysis but would also align it with one of Moody's key criteria in assessing our credit rating.

The attached redlined Reserves Policy shows the proposed change to the reserve target level.

Reserve Targets (DCOH)	Current	New
Minimum	120	120
Goal (Target)	285	**300**
Maximum (Upper Target)	490	490

As presented in the June Stress Test report and presentation, the upcoming fiscal year margins are not guaranteed, given the true-up in 2025 for PCIA and PG&E generation rates. If the adverse-modeled risk conditions materialize, the reserves policy targets maintaining at least 120 DCOH, which will be needed to reshape strategy and secure additional liquidity, and the upper reserves target helps manage risks over 5 years.

Operating Expenses

Operating expenses are expected to grow in the proposed budget, increasing by $4.8 million from the FY2022-23 adjusted midyear budget. The increase in projected operating expenses is primarily comprised of costs associated with increased staffing. In addition, the operating budget includes an overall 5% contingency, which amounts to $1.5 million embedded in all operating expense category increases.

Overall personnel expenses are expected to increase by $4.1 million, of which $1.8 million, approximately 40% of the increase, is associated with the nine new positions across the organization. The remaining part of the increase is driven by filling vacancies and budgeting for salary increases.

The nine new positions reflect the increasing needs of a mature organization. These new positions focus on program design, marketing, and deployment; data analyses; data engineering to integrate various energy wholesale and portfolio operational data; supporting regulatory work; analytical and administrative work; and budgeting and financial analyses. Of the nine new positions since last fiscal year, one Associate Data Scientist position is filled, and one Senior Regulatory Analyst position is currently being recruited under the CEO's personnel authority, which allows the CEO to add positions within 10 percent of the authorized number and the approved budget. In addition to these new positions, SVCE continues to work with specialized consultants who provide critical skills to bridge gaps between full-time staff.

Of the increase in personnel costs, $1.5 million arose from lower vacancy savings than the Mid-Year budget, which was partially based on actual vacancy rates as opposed to the 5 percent annual vacancy rate assumed in the proposed budget. SVCE continues to work to fill positions and anticipates full staffing by the end of the calendar year but utilizes a 5% long-term vacancy rate in the personnel budget.

The salary portion of the staffing budget includes a 4.5% cost-of-living adjustment to salaries, based on a trailing six-month average for the Bay Area CPI, which adds $500 thousand in additional cost. SVCE is budgeting for a 3% average merit increase, to be determined by management during the upcoming annual review process, and which contributes another $300 thousand in cost increases.

Other marketing, general and administration expenses, and professional services increase by about $680 thousand. These primarily result from increased hardware, travel, training, and conference fees anticipated for a larger staff.

Staff is also currently evaluating employee benefits package updates, focusing on incentives to promote staff retention. The current budget does not include these changes, but staff will likely present some benefits updates later during the fiscal year.

Programs Budget

SVCE will continue incorporating projected programs spending over the 5-year forecast period into the reserve balance projections and now in forecasting the ending net position as shown in the 5-year financial forecast in attachment 3. For this coming fiscal year, programs spending is projected to be $27.1 million, with an additional $3.5 million in CRCR[7] spending and $600 thousand in E-Elec (all electric) rate discounts.

The proposed budget transfers an additional $8.9 million, two percent of projected revenues and $2.2 million from the PG&E nuclear allocation savings, representing the portfolio's savings from accepting the allocation.

Non-Operating Revenues

Non-operating revenues are projected to increase by about $1.6 million. This increase reflects the interest earned on the growing reserve balance.

Set Aside for a Building Fund

During the budget framework discussions, staff proposed considering buying a building instead of leasing the current office space. SVCE's current lease runs through September 2025. Before the lease expires, staff will need time to explore the alternatives of buying versus leasing. Staff also wants SVCE to be able to pursue attractive property opportunities as they arise. Staff proposes to continue assessing the market opportunities and return to the Board later to earmark a portion of reserves for potential building purchase. An initial back-of-the-envelope analysis indicates a roughly 10-year breakeven period compared to leasing for 20,000 sf space at a cost of around $20 million.

STRATEGIC PLAN

The recommendation supports all goals of the Board adopted Strategic Plan. Specifically, the recommendations strongly support Goal 15 - "Commit to maintaining a strong financial position" and the accompanying Measures "Present Balanced budget that achieves cash reserve targets, weighs tradeoffs between customer value proposition and contribution to reserves and maintains competitive rates"; "Board presentation on 5-year financial forecast once a year" and "Maintain investment grade credit rating from one of the three credit rating agencies."

ALTERNATIVE

Staff is open to feedback and suggestions from the Board. At a strategic level, the Board can change the discount to PG&E, reduce the carbon-free percent of power supply, reduce the renewable percent of the power supply, and cut the programs expenditure.

Considering any of the above options requires an extensive policy-level discussion, and the Board can consider them while finalizing SVCE's strategic priorities and revisit the customer discount rate when actual PCIA and PG&E generation rates are known. Given a sufficient projected reserve balance that maintains SVCE's stable financial condition, staff does not recommend any specific reductions.

[7] CRCR, the ~$10 million Customer Relief and Community Resilience Program, was established in 2020 to provide COVID credit payments to income-qualified customers as bill assistance, support local workforce training, and fund resiliency planning and capital expenditures at SVCE member cities.

FISCAL IMPACT

The FY 2023-24 Proposed Operating Budget includes total revenues of $440.4 million and total expenses, non-operating revenues, and transfers of $432.7 million, resulting in a surplus/contribution to reserves of $7.7 million.

ATTACHMENTS

1. FY 2023-24 Recommended Operating Budget
2. Resolution 2023-16, Adopting the FY 2023-24 Operating Budget
3. 5-year Financial Forecast
4. Updated Financial Reserves Policy
5. FY 2023-24 Salary Chart

Attachment 1

SILICON VALLEY CLEAN ENERGY
FY 2023-24 OPERATING BUDGET
($ in thousands)

DESCRIPTION	MY 2022-23 ADJUSTED BUDGET	FY 2023-24 PROPOSED BUDGET	Year over Year Change $	Year over Year Change %
ENERGY REVENUES				
Energy Sales	522,853	438,342	(84,511)	-16.2%
Green Prime	1,055	2,012	957	90.7%
Other Income	50	50	0	0.0%
TOTAL ENERGY REVENUES	**523,958**	**440,404**	**(83,554)**	**-15.9%**
ENERGY EXPENSES				
Power Supply	392,436	391,624	(812)	-0.2%
OPERATING MARGIN	**131,522**	**48,780**	**(82,742)**	**-62.9%**
OPERATING EXPENSES				
Data Management	3,413	3,413	0	0.0%
PG&E Fees	1,470	1,470	0	0.0%
Salaries and Retirement	11,285	15,406	4,121	36.5%
Professional Services	8,016	8,084	68	0.9%
Marketing & Promotions	862	1,349	487	56.5%
Notifications	131	21	(110)	-84.0%
Lease	525	551	26	5.0%
General & Administrative	1,857	2,067	209	11.3%
TOTAL OPERATING EXPENSES	**27,559**	**32,361**	**4,802**	**17.4%**
OPERATING INCOME (LOSS)	**103,963**	**16,419**	**(87,544)**	**-84.2%**
NON-OPERATING REVENUES				
Interest Income	3,870	5,501	1,631	42.1%
Grant Income	0	0	0	-
TOTAL NON-OPERATING REVENUES	**3,870**	**5,501**	**1,631**	**42.1%**
NON-OPERATING EXPENSES				
Financing	3	3	0	0.0%
Interest	0	0	0	-
TOTAL NON-OPERATING EXPENSES	**3**	**3**	**0**	**0.0%**
TOTAL NON-OPERATING INCOME (EXPENSES)	**3,867**	**5,498**	**1,631**	**42.2%**
CHANGE IN NET POSITION	**107,830**	**21,917**	**(85,913)**	**-79.7%**
CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER				
Capital Outlay	200	50	(150)	-75.0%
Transfer to CRCR Fund	0	0	0	-
Program Fund	9,765	8,874	(891)	-9.1%
Nuclear Allocation	1,900	2,188	288	15.2%
Multi Family Direct Install Program	9,500	0	(9,500)	-100.0%
Electrification Discount Program	9,500	0	(9,500)	0.0%
Customer Bill Relief	3,600	3,136	(464)	-12.9%
TOTAL CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER	**$34,465**	**$14,248**	**($20,217)**	**-58.7%**
BALANCE AVAILABLE FOR RESERVES	**$73,365**	**$7,669**	**($65,696)**	**-89.5%**

SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2023-16

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY TO APPROVE THE FISCAL YEAR 2023-2024 BUDGET FOR SILICON VALLEY CLEAN ENERGY

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

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

WHEREAS, draft versions of the Authority's budget for the fiscal year 2023-2024 were presented to the Finance & Administration Committee on August 1, 2023, and the Board of Directors on August 09, 2023 (collectively, the "Prior Presentations");

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

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

1. The foregoing recitals are true and correct.

2. The Board of Directors hereby approves and adopts the Recommended Budget, as set forth in Exhibit A, as the Authority's fiscal year 2023-2024 budget.

