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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
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Sally Meadows
City of Los Altos

Rob Rennie
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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

AGENDA PACKET MATERIALS AMENDMENTS SUMMARY

11/6/23

1. Item 5: Attachment, Draft Redacted PPA, added

George Tyson, Chair
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City of Sunnyvale

Otto Lee
County of Santa Clara

Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, November 8, 2023
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

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

Teleconference Meeting
Webinar:
https://cityofcupertino.zoom.us/j/95872555681

Telephone (Audio Only):
US: +1 669-900-6833
Webinar ID: 958 7255 5681

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

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

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

AGENDA

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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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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.

Public Comment on Closed Session

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

Convene to Closed Session

Public Employee Appointment
Title: Chief Executive Officer

CONFERENCE WITH LABOR NEGOTIATORS
Agency Designated Representatives: George Tyson, Tina Walia and Rob Rennie
Unrepresented Employee: Chief Executive Officer

Report from Closed Session

Consent Calendar (Action)

1a) Approve Minutes of the October 11, 2023, Board of Directors Meeting

1b) Receive September 2023 Treasurer Report

1c) Approve Employment Agreement with Chief Executive Officer

1d) Adopt Resolution Approving Amended Conflict of Interest Code

1e) Approve Plan to Implement Net Billing Tariff (Solar Billing Plan, NEM3) for New Solar Customers without Modification Beginning December 15, 2023

1f) Approve Scholarship Funds for 2024 EmPower Silicon Valley Student Short-Film Competition

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1g) Closing Report of the Ad Hoc Committee of the Board to Address Legislative Responses to Industry Transition

1h) Legislative Response to Industry Transition 2023 Ad Hoc Committee Report

1i) Executive Committee Report

1j) California Community Power Report

1k) Additional Committee Reports

Regular Calendar

2) CEO Report (Discussion)

3) Approve 2024 Legislative Policy Platform and Identify Focus Areas for the 2024 Legislative Ad Hoc Committee (Action)

4) Authorize the Chief Executive Officer to Make Changes to the GreenStart and GreenPrime Retail Rate Offerings (Action)

5) Authorize the Chief Executive Officer to Execute a 15-Year Power Purchase Agreement with SunZia Wind PowerCo LLC and Potential Replacement PPAs in Substantial Form and Any Necessary Ancillary Agreements and Documents (Action)

6) Update on Permit Modernization and Policy Experimentation Program Rollout (Discussion)

Board Member Announcements and Direction on Future Agenda Items

Adjourn

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Silicon Valley Clean Energy Authority
Board of Directors Meeting
Wednesday, October 11, 2023
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

2302 Zanker Road
San Jose, CA

DRAFT MEETING MINUTES

Call to Order:
Chair Tyson called the meeting to order at 7:03 p.m.

Roll Call
Present:
George Tyson (Chair), Los Altos Hills
Tina Walia (Vice Chair), Saratoga
Elliot Scozzola, Campbell
Sheila Mohan, Cupertino
Rebeca Armendariz, Gilroy (Arrived at 7:11 p.m., participated via teleconference)
Sally Meadows, Los Altos
Rob Rennie, Los Gatos
Burton Craig, Monte Sereno
Yvonne Martinez Beltran, Morgan Hill (Arrived at 7:06 p.m.)
Pat Showalter, Mountain View
Larry Klein, Sunnyvale
Otto Lee, Santa Clara County

Absent:
Evelyn Chua, Milpitas

Public Comment on Matters Not Listed on the Agenda
Bruce Karney commented members of the decarbonization advocacy community have become increasingly aware of challenges related to city building code related to noise and setback requirements for heat pump equipment located in side, back and front yards and challenging requirements from building departments with respect to permitting and the processing of permits and inspections. Mr. Karney encouraged board members to make sure their cities are being encouraging rather than discouraging of building electrification efforts.

Consent Calendar
Chair Tyson opened public comment.
No speakers.
Chair Tyson closed public comment.

Director Meadows noted a correction on Item 1a, page 4 of the draft meeting minutes that should read, "Director Meadows thanked Director of Decarbonization Programs and Policy Zagunis for attending the *Los Altos City Council Meeting* on September 12, 2023 to present the Electric Showcase Award."

1a) Approve Minutes of the September 13, 2023, Board of Directors Meeting
1b) Receive August 2023 Treasurer Report
1c) Adopt FY24 Strategic Work Plan
1d) Receive FY23 Q4 Decarbonization Strategy and Programs Quarterly Report
1e) Authorize the Chief Executive Officer to Execute a 3-Year Agreement with Itron, Inc. for Long-term Load Forecast and Software
1f) Audit Committee Report
1g) Finance and Administration Committee Report
1h) California Community Power Report
1i) Additional Committee Reports

MOTION: Director Lee moved and Director Mohan seconded the motion to approve the Consent Calendar, Items 1a through 1i.