PASSED AND ADOPTED this 13th day of September 2023, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Scozzola				
City of Cupertino	Director Mohan				
City of Gilroy	Director Hilton				
City of Los Altos	Director Meadows				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Chua				
City of Monte Sereno	Director Mekechuk				

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

DRAFT

Attachment 3

($ in Thousands)	FY22-23	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28
Operating Revenue	(Adjusted Budget)	(Budget)	(Forecast)	(Forecast)	(Forecast)	(Forecast)
Electricity Sales, Net[1]	$ 531,561	$ 435,206	$ 471,956	$ 503,130	$ 515,879	$ 517,916
GreenPrime Electricity Premium	1,055	2,012	2,322	2,334	2,351	2,371
Total Operating Revenues	**532,616**	**437,218**	**474,278**	**505,464**	**518,230**	**520,287**
Operating Expense						
Power Supply	$ 391,261	$ 391,624	$ 400,877	$ 416,343	$ 450,677	$ 439,648
Operating Margin	**141,355**	**45,594**	**73,401**	**89,122**	**67,553**	**80,639**
Data Management	3,413	3,413	3,583	3,762	3,950	4,148
PG&E Service Fees	1,470	1,470	1,544	1,621	1,702	1,787
Staff Compensation	11,285	15,406	16,176	16,985	17,834	18,726
Consultants and other Professional Fees	8,016	8,084	8,570	9,084	9,629	10,206
Communications and Noticing	993	1,370	1,439	1,511	1,586	1,666
General and Administration	2,382	2,618	2,749	2,886	3,031	3,182
Transfers to Programs Fund	34,265	11,062	9,486	10,109	10,365	10,406
Total Operating Expenses	**453,085**	**435,047**	**444,422**	**462,300**	**498,773**	**489,769**
Operating Income	**79,531**	**2,171**	**29,856**	**43,164**	**19,457**	**30,518**
Nonoperating Revenue (Expense)						
Other Income	182	50	51	51	52	52
Investment Income	-	5,501	5,251	5,683	6,389	6,635
Capital Outlay & Financing Costs	(200)	(53)	(53)	(53)	(53)	(53)
Grant Income	-	-	-	-	-	-
Total Non-Operating Revenue (Expense)	**(18)**	**5,498**	**5,249**	**5,681**	**6,387**	**6,634**
Change in Net Position/Available for Reserves	**79,513**	**7,669**	**35,104**	**48,845**	**25,844**	**37,152**
Begin, Net Position	**212,684**	**320,082**	**307,579**	**329,143**	**364,448**	**376,752**
Adjustment for Program Expenditure[2]	**27,886**	**(20,173)**	**(13,540)**	**(13,540)**	**(13,540)**	**0**
End, Net Position	**$ 320,082**	**$ 307,579**	**$ 329,143**	**$ 364,448**	**$ 376,752**	**$ 413,904**

1 Assumptions: 4% overall discount relative to comparable PG&E rates for Oct-Dec 2023 and 1% for Jan-Sept 2024. FY 23-24 includes additional bill credit to low income customers totaling $3.14 million (1% of Jan-Sept 2024 Revenue). 1% discount for FY24-25, FY25-26, FY26-27 and FY27-28.

2 Each year the Board transfers funds from the Operating Budget to the Decarboniztion Programs Fund as shown in the above forecast under line item Transfers to Programs Fund. The line item Adjustment for Program Expenditure accounts for the difference between *forecasted spend* for programs versus the amount transfered to the fund. This adjustment is needed because program spending to date has been less than the amount transferred to the programs fund.

Days Cash On Hand (DCOH) at Year End	**$ 297,561**	**$ 285,058**	**$ 306,622**	**$ 341,927**	**$ 354,230**	**$ 391,383**
Days of cash on hand	255	229	244	262	252	292

SILICON VALLEY CLEAN ENERGY

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FINANCIAL RESERVES POLICY

I. PURPOSE

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

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

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Amended: 9/14/2022
Proposed Amendment: 9/13/2023

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

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

II. POLICY

Reserve Levels Established

Financial reserves shall be set aside as follows:

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

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

(b) ***An Operating Reserve* goal** of covering ~~285~~300 days of operations of the annual operating budget;

(c) ***Maximum Operating Reserve*** to cover 490 days of operations of the annual operating budget.

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Conditions for Use of Reserves

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

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

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

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

Replenishment of Reserves

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

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

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Excess Reserves

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

Reserves between Minimum and Maximum

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

Periodic Review of Reserve Goals

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

Reporting

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

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FY23-24 Salary Chart

FTE Title	Minimum Salary (Annual $)	Maximum Salary (Annual $)
Administrative Analyst	99,244	169,990
Administrative Assistant	66,162	105,008
Administrative Services Manager	150,519	225,265
Associate Data Analyst	99,244	169,990
Associate Data Scientist	118,248	174,567
Associate Legislative Analyst	82,702	134,294
Associate Manager of Decarbonization Policy and Programs	132,324	190,610
Associate Power Analyst	93,330	138,338
Associate Power Resources Planner	132,324	202,010
Associate Program Manager	82,702	134,294
Board Clerk/Executive Assistant	121,297	202,010
CFO & Director of Finance and Administration	209,513	349,375
Communication Specialist	86,467	131,360
Communications Manager	132,324	209,625
Community Outreach Specialist	71,675	117,138
COO & Director of Power Resources	209,513	376,250
Data Analyst	118,248	174,567
Data Engineer	124,836	181,946
Data Scientist	132,324	190,610
Deputy Director of Administrative Services	176,446	259,922
Deputy Director of Decarbonization Policy and Programs	132,324	225,265
Deputy Director of Marketing and Communications	143,351	225,265
Director of Decarbonization Policy and Programs	176,446	277,250
Director of Energy Services & Community Relations	176,446	277,250
Director of Government Affairs and Legislative Affairs	176,446	277,250
Director of Human Resources	176,446	277,250
Director of Regulatory and Legislative Policy	176,446	277,250
Director of Strategic Development	176,446	277,250
Energy Services Lead	132,324	202,010

FTE Title	Minimum Salary (Annual $)	Maximum Salary (Annual $)
Energy Services Manager	132,324	209,625
Energy Services Principal	132,324	225,265
Energy Services Specialist	86,467	131,361
Financial Analyst	99,244	169,990
Human Resources Analyst	99,244	169,990
Human Resources Generalist	121,297	190,610
Human Resources Manager	165,406	225,265
IT Analyst	121,297	190,610
Management Analyst	121,297	190,610
Manager of Decarbonization Policy and Programs	143,351	225,265
Manager of Finance and Risk Controls	150,519	225,265
Manager of Technology and Admin Services	150,519	225,265
Marketing Specialist	71,675	117,138
Policy Analyst	99,244	169,990
Power Contracts & Settlements Manager	176,446	225,265
Power Data Analyst	109,084	163,092
Power Resources Manager	165,406	259,922
Power Resources Planner	143,351	225,265
Power Settlements and Compliance Analyst	121,297	190,610
Principal Communications Specialist	100,346	181,946
Principal Data Engineer	143,351	225,265
Principal Data Scientist	143,351	225,265
Principal Policy Analyst	143,351	225,265
Principal Power Analyst	176,446	242,105
Program Marketing Manager	132,324	209,625
Programs Lead	132,324	202,010
Programs Specialist	82,702	134,294
Rates Manager	150,519	225,265
Regulatory & Compliance Manager	143,351	225,265
Regulatory Analyst	115,784	169,990
Senior Communications Specialist	86,467	131,361
Senior Data Analyst	132,324	190,610

FTE Title	Minimum Salary (Annual $)	Maximum Salary (Annual $)
Senior Data Engineer	143,351	202,011
Senior Data Scientist	143,351	202,011
Senior Energy Services Specialist	99,244	169,990
Senior Financial Analyst	132,324	190,610
Senior Financial Analyst / Accountant	132,324	190,610
Senior Government Affairs Manager	176,446	242,105
Senior Management Analyst	132,324	190,610
Senior Manager of Communications	143,351	225,265
Senior Manager of Decarbonization Policy and Programs	176,446	242,105
Senior Manager of Energy Policy and Regulatory Analysis	176,446	277,250
Senior Manager of Power Operations	176,446	242,105
Senior Manager of Power Resources	176,446	277,250
Senior Manager of Technology and Administrative Services	176,446	242,105
Senior Marketing Specialist	86,467	131,360
Senior Policy Analyst	115,784	169,990
Senior Power Analyst	132,324	190,610
Senior Power Resources Planner	176,446	242,105
Senior Programs Specialist	99,244	169,990
Senior Public Sector Services Manager	176,446	242,105
Senior Quantitative Analyst	132,324	190,610
Senior Rates Analyst	132,324	190,610
Senior Regulatory Advisor	121,297	190,610
Senior Regulatory Analyst	121,297	190,610
Senior Risk Manager	176,446	259,922
Wholesale Energy Markets Manager	176,446	242,105

SILICON VALLEY CLEAN ENERGY

Silicon Valley Clean Energy
Board of Directors Meeting

September 13, 2023

Appendix A

Power Resource Contracts Executed by CEO

DocuSign Envelope ID: 0A773252-7A43-485A-997E-2112DC197145

MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER – RESOURCE ADEQUACY
BETWEEN
SHELL ENERGY NORTH AMERICA (US), L.P.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This Confirmation Letter ("Confirmation") confirms the Transaction between **Shell Energy North America (US), L.P.**, a Delaware limited partnership ("Buyer") and **Silicon Valley Clean Energy Authority**, a California joint powers authority ("Seller"), and each individually a "Party" and together the "Parties", dated as of January 11, 2023 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation.

This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, effective as of November 28, 2016, along with any annexes (including Paragraph 10 of the Collateral Annex, as applicable) and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

ARTICLE 1. DEFINITIONS

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

1.2 "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.

1.3 "Availability Incentive Payments" shall mean Availability Incentive Payments as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

1.4 "Availability Standards" shall mean the availability standards set forth in Section 40.9 of the Tariff.

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

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

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. 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 to be the "Replacement Price" as used in the Master Agreement.

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

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

1.10 "Contingent Firm RA Product" has the meaning specified in Section 3.2 hereof.

1.11 "Contract Price" means, for any Monthly Delivery Period, the price for such Monthly Delivery Period as specified in the "RA Capacity Price Table" set forth in Section 4.9.

1.12 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in the "Contract Quantity Table" in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.13 "CPUC Decisions" means, CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050 and subsequent decisions related to resource adequacy, as may be amended from time to time by the CPUC.

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

1.15 "Delivery Period" has the meaning specified in Section 4.1 hereof.

1.16 "Delivery Point" has the meaning specified in Section 4.2 hereof.

1.17 "Designated RA Capacity" shall be equal to, for each day during any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.

1.18 "Effective Flexible Capacity" has the meaning specified for such term in the Tariff.

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

1.20 "Flexible RA Product" means Designated RA Capacity consisting of FCR Attributes, and, if applicable, LAR Attributes and/or RAR Attributes.

1.21 "FCR Attributes" means, with respect to a Unit, any and all flexible resource adequacy attributes, that can be counted toward an LSE's FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA or other Governmental Body having jurisdiction, exclusive of any LAR Attributes and RAR Attributes.

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

1.23 "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, but not FCR Attributes.

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

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

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

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

1.28 "LRA" has the meaning set for in the Tariff for the term "Local Regulatory Authority".

1.29 "LSE" has the meaning specified in the Tariff for the term "Load Serving Entity".

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

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

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

1.33 "Non-Excusable Event" means any event, other than a Planned Outage and those events described under the definition of "Unit Firm" in the Master Agreement that excuse Seller's performance, that causes Seller to fail to perform its obligations under this Confirmation, including, without limitation, any such event resulting from (a) the negligence of the owner, operator or Scheduling Coordinator of a Unit, or (b) Seller's failure to comply, or failure to cause the owner, operator or Scheduling Coordinator of the Units to comply, with the terms of the Tariff with respect to the Units providing RA Attributes, Flexible RA Attributes or LAR Attributes, as applicable.

1.34 "Non-Availability Charges" are as defined in the Tariff.

1.35 "Notification Deadline" means, for each Showing Month, the date that is fifteen (15) Business Days before the earlier of the relevant deadlines for (a) the corresponding RAR Showings, FCR Showings and/or LAR Showings for such Showing Month, and (b) the Supply Plan filings applicable to that Showing Month.

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

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

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

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

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

1.41 "RAR" means the resource adequacy requirements, exclusive of LAR established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

1.42 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as identified and existing as of the Confirmation Date by the Tariff, CPUC Decisions, LRA, or any Governmental Body having jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes and FCR Attributes.

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

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

1.45 "Replacement Unit" means any generating unit having comparable RAR Attributes, LAR Attributes and, if applicable, FCR Attributes to the Unit(s), meeting the requirements for a Unit specified herein and meeting the requirements specified in Section 4.5.

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

1.47 "Scheduling Coordinator" has the same meaning as in the Tariff.

1.48 "Seller" has the meaning specified in the introductory paragraph hereof.

1.49 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR Showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions or Tariff. For illustrative purposes only, the monthly RAR Showing made in June is for the Showing Month of August.

1.50 "Supply Plan" has the meaning specified in the Tariff.

1.51 "Tariff" means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time. For purposes of Article 5, the Tariff refers to the tariff and protocol provisions of the CAISO as they exist on the Confirmation Effective Date.

1.52 "Transaction" has the meaning specified in the introductory paragraph hereof.

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

1.54 "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Unit EFC after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lessor of (i) the Unit EFC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Effective Flexible Capacity.

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

ARTICLE 2. UNIT INFORMATION

Name	Kern River Cogen Facility
Location	Bakersfield, CA
CAISO Resource ID	OMAR_2_UNIT 3
Unit SCID	TS 12
Unit NQC	April 75, May 73.67
Unit EFC	NA
Resource Type	Gas Cogen
Resource Category (1, 2, 3 or 4)	4
Flexible RAR Category (1, 2 or 3)	NA
Path 26 (North or South)	South
Local Capacity Area (if any, as of Confirmation Effective Date)	BCV
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	None
Run Hour Restrictions	None

ARTICLE 3. RESOURCE ADEQUACY CAPACITY PRODUCT

3.1 During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in accordance with the product types selected in Section 3.2 (the "Product") and the Contract Quantity set forth in Section 4.3. The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and/or FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell any pursuant to the Tariff any RA Capacity from a Unit in excess of that Unit's Contract Quantity and any RA Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.2 Product Type

☐ Flexible RA Product

The Designated RA Capacity is a Flexible RA Product. For avoidance of doubt, the Flexible RA Product to be delivered by Seller to Buyer hereunder shall include the following Product attributes:

[ ] FCR Attributes with LAR Attributes
[ ] FCR Attributes with RAR Attributes

☒ Generic RA Product

The Designated RA Capacity is a Generic RA Product. For avoidance of doubt, the Generic RA Product to be delivered by Seller to Buyer hereunder shall include the following Product attributes:

[X] RAR Attributes
[ ] LAR Attributes

3.3 Delivery Obligation

☒ Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units. If those Units are not able to provide the full amount of the Contract Quantity as a result of a Non-Excusable Event, then, subject to Section 4.4, Seller shall have the option to notify Buyer in writing by the Notification Deadline that either (a) Seller will not provide the full Contract Quantity 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. If Seller fails to provide Buyer with the Contract Quantity as a result of a Non-Excusable Event and has failed to notify Buyer in writing by the Notification Deadline that it will not provide the full Contract Quantity during the period of such non availability as provided in Section 4.4, then Seller shall be liable for damages and/or required to indemnify Buyer for any resulting penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof. Notwithstanding anything herein to the contrary, if Seller provides less than the full amount of the Contract Quantity for any reason other than a Non-Excusable Event or in accordance with Section 4.4, and Seller provides notice of such by the Notification Deadline, Seller is not obligated to provide Buyer with Alternate Capacity or to indemnify Buyer for any resulting penalties or fines. The Product is a Contingent Firm RA Product, and with respect to this Contingent Firm RA Product, "Contingent Firm" shall have the same meaning as "Unit Firm" in the Master Agreement.