The motion carried by verbal roll call vote with Director Chua, Director Martinez Beltran, and Alternate Director Armendariz absent.

Regular Calendar

2) CEO Report (Discussion)

Acting CEO Monica Padilla provided the CEO Report, which included the following:

1) Introduction of SVCE's newest employee, Director of Human Resources Gia Ilole, who provided brief welcome comments.

2) Announcement of promotions of the following staff:
   a. Lisa Lai, formerly Administrative Assistant, has been promoted to Administrative Analyst;
   b. Jessamyn Allen, formerly Senior Programs Specialist, has been promoted to Programs Lead;
   c. Peyton Parks, formerly Energy Services Lead, has been promoted to Energy Services Principal; and
   d. Andrea Pizano, formerly Board Clerk/Executive Assistant, has been promoted to Senior Executive Assistant and Board Clerk

3) A presentation from Principal Communications Specialist, Michaela Pippin, regarding information on the 2023 Electric Showcase Awards and an invitation to the Electric Home Tours on October 14, 2023. Board members thanked staff for their work on the program and staff responded to questions regarding plans for future awards.

4) Announcement and video presentation from Zoe Elizabeth, Deputy Director of Decarbonization Programs and Policy, regarding a SVCE Decarbonization Demonstration Grant recipient project, Sunnyvale School District. Director Klein thanked SVCE for investing in youth and in schools.

5) An invitation to a ribbon cutting event for the Yellow Pine solar and storage project on November 1, 2023 at the project site in Clarks County, Nevada.

Chair Tyson opened Public Comment.

Bruce Karney commented he loves the tour of electric homes and hopes SVCE will consider sponsoring another tour before 12 months have passed. Mr. Karney noted he is very pleased SVCE is doing so much across so many different approaches to recognize and promote those who are on the leading edge of decarbonization, and gave a shoutout to Electric Showcase award winner Sunshine Gardens.

Chair Tyson closed Public Comment.

3) Authorize the Chief Executive Officer to Execute Agreements with Firms Providing Services to Enable SVCE to Execute its Third Prepay and to Execute the Power Supply Contract with the California Community Choice Financing Authority and Related Supporting Agreements (Action)

Amrit Singh, CFO and Director of Finance and Administration, introduced Michael Berwanger of PFM Financial Advisors LLC and provided a presentation with a request of the Board of Directors to authorize the CEO to execute agreements with firms providing services to enable SVCE to execute its third prepay, and approve the parameters of the transaction, by adopting the following two resolutions:

Resolution 2023-17 authorizing the CEO to approve or execute the following contracts for services these firms will provide to enable SVCE to execute its third Prepay transaction. The combined fees for services provided by the firms identified below shall not exceed 1% of the bond proceeds amount, including other ancillary services such as green bond verification, bond trustee and counsel fees, an investment advisor fee, and other miscellaneous costs such as printing.

1. PFM Financial Advisors LLC & PFM Swap Advisors - $155,000
2. Chapman & Cutler (Disclosure/Issuer's Counsel) - $175,000
3. Ballard Spahr (Bond and Tax Counsel) - $250,000
4. Moody's Investor Service Inc (Credit Rating) - $272,500

Approve engagement with Morgan Stanley as the Prepay Supplier with the following fee structure:

- Bond underwriting fee of $5/bond
- Underwriter expenses not to exceed $0.50/bond.

Resolution 2023-18 authorizing the CEO to execute Power Supply Contract with California Community Choice Financing Authority (CCCFA) and execute or approve the related supporting agreements to enable SVCE to enter an approximately 30-year energy prepayment transaction subject to the following parameters:

1. The Bonds, issued by CCCFA, will not be guaranteed obligations of SVCE but will be limited obligations of CCCFA payable solely from the revenues and other amounts pledged under the Indenture as the Trust Estate, including amounts owed by SVCE under the Power Supply Contract.
2. The aggregate principal amount of the Bonds shall not exceed $1,500,000,000.
3. The energy savings to SVCE under the Power Supply Contract for the initial Reset Period, including the Annual Refund (as defined in the Power Supply Contract), shall be at least 8 percent.
4. The energy service revenue fee in the transaction shall not exceed $1.10 per MWh.
5. The commodity swap counterparty fee in the transaction shall not exceed $0.50 MWh.
6. If floating rate debt is issued, Morgan Stanley shall charge no more than six basis points on the interest rate swap spread to mid-market.

CFO Singh's presentation included a review of the prepay goal and structure, information on leveraging the first and second prepay structures, review of fees for consultants and counsel, Board-authorized parameters for execution of the deal, review of the fiscal impact, and next steps.