☐ Firm RA Product

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

ARTICLE 4. DELIVERY AND PAYMENT

4.1 Delivery Period

[redacted]

4.2 Delivery Point

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

4.3 Contract Quantity

The Contract Quantity for each Monthly Delivery Period shall be:

Contract Quantity Table

Contract Month / Year	Contract Quantity (MWs)
[redacted]	

4.4 Adjustments to Contract Quantity

(a) Planned Outages: If Seller is unable to provide the applicable Contract Quantity for all or a portion of a Showing Month due to a Planned Outage of a Unit, then Seller shall have the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to either (a) reduce the Contract Quantity in accordance with the Planned Outage for such portion of the Showing Month; or (b) provide Alternate Capacity up to the Contract Quantity for the applicable portion of such Showing Month.

(b) Reductions in Unit NQC: If the Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product, then Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced by Seller if the Unit experiences a reduction in Unit NQC as determined by the CAISO. If the Unit experiences such a reduction in Unit NQC then Seller has the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product, and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

(c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.3, then Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC or Unit NQC as determined by the CAISO. If the Unit experiences such a reduction in Unit EFC or Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) Alternate Capacity up to the Contract Quantity.

4.5 Alternative Capacity and Replacement Units

(a) If Seller elects or is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller, at no additional cost to Buyer, may provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer in writing of such Replacement Units no later than the Notification Deadline. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for the remaining portion of that Showing Month. that Showing Month and Seller shall not be liable to Buyer or any other party for damages, including any cover costs, and/or required to indemnify Buyer for costs, penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if and only if Seller has provided Buyer with timely notice pursuant to this Section 4.5(a) of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

(b) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4 and Seller does not provide Alternate Capacity in an amount equal to that which allows Seller to provide the full Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase Replacement Capacity.

4.6 Delivery of Product

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

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

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month, and such failure is not excused under the terms of the Confirmation, then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RA Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller; provided, however, that if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having solely RAR Attributes and no LAR Attributes or FCR Attributes, and no such RA Capacity is available, then Buyer may replace such portion of the Designated RA Capacity with capacity having any applicable FCR Attributes and/or LAR Attributes ("Replacement Capacity"). Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller so long as such transactions are done at prevailing market prices. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party, and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer an amount equal to the positive difference, if any, between (i) the sum of (A) the Replacement Capacity times the Capacity Replacement Price, and (B) the Designated RA Capacity not provided by Seller (less any Replacement Capacity) times the Capacity Replacement Price; and (ii) the Designated RA Capacity not provided by Seller times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may in addition to any other remedies that may be available to Buyer, offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article 6 of the Master Agreement. Seller will not be in breach of this Confirmation for any failure to provide any Designated RA Capacity so long as Seller complies with the provisions of this Section 4.7.

4.8 Indemnities for Failure to Deliver Contract Quantity

Subject to any adjustments made pursuant to Section 4.4, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller's failure to provide any portion of the Designated RA Capacity if such failure is not excused under the terms of the Product or by Buyer's failure to perform;

(b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Sections 4.5; or

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

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

4.9 RA Capacity Payment

In accordance with the terms of Article 6 of the Master Agreement, Buyer shall make an RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month. The RA Capacity Payment shall be equal to the sum for each day during the Showing Month of the product of (a) the applicable Contract Price for such Showing Month, multiplied by (b) the Designated RA Capacity for the Monthly Delivery Period, multiplied by (c) 1,000. The final product of this RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month.

RA Capacity Price Table

Contract Month / Year	Contract Price
[redacted]	

4.10 Allocation of Other Payments and Costs

Seller shall be entitled to receive and retain all revenues that Buyer is not expressly entitled to receive pursuant to this Agreement, including all revenues that Seller may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

ARTICLE 5. CAISO OFFER REQUIREMENTS

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

ARTICLE 6. CHANGE IN LAW

If any statutes, rules, regulations, permits or authorizations are enacted, amended, granted or revoked which have the effect of changing the transfer and sale procedure for Product set forth in this Confirmation so that the implementation of this Confirmation becomes impossible or impracticable, or if a new product that is a derivative of the Product(s) contracted for herein is created, the Parties hereto agree to negotiate in good faith to amend this Confirmation, to conform with such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Confirmation or to provide Buyer with Product pursuant to another program if possible; provided, however, that neither Party shall be obligated to enter into any such amendment except in its sole discretion.

ARTICLE 7. OTHER BUYER AND SELLER COVENANTS

7.1 Further Assurances

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of

the Contract Quantity for the sole benefit of Buyer's applicable RAR, LAR and/or FCR, as applicable, including, without limitation:

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

(b) Negotiating in good faith to make necessary amendments, if any, to this Confirmation, which remain subject to agreement of such Parties, in each Party's sole discretion, to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, or other Governmental Body having jurisdiction to administer the applicable RAR or FCR so as to maintain the purpose and intent of the Transaction agreed to by the Parties on the Confirmation Effective Date.

7.2 Seller Representations and Warranties

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

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

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

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

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

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

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

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

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

(i) Seller has notified the Scheduling Coordinator of each Unit that Seller is obligated to cause each Unit's Scheduling Coordinator to provide to Buyer, no later than the Notification

Deadline, of the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and

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

ARTICLE 8. CONFIDENTIALITY

Notwithstanding any agreement or obligation of confidentiality or non-disclosure between Buyer and Seller, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans. In addition, If Buyer becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any applicable law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule, or a request to Buyer under the California Public Records Act (California Government Code Section 6250 et seq.)) to disclose any confidential information of Seller, Buyer may do so after providing Seller with prompt notice so that Seller, at its sole expense, may seek an appropriate protective order or other appropriate remedy against disclosure. Notwithstanding anything to the contrary in Section 10.11 of the Master Agreement, Buyer may make portions of this Confirmation available to the public as part of Buyer's process of seeking approval from its Board of Directors for this Transaction.

ARTICLE 9. BUYER'S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder. In the event of any such re-sale, Seller shall cause its Scheduling Coordinator to cooperate reasonably with Buyer and Buyer's transferee (and their respective Scheduling Coordinators) to allow such transferee to utilize the re-sold Product.

ARTICLE 10. MARKET BASED RATE AUTHORITY

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

ARTICLE 11. COLLATERAL REQUIREMENTS

The Parties further agree that for the purposes of calculating the Collateral Requirement pursuant to Paragraph 3 of the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero.

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ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SHELL ENERGY NORTH AMERICA (US), L.P.	**SILICON VALLEY CLEAN ENERGY AUTHORITY**
By: John W. Pillion	By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...
Name: John W. Pillion	Name: Girish Balachandran
Title: Confirmations – Team Lead	Title: CEO
Date: 1.11.23	Date: 1/12/2023

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CONFIRMATION LETTER
BETWEEN
MORGAN STANLEY CAPITAL GROUP INC.
AND
SILICON VALLEY CLEAN ENERGY AUTHORITY

This confirmation letter ("Confirmation") confirms the Transaction between Morgan Stanley Capital Group Inc. ("Morgan Stanley" or "Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("SVCE" or "Buyer"), each individually a "Party" and together the "Parties," dated as of August 11, 2023 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product. This Transaction is governed by the EEI Master Power Purchase and Sale Agreement dated November 23, 2016, together with any and all exhibits, schedules or supplements thereto or incorporated therein by reference, each in force and effect from time to time between the Parties (collectively, the "Master Agreement"), as amended and supplemented by this Confirmation, under the following terms and conditions. The definitions and provisions contained in this Confirmation, the Master Agreement, the RA Requirements (as defined herein), and in the tariffs and/or protocols of the California Independent System Operator ("CAISO") as amended from time to time (the "CAISO Tariff" or the "Tariff"), shall apply to this Confirmation and are incorporated by reference; provided that, to the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder. Consistent with Section 2.2 of the Master Agreement, this Confirmation, together with all other transactions, confirmations and the Master Agreement, form a single integrated agreement between the Parties and are not separate contracts. This Confirmation supersedes and replaces any prior oral or written confirmation or agreement, including broker confirmations, regarding this Transaction.

ARTICLE 1
PRODUCT 1

1.1. Product 1 – Contract Price, Contract Quantity, Delivery Term and Delivery Point

(a) Product 1: WSPP Agreement Schedule C Firm Energy supplied from the Carbon Free Source (as defined in Exhibit A) ("Carbon Free Firm Energy"). The Product cannot be curtailed by Seller or Buyer for economic reasons.

(b) Delivery Term: [redacted]

(c) Hourly Contract Quantity: [redacted]

[redacted]

(d) Delivery Point: Nevada Oregon Border ("NOB"), north to south, which is an Intertie. The Parties may subsequently agree to an alternate delivery point in writing, provided a transmission path is specified to such other delivery point and such other delivery point is an Intertie.

(e) Delivery Profile: Monday through Saturday minimum 4 consecutive hours between 4 pm through 9 pm (hours ending 1700 PPT through hour ending 2100 PPT), and at least 100 hours per month, in accordance with MCC Bucket obligations during each calendar month (the "Minimum Monthly Delivery Quantity").

(f) MCC Bucket: MCC Bucket Category 1.

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(g) Contract Price (Product 1): The Contract Price is an aggregation of three components, as further described in Section 1.2(c).

(h) Passage of Title: Seller represents and warrants that Seller holds the rights to the Product free and clear of all liens and encumbrances, and Seller agrees to convey and hereby conveys all such Product to Buyer free and clear of all liens and encumbrances as included in the delivery of the Product subject to the terms and conditions contained herein. As set forth in Section 10.3 of the Master Agreement, title and reporting rights to the Carbon Free Firm Energy shall pass from Seller to Buyer at the Delivery Point.

(i) Transmission and Agreed Transmission Path: Under this Confirmation and pursuant to Section 10 of the WSPP Agreement, the agreed transmission path for deliveries to the Delivery Point will be from the Carbon Free Source (as listed in Exhibit A) to Big Eddy and Big Eddy to NOB (each, an "Agreed Transmission Path").

For the purposes of Section 10 of the WSPP Agreement, "firm transmission" means Firm Transmission (as defined herein).

For the purposes of the Cap and Trade Regulations, the foregoing agreed upon transmission path shall constitute a "continuous physical transmission path" which shall provide for "direct delivery of electricity" (as such terms are defined in the Cap and Trade Regulations).

(j) Seller Delivery Obligation. Seller shall Bid or Self-Schedule Carbon Free Firm Energy in the amount of the Hourly Contract Quantity from the Carbon Free Source into the CAISO at the Delivery Point to Buyer without substituting electricity from another source, as evidenced by e-Tags, or such other format acceptable to Buyer. Deliveries shall be measured for each hour that the Carbon Free Firm Energy is delivered to the CAISO but shall not exceed the lesser of corresponding amounts shown on the e-Tags or meter data from the Carbon Free Source.

(k) Reporting Requirements. Seller shall provide Buyer with all necessary documentation required to support and verify that delivery requirements have been met according to the Applicable Program, including but not limited to documentation demonstrating that the Carbon Free Source meets the CARB requirements of a Specified Source Facility and that the Carbon Free Firm Energy is traceable to a specific generating facility.

1.2. Special Conditions – Product 1

(a) Generally Accepted Utility Practice: All scheduling and tagging shall be in accordance with Generally Accepted Utility Practice.

(b) External Resource: Energy delivered pursuant to this Confirmation will not be sourced from resources internal to the CAISO Balancing Authority Area.

(c) Product 1 Contract Price Components: The Contract Price is a per megawatt hour aggregation of the following components:

(i) LMP Index minus [redacted] for the energy,

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(ii) [redacted]able for the first 100 hours of Minimum Monthly Delivery Quantity only, representing the [redacted] price for the Hourly Contract Quantity of forward capacity commitment supporting energy delivery from the Carbon Free Source, converted to $/MWh throughout the Delivery Term ("Capacity Fee"), and

(iii) [redacted]the carbon free attributes Attributes Fee) payable for the first [redacted] only of Carbon Free Firm Energy delivered hereunder.

The Capacity Fee shall be due and payable on the entire Hourly Contract Quantity of Carbon Free Firm Energy each hour (unless energy is not delivered due to an unexcused failure to deliver by Seller), not to exceed the Minimum Monthly Delivery Quantity during any calendar month. For greater certainty, the Parties hereby acknowledge and agree that Seller may deliver more than the Minimum Monthly Delivery Quantity hereunder ("Additional Monthly Quantity") during any calendar month; provided however (A) no Capacity Fee shall be due and payable for any such Additional Monthly Quantity and (B) no Attributes Fee shall be payable for Additional Monthly Quantities in excess of [redacted] All other components of the Product 1 Contract Price shall be due and payable only on the quantity of energy delivered to the Delivery Point in each hour.

Notwithstanding and without limiting Section 4.2 of the Master Agreement, in determining the Sales Price there will be no obligation or requirement to attribute or include a value attributable to the capacity or the carbon free attributes.

(d) Additional Seller Representations: Seller represents and warrants to Buyer as follows:

(i) The facilities comprising the Carbon Free Source are each external to the CAISO Balancing Authority Area;

(ii) as of the Confirmation Effective Date, the capacity supporting energy to be delivered pursuant to this Confirmation is surplus to the expected capacity requirements of the Carbon Free Source's host balancing authority area and is not committed to another balancing authority area (*i.e.,* no double-counting);

(iii) throughout the Delivery Term, Seller will not commit the capacity necessary to support delivery of Carbon Free Firm Energy from the Carbon Free Source to a third party or other balancing authority area;

(iv) the Hourly Contract Quantity of Carbon Free Firm Energy sold to Buyer hereunder has been sold once and only once by Seller;

(v) throughout the Delivery Term, Carbon Free Firm Energy will be delivered to the Delivery Point using Firm Transmission on the last segment immediately preceding the CAISO balancing authority; and

(vi) throughout the Delivery Term, Seller's firm energy obligation under Product 1 is and will be supported (backed) each hour by operating reserves (including required contingency reserves and sufficient balancing reserves) in the Carbon Free Source's host balancing authority area necessary to ensure there is sufficient energy available for Seller to meet its obligation throughout the applicable operating hour.

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For greater certainty, Seller's performance (and failure to perform) hereunder is and remains subject to the terms of the Product and the Master Agreement.

ARTICLE 2
PRODUCT 2

2.1. Product 2 – Scheduling Coordinator Services

(a) Seller: Morgan Stanley Capital Group Inc.

(b) Buyer: SVCE

(c) Product 2: Scheduling Coordinator Services as described below for Carbon Free Firm Energy procured by Buyer as Product 1.

2.2. Overview

The purpose of Product 2 is for Morgan Stanley to perform the required scheduling coordinator functions for the "resource" (as such term is used by the CPUC in D.20-06-028, the Carbon Free Firm Energy). Although D.20-06-028 required the Buyer to take responsibility for ensuring that energy associated with an import RA contract is bid into, and delivered to, the CAISO markets, the CPUC's decision also permitted the Buyer to designate another party to act on its behalf as a scheduling coordinator to bid and deliver the energy into the CAISO markets.

Morgan Stanley is a Scheduling Coordinator recognized by CAISO pursuant to the CAISO Tariff and has the requisite experience, skill and capability to perform the scheduling obligations assumed by it in providing the Scheduling Coordinator Services (as defined below). In providing the Scheduling Coordinator Services, Morgan Stanley will perform, and assume all costs, risks and liabilities associated with performing, the scheduling responsibilities defined below for the limited purpose of submitting Bid(s) and physically scheduling and delivering Buyer's Carbon Free Firm Energy procured as Product 1 from the Delivery Point to the Sink as required and contemplated by CPUC D.20-06-028 and the resource adequacy requirements established by CAISO pursuant to the CAISO Tariff.

2.3. Scheduling Coordinator Services

Morgan Stanley agrees to assume the scheduling functions required to schedule and deliver the Carbon Free Firm Energy purchased by Buyer as Product 1 at and from the Delivery Point to the Sink, being an Aggregated Pricing Node in the CAISO Balancing Authority Area, as set forth below ("Scheduling Coordinator Services"):

(a) For each hour in which Carbon Free Firm Energy is to be delivered to the Delivery Point, consistent with the Minimum Monthly Delivery Quantity, Morgan Stanley will Bid or Self-Schedule (as such terms are defined in the CAISO Tariff) the Carbon Free Firm Energy into the CAISO Day Ahead Market and Real-Time Market, *provided* if Morgan Stanley submits Bid(s) (other than Self-Schedule) such Bid(s) for each hour that is an Availability Assessment Hour, Morgan Stanley's Bid(s) shall be at a price between negative [redacted] and [redacted] ("Bidding Requirement") until the Minimum Monthly Delivery Quantity has been met.

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(b) Working with CAISO and Buyer to set up a Resource ID associated with Morgan Stanley's SCID for purposes of undertaking the services in paragraph (a) above ("RA Resource ID"), which shall be set up as a CAISO system resource;

(c) Submitting a monthly and annual Supply Plan using the RA Resource ID for each month of the Delivery Term on or prior to the deadline in the CAISO Tariff;

(d) Undertaking all scheduling and tagging requirements in accordance with Generally Accepted Utility Practice from the Delivery Point to the Sink, including inserting the following in each NERC E-Tag:

(i) Morgan Stanley's Scheduling Coordinator PSE in the "physical path" at and from the Delivery Point to the Sink,

(ii) Buyer's PSE in the "market path" at the Delivery Point,

(iii) Buyer's PSE as the last PSE in the "physical path",

(iv) RA Resource ID (MSCG_NOB_I_F_IMS010) in the Misc(Token/Value) field in "physical path" at and from the Delivery Point to the Sink, and

(v) a CAISO Aggregated Pricing Node as the Sink; and

(e) performing such other ancillary requirements under the CAISO Tariff to give effect to the foregoing.

A sample NERC E-Tag is attached hereto as Exhibit B for informational purposes. Actual NERC E-Tags generated for deliveries hereunder may vary from the sample attached as Exhibit B due to changes in the Carbon Free Source, CAISO or WECC tagging practices or otherwise as required to be consistent with Generally Accepted Utility Practice.

2.4. Seller's Scheduling Contacts

	Phone	Fax
Pre-scheduler:	[redacted]	[redacted]
Real-Time:	[redacted]	

2.5. Buyer's Identifiers

Buyer's SCID: LSVCE

Buyer's PSE: LSVCE

2.6. Special Conditions – Product 2

(a) Resource Adequacy Plan: Buyer shall submit (or cause to be submitted) a monthly and annual Resource Adequacy Plan ("RA Plan"), as required by the CAISO Tariff, that

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explicitly identifies the Delivery Profile hours as the temporal constraint/limitation and such RA Plan shall otherwise match the Supply Plan submitted by Morgan Stanley.

(b) CAISO Acceptance/Rejection: Morgan Stanley shall be entitled to retain any and all revenues received from (and if prices are negative, liable for all payments to) CAISO as a result of CAISO accepting the Bid(s) (including Self-Schedule(s)) submitted by Morgan Stanley. If, in any hour of the Delivery Term, CAISO rejects the Bid(s) (including Self-Schedule) submitted by Morgan Stanley in the CAISO Day Ahead Market and Real-Time Market, then

(i) if Morgan Stanley Self-Schedules or Bids in accordance with the Bidding Requirement, the Parties agree to treat such rejection by CAISO as Uncontrollable Force such that each Party shall be excused from their respective obligation to sell and deliver or purchase and receive the Carbon Free Firm Energy for that hour, and

(ii) if Morgan Stanley does not Bid in accordance with the Bidding Requirement, the Parties agree to treat such rejection by CAISO as a failure to deliver by Seller, no Capacity Fee shall be due for such hour, and, unless Seller is otherwise excused from its delivery obligations, Buyer shall be entitled to such remedies as are provided hereunder and in the Master Agreement.

(c) Energy Adjustment: For each month of the Delivery Term, and in consideration of Morgan Stanley retaining any and all revenues received as a result of any CAISO awards from the Bid(s) (including or Self-Schedule(s)) submitted by Morgan Stanley (among other things), Morgan Stanley will credit Buyer the Energy Adjustment. "Energy Adjustment" means the LMP Index minus [redacted] for each MWh of the Carbon Free Firm Energy delivered to Buyer in such month pursuant to this Confirmation.

ARTICLE 3
GENERAL PROVISIONS

3.1 Uncontrollable Force/Force Majeure

The Parties agree that Product 1 shall be subject to Uncontrollable Force (as defined in the WSPP Agreement) and Product 2 shall be subject to Force Majeure (as defined in the Master Agreement). The Parties agree, for the purposes of Section 10 of the WSPP Agreement, Section 3.3 of the Master Agreement and the definition of Force Majeure, that:

(a) any limitation, interruption or curtailment on the applicable Agreed Transmission Path, at the Delivery Point or from the Delivery Point to Sink by the transmission provider pursuant to the applicable OATT or transmission service contract (including CAISO pursuant to CAISO Tariff), by or at the direction of WECC or any applicable NERC-recognized regional reliability coordinator, including for unscheduled flow mitigation, planned outage(s) and full or partial de-rate(s), whether or not known or anticipated as of the Confirmation Effective Date, will be considered Uncontrollable Force and Force Majeure,

(b) a limitation, interruption or curtailment described in paragraph (a) may result in Bid(s), schedule(s) or E-Tag(s) not being submitted or created, as applicable, for one or more hours depending on the timing and circumstances of the qualifying limitation, interruption or

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curtailment, Generally Accepted Utility Practice and requirements and practices pursuant to CAISO Tariff,

(c) if and to the extent any of the events or circumstances described in paragraphs (a) and (b) above prevents (i) delivery of the Hourly Contract Quantity of Carbon Free Energy from the Carbon Free Source to Sink for any hour(s) of the Delivery Term or (ii) Bid(s), schedule(s) or E-Tag(s) being submitted or created, as applicable, by Morgan Stanley for any hour(s) of the Delivery Term, subject to Section 1.2(c), Morgan Stanley and Buyer shall be relieved of their obligation to sell and deliver or purchase and receive, respectively, the Carbon Free Firm Energy at the Delivery Point for such hour(s) and Morgan Stanley shall be relieved of its SC Services obligations for such hour(s),

(d) Morgan Stanley will use commercially reasonable efforts to communicate (verbally or electronically in writing, including via eTags) any limitations, interruptions or curtailments on the Agreed Transmission Path known prior to the day-ahead pre-scheduling deadline and advise as to what quantities, if any, of Carbon Free Firm Energy Morgan Stanley is able to deliver to Buyer during the affected hours, and

(e) for the purposes of calculating Liquidated Damages settlements (the "Damages Payment"), (i) the Damages Payment shall only be calculated and payable on the difference between the applicable Minimum Monthly Delivery Quantity and the volume of MWh delivered hereunder; and (ii) the monthly price each year for deliveries during the Delivery Term shall be deemed as follows:

[redacted]

3.2 Monthly Reporting

The Parties acknowledge that in each month of the Delivery Term non-delivery of energy can reasonably be expected from time to time as a result of, among other things, Uncontrollable Force (*e.g.,* transmission limitations, interruptions and/or curtailments) and CAISO rejecting Bid(s) meeting the Bid Requirement, including during conditions of oversupply and congestion. For transparency, in addition to Buyer having delivery visibility through inclusion on all NERC E-Tags, Morgan Stanley will provide a monthly report that includes a lesser of analysis showing eTags, and meter readings from the Carbon Free Source.

3.3 Electricity Importer

As a result of the provision of Scheduling Services, Morgan Stanley will be the electricity importer into California for purposes of the Cap and Trade Regulations for the Carbon Free Firm Energy delivered pursuant to this Confirmation. The Parties acknowledge that Morgan Stanley will be responsible for satisfying any Compliance Obligation (as defined in the Cap and Trade Regulations) associated with the energy that is scheduled and imported into California pursuant to this Confirmation.

3.4 Confidentiality

Notwithstanding anything to the contrary in Section 10.11 of the Master Agreement, the Parties agree that either Party may disclose a copy of this Confirmation to a Governmental Authority if

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required or if requested by such Governmental Authority or for the purposes set forth in Section 3.5(b), provided such Party shall redact commercial terms (*e.g.,* Contract Price) prior to disclosure or disclose the Confirmation confidentially to the Governmental Authority unless redactions or confidential treatment is not permitted by the Governmental Authority. Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

3.5 RA Requirements / Change in Law

(a) The Parties acknowledge that Buyer has entered into this transaction to, among other things, use Product 1 toward meeting its RA Requirements. Buyer acknowledges that Seller makes no representation or warranty that Product 1 as procured by Buyer will be eligible for or can be used or counted toward Buyer's resource adequacy obligations pursuant to the RA Requirements.

(b) The Parties agree that either or both Parties may provide a copy of this Confirmation to the CPUC confidentially prior to the time required for Buyer's compliance filings to obtain the CPUC's guidance or advice as to the eligibility of Product 1 for meeting the RA Requirements, provided if Seller provides a copy it shall redact or exclude Buyer's name.

(c) It is Buyer's sole responsibility to (i) ensure it has obtained sufficient Intertie import capability at the Delivery Point such that it may use Product 1 toward its RA Requirements and (ii) determine the appropriate maximum cumulative capacity bucket(s).

(d) If there is a Change in Law that (i) materially adversely changes or affects a Party's obligations hereunder or (ii) results in Buyer being unable to use Product 1 to meet its RA Requirements, the Parties shall work in good faith to try and revise this Confirmation, which may include changes to commercial terms, to appropriately address the material adverse change or effect or permit Buyer to be able to use Product 1 toward its RA Requirements. In the event the Parties cannot reach agreement on any such amendments to this Confirmation within 30 days' written notice from one Party following the Change in Law ("Negotiation Period"), then either Party may terminate this Confirmation within thirty (30) days after the Negotiation Period upon written notice to the other Party, which, subject to paragraph 3.8 below, shall be effective the next Business Day after such notice is received. Any termination in accordance with this paragraph shall be without liability of either Party to the other on the termination date as a result of such termination, *provided* for greater certainty each Party shall remain liable for any payments arising from performance (and non-performance) up to and including the termination date. Termination of this Confirmation pursuant to this paragraph shall not result in termination (or give rise to a right of termination) of any other transactions between the Parties *provided* that if multiple transactions between the Parties are similarly affected by the Change in Law the terminating Party must concurrently terminate all such transactions unless the other Party otherwise agrees.

3.6 Seller Indemnification / Termination

To the extent Seller fails to fulfill its obligations under this Confirmation and such failure is not excused under the terms of either Product, this Confirmation or the Master Agreement or caused

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by a failure to perform by Buyer or other third party contracting directly or indirectly with Buyer, then

(a) Seller agrees to indemnify Buyer for any monetary penalties directly resulting from Seller's nonperformance hereunder as assessed against Buyer by the CPUC pursuant to the RA Requirements, but only to the extent such penalties being assessed could not be avoided by Buyer following notice from Seller of its nonperformance; and

(b) in addition to Buyer's other remedies hereunder, if such failure meets all the criteria for a RA Termination Event, Buyer may terminate this Confirmation upon written notice to Seller, *provided* such notice is provided no later than two (2) Business Days after such RA Termination Event having occurred. If timely termination notice is provided to Seller, subject to paragraph 3.8, termination shall be effective the next Business Day after such notice is received. Any termination in accordance with this paragraph shall be without liability of either Party to the other on the termination date as a result of such termination, *provided* for greater certainty each Party shall remain liable for any payments arising from performance (and non-performance) up to and including the termination date. Termination of this Confirmation pursuant to this paragraph shall not result in termination (or give rise to a right of termination) of any other transactions between the Parties.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize any such monetary penalties or the impact of any Seller non-performance; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize such penalties.

3.7 Survival

To the extent this Confirmation is terminated by either Party as provided in paragraphs 3.5 or 3.6 and Morgan Stanley, in performing its obligations hereunder, has submitted a monthly Supply Plan or has other binding obligations or commitments to CAISO that cannot be rescinded without Morgan Stanley incurring penalties or other charges, all applicable terms, conditions and provisions of this Confirmation shall survive termination until all binding obligations or commitments to CAISO as at the effective date of such termination have been fully performed, including, without limiting the generality of the foregoing, the purchase and sale of Carbon Free Firm Energy. For greater certainty, neither Party will make any further binding commitments to CAISO (*e.g.,* no filing of monthly RA Plans or Supply Plans) after the effective date of termination.

3.8 Relationship of the Parties

The Parties are independent contractors, and will not be deemed to be partners, joint venturers or agents of each other for any purpose. Nothing contained in this Confirmation will be construed to create a partnership, joint venture, agency or other relationship that may invoke fiduciary obligations between the Parties.

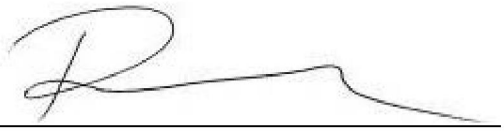
[*Signatures appear on the following page.*]

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Acknowledged and agreed to as of the Confirmation Effective Date.

MORGAN STANLEY CAPITAL GROUP INC.

Sign: 

Print: Brent Masucci

Title: Vice President

SILICON VALLEY CLEAN ENERGY AUTHORITY, a California joint powers authority

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

Print: Girish Balachandran

Title: CEO

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EXHIBIT A

CARBON FREE SOURCE

In any delivery hour, the Carbon Free Firm Energy will be generated by any one or more of the following large hydro generating facilities listed below (in aggregate, the "Carbon Free Source").

Facility Name	Technology	Location	CARB ID
Wanapum Dam	Large hydroelectric	Washington State	500054
Priest Rapids Dam	Large hydroelectric	Washington State	500054
Rock Island Dam	Large hydroelectric	Washington State	500003
Rocky Reach Dam	Large hydroelectric	Washington State	500055
Boundary Dam	Large hydroelectric	Washington State	500043
Lucky Peak Dam	Large hydroelectric	Idaho State	500046
Lake Chelan	Large hydroelectric	Washington State	500040
Wells	Large hydroelectric	Washington State	500237
Kerr (Seli'š Ksanka Qlispé) Dam	Large hydroelectric	Montana State	500014

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EXHIBIT B

SAMPLE NERC E-TAG

Market Path

PSE	Product	Contract	Misc Info
MSCG01	G-F		Yes
LSVCE	L		No

Physical Path

BA	TSP	MO	PSE	POR	POD	Sched Entities	Contract	Misc Info	Loss
GCPD			MSCG01	Source:	MSCG_GCPD			No	
	BPAT		MSCG01	BPAT.GCPD	BigEddy	BPAT		No	
	BPAT		MSCG01	BigEddy	NOB	BPAT		No	
	CISO	CISO	MSCG01	NOB	SYLMAR	LDWP		No	
	CISO	CISO	MSCG01	SYLMAR	SP15	CISO		Yes	
CISO		CISO	LSVCE	Sink:	SP15			No	

Transmission Allocation

TSP	Owner	Product	OASIS	NITS Resource	Misc Info
BPAT (1)	MSCG01	7-F	10031		No
BPAT (2)	MSCG01	7-F	10031		No
CISO (1)	MSCG01	7-F	MSCG_NOB_I_F_IMS010		No
CISO (2)	MSCG01	7-F	MSCG_NOB_I_F_IMS010		No

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EXHIBIT C

DEFINITIONS

Capitalized terms not otherwise defined herein that are defined in the CAISO Tariff shall have the meanings ascribed thereto in the CAISO Tariff.

"AAH" or "Availability Assessment Hours" means the five consecutive hour period pre-defined by CAISO pursuant to the CAISO Tariff as the Availability Assessment Hours for resources providing system resource adequacy for the applicable month of the Delivery Term. The Parties acknowledge that, as of the Confirmation Effective Date, CAISO has determined the Availability Assessment Hours for resources providing system resource adequacy for the applicable months of the Delivery Term are hour ending ("HE") 1700 through HE 2100 (5 hours per day), Monday through Saturday (6 days per week).

"Applicable Program" means the Cap and Trade Regulations or the PSD Regulations.

"Buyer", as used in the Master Agreement, means Buyer.

"Cap and Trade Regulations" means the Mandatory Greenhouse Gas Emissions Reporting and California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations (California Code of Regulations Title 17, Subchapter 10, Articles 2 and 5 respectively).

"CARB" means the California Air Resources Bureau of the California Environmental Protection Agency.

"CAISO Tariff" means the FERC-approved electric tariff of the California Independent System Operator Corporation ("CAISO") and any current applicable CAISO-published Operating Procedures and Business Practice Manuals, in each case as amended or supplemented from time to time.

"Change in Law" means any changes, revisions, additions or clarifications to or of (i) the RA Requirements by the CPUC, or (ii) the CAISO Tariff by CAISO, including CAISO changing the five consecutive hour period for the Availability Assessment Hours for any month of the Delivery Term such that it is no longer HE 1700 through HE 2100 (5 hours per day), Monday through Friday (5 days per week), excluding Federal Holidays, in either case occurring after the Confirmation Effective Date.

"CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the RA Requirements.

"Federal Holidays" means legal public holidays as set forth in 5 USC § 6103(a).

"Firm Transmission" means NERC Transmission Service Reservation Priority 7-F (firm point-to-point transmission), and includes conditional firm point-to-point transmission.

"Flat" means all Off-Peak and On-Peak hours (24x7).

"Generally Accepted Utility Practice" means a practice established by the Western Electricity Coordinating Council ("WECC") or any successor regional reliability council, as such practice may be revised from time to time, or if no practice is so established, means a practice otherwise generally accepted in the WECC region.

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"Governmental Authority" means any national, state, provincial or local government, any political subdivision thereof, or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity with authority over a Party or the subject matter of this Agreement, and includes, without limitation, the Federal Energy Regulatory Commission ("FERC") and California Public Utilities Commission ("CPUC").

"LMP Index" means, for any day of delivery, the day-ahead hourly Locational Marginal Price ("LMP") at TH_NP15_GEN-APND (or any successor Aggregated Pricing Node for NP 15) ("NP 15 Trading Hub") for the applicable hours of delivery as published by the CAISO. In the event the CAISO fails to publish the LMP for the NP 15 Trading Hub, such failure shall be addressed by the Parties in a manner consistent with the Master Agreement provisions applicable to Market Disruption Events. In the event the CAISO subsequently corrects the LMP for the NP15 Trading Hub, such correction shall be addressed by the Parties in a manner consistent with the Master Agreement provisions applicable to price corrections. Notwithstanding any other provision of this Confirmation or the Master Agreement, the LMP Index shall not be revised as a result of a correction to the LMP for the NP 15 Trading Hub made any time after 6 months from the end of the Delivery Term.

"MCC Bucket(s)" means the maximum cumulative capacity bucket categories adopted and defined by the CPUC in CPUC Decision 22-06-050 pursuant to which CPUC-jurisdictional LSEs are required to categorize their resource adequacy resources based on availability (as defined in the D. 22-06-050). There are five MCC Bucket categories: DR, 1, 2, 3 and 4.

"MCC Bucket Category 1" means, as provided in D. 22-06-050, the resource has availability (as defined in the D. 22-06-050) and updated in 2023 CPUC Filing Guide, every Monday through Saturday, for 4 consecutive hours between 4 pm through 9 pm, and at least 100 hours per month from May through December.

"NERC Holiday" means any day designated as a holiday by NERC.

"Off-Peak" means HE 0100 through HE 0600 and HE 2300 through HE 2400 PPT and all hours on (i) Sundays or (ii) any NERC Holiday.

"On-Peak" means HE 0700 through HE 2200 (16 hours per day) PPT, Monday through Saturday (6 days per week), excluding NERC Holidays.

"PSD Regulations" means the Power Source Disclosure Program regulations (California Code of Regulations Title 20, Division 2, Chapter 3, Article 5, Sections 1390 through 1394).

"RA Requirements" means (i) the resource adequacy requirements established for CPUC jurisdictional load serving entities by the CPUC pursuant to the CPUC's currently effective or future decisions, resolutions, or rulings related to resource adequacy as applicable to system resource adequacy and the availability, eligibility and use of imports for system resource adequacy, including CPUC Decision 20-06-028 and (ii) CPUC Decision 22-06-050 solely for the purposes of the eligibility of Product 1 for an MCC Bucket category if specified in this Confirmation.

"RA Termination Event" means, for any Availability Assessment Hour in the Delivery Term, (i) Seller fails to (x) satisfy the Bidding Requirement or (y) deliver the Carbon Free Firm Energy to the Delivery Point, and in either case such failure is not excused pursuant to the terms hereof, *and* (ii) such unexcused failure by Seller is likely to cause Buyer to not (or no longer) be able to count Product 1 toward its RA Requirements.

"Scheduling Coordinator" has the meaning given in the CAISO Tariff.

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"Self-Schedule" has the meaning given in the CAISO Tariff.

"Sink" means the final point of delivery for the energy, which shall be a point within the CAISO Balancing Authority Area.

"Specified Source Facility" means a power source registered by an electric power entity with CARB that is intended to be claimed in an Emissions Data Report pursuant to section 95111(g)(1) of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions in the state of California.

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WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between **Silicon Valley Clean Energy Authority**, a California joint powers authority ("Seller") and **San Diego Community Power**, a California joint powers authority ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of August 22, 2023 (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 26, 2022 (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.

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ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

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

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

(c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit's SC to submit, (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

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

(g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.[1]

2.2 Reductions in Contract Quantity

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

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

(c) 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 reductions in Unit NQC or Unit EFC of any Unit(s).

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

[1] For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046

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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 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 meetthe 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.

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(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 Notification 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 direct the Seller or the Unit's SC to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, Seller and the Unit's SC shall comply with Purchaser's direction and Purchaser shall retain and receive all revenues from such re-sale.

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

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall make a monthly payment to Seller for 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 month following 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.

Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity

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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.

(b) 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

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

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

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

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

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

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

4.4 Market Based Rate Authority

Upon Purchaser's written request, Seller shall, in accordance with FERC Order No. 697, submit a letter of concurrence in support of any affirmative statement by Purchaser that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Purchaser as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller shall not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Purchaser.

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected

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Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

6.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement:

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

(b) Seller acknowledges that Purchaser is a public agency subject to the requirements of the California Public Records Act (Cal. Gov. Code section 6250 et seq.) and that Purchaser may be required to make public this Confirmation (which may be partially redacted by Purchaser) in connection with the process of seeking approval from its board of directors for the execution of this Confirmation. Seller may submit information to Purchaser that Seller considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Seller acknowledges that Purchaser may submit to Seller information that Purchaser considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Confirmation ("Requestor") pursuant to the California Public Records Act for production, inspection and/or copying of this Confirmation or any information designated by a disclosing Party as confidential, the receiving Party as soon as practical shall notify the disclosing Party that such request has been made, by telephone call, letter sent via electronic mail, and/or by overnight carrier to the address, or email address listed at the end of this Confirmation. The disclosing Party shall be solely responsible for taking whatever legal steps are necessary to

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protect information deemed by it to be confidential information and to prevent release of information to the Requestor by the receiving Party. If the disclosing Party takes no such action within ten (10) days, after receiving the foregoing notice from the receiving Party, the receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it. Notwithstanding the foregoing, Purchaser may release confidential information without notice to or over the objection of Seller if Purchaser's legal counsel advises Purchaser that Purchaser is required by law to release such confidential information.

6.3 Dodd-Frank Act

The Parties intend this Transaction to be a "customary commercial arrangement" as described in Section II.A.1 of Commodity Futures Trading Commission, *Proposed Guidance, Certain Natural Gas and Electric Power Contracts*, 81 Fed. Reg. 20583 at 20586 (Apr. 8, 2016) and a "Forward Capacity Transaction" within the meaning of Commodity Futures Trading Commission, *Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations To Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission*, 78 Fed. Reg. 19,880 (Apr. 2, 2013).

6.4 Change in Law

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

6.5 Governing Law

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

6.6 Collateral

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

6.7 No Recourse to Members

The Parties are organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and is a public entity separate from its constituent members. Each Party will solely be responsible for all debts,

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obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it will 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 Purchaser or Purchaser's constituent members, in connection with this Confirmation.

6.8 Other WSPP Agreement Changes

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

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

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

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

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

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

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(d) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following: "If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

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

(f) 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."

(g) 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.

(h) 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".

(i) 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

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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."

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

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

"34.5 LIMITATION OF DAMAGES

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

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

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

"The Parties agree as follows:

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

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

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

6.9 Counterparts

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

6.10 Entire Agreement; No Oral Agreements or Modifications

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

[*Signatures appear on the following page.*]

AGREED AS OF THE EFFECTIVE DATE:

Silicon Valley Clean Energy, a California joint powers authority	**San Diego Community Power, a California joint powers authority**
By: DocuSigned by: Girish Balachandran 5CA64B9AC4C24C3...	By: Karin Burns (Aug 25, 2023 16:35 PDT)
Name: Girish Balachandran	Name: Karin Burns
Title: Chief Executive Officer	Title: Chief Executive Officer

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APPENDIX A
DEFINED TERMS

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

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

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

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

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

"Compliance 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

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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 thirteen (13) Calendar Days before the Compliance Showing Deadline.

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"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.

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

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

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

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

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

"Unit" means the generation unit(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.

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APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: System
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

Delivery Period: [redacted]

Contract Quantity and Contract Price:

Showing Month and Year	RAR Contract Quantity (MW)	Flex Contract Quantity (MW)	Contract Price ($/kW-mo)
[redacted]	[redacted]	[redacted]	[redacted]

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Unit 1

Unit Specific Information	
Resource Name	High Desert Power Project Aggregate
Physical Location	Victorville, CA
CAISO Resource ID	HIDSRT_2_UNITS
SCID of Resource	TS30
Unit NQC by month (e.g., Jan=50,Feb=65):	830
Unit EFC by month (e.g., Jan=30, Feb=50)	630
Resource Type (e.g., gas, hydro, solar, etc.)	Natural Gas
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	1
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

[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: San Diego Community Power
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

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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

[redacted]

[redacted]

Created:	2023-08-24
By:	[redacted]
Status:	[redacted]
Transaction ID:	[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Signature Date: 2023-08-25 - 11:35:04 PM GMT - Time Source: server

Agreement completed.

2023-08-25 - 11:35:04 PM GMT