Staff responded to board member questions which included future additional prepay transactions, SVCE's responsibility for the bonds, the discounts on the offer, and timing on when we would be able to go to the market.

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

MOTION: Director Martinez Beltran moved and Vice Chair Walia seconded the motion to adopt Resolution 2023-17, authorizing the CEO to approve or execute contracts for services to enable SVCE to execute its third Prepay transaction, and 2023-18, authorizing the CEO to execute Power Supply Contract with CCCFA and execute or approve the related supporting agreements to enable SVCE to enter an approximately 30-year energy prepayment transaction.

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

4) Study Session: Decarbonization Programs and Policy Overview of Residential Buildings (Discussion)

Justin Zagunis, Director of Decarbonization Programs and Policy, provided a presentation and information on SVCE's residential natural gas use and programs focused on residential buildings. The presentation addressed SVCE emission statistics, a deep dive into residential building graphs, program highlights, and policy and scale.

Board members asked questions and provided comments on the information.

Some ideas shared included:
Use Google maps to identify which homes already have solar, and may be right for an HVAC or water heater upgrade;
Offering a program outlining savings of electrifying for families;
Exploring appliances that can move with tenants;
A lot of panel upgrades needed, so explore a legislative idea requiring PG&E to have a certification program that allows non-PG&E employees to do some of the panel upgrade work;
For affordable housing, multi-family residents: reach out to affordable housing non-profits running multiple projects in member agency cities and provide electrification education;
Development of educational materials for young children and teenagers, similar to Valley Water District, and additional outreach to youth;
Explore purchasing electric appliances or electric upgrades for families who cannot afford them and identify a payment schedule; and
Offer materials in multiple languages.

Chair Tyson opened Public Comment.
Bruce Karney commented on the pace of installations of heat pump water heaters and other electrification over the past few years and what needs to happen in the future. Mr. Karney suggested SVCE be the centralized permitting resource for building electrification that would apply to all cities within its jurisdiction, applauded SVCE for the potential in replacing baseboard electric resistance heaters in apartment buildings with heat pumps, and suggested Mr. Zagunis make sure the board understands NEC code 220.87.

Chair Tyson closed Public Comment.

Board Member Announcements and Future Agenda Items
Chair Tyson announced CEO Girish Balachandran was currently on vacation, but had announced his retirement for March 2024. Chair Tyson noted the CEO Search Committee was proceeding according to schedule, and would have further actions soon.

Director Scozzola announced that at the last City of Campbell council meeting, Deputy Director of Marketing and Communications Pamela Leonard presented Campbell's Electric Showcase award winner, Judy Wang.

Director Meadows announced Los Altos' Community Center, through the Silicon Valley Business Journal's 2023 Structures Award, received the All-Electric Excellence Award.

Director Lee announced an event, Day on the Bay, would take place on October 14, 2023 at Alviso Marina Park, and thanked SVCE for their sponsorship.

Director Mohan thanked Don Bray, Director of Strategic Development, for attending the City of Cupertino's City Council meeting to acknowledge Cupertino's Electric Showcase award winner.

Chair Tyson shared Los Altos Hill's Electric Showcase Award winner's quote.

Adjourn

Chair Tyson adjourned the meeting at 9:18 p.m.

ATTEST:

_____

Andrea Pizano, Board Secretary

TREASURER REPORT

Fiscal Year to Date
As of September 30, 2023

(Preliminary & Unaudited)

Issue Date: November 8, 2023

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Estimated High-Level Financial Highlights as of September 30, 2023

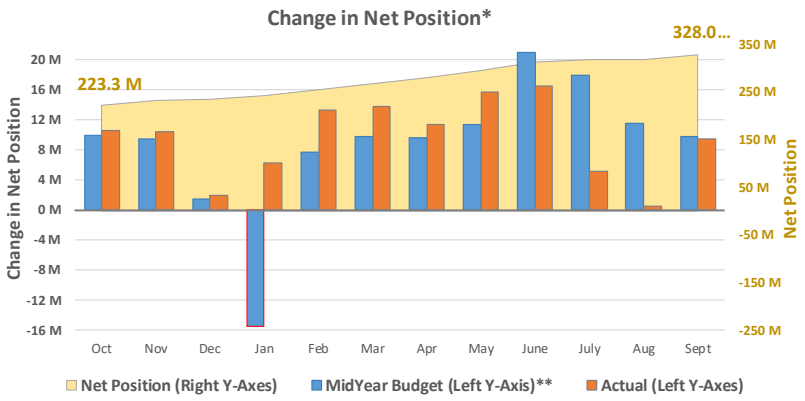
Because of the closing of the fiscal year 2022-2023, the Accounting team needs additional time to prepare the financial statements. The complete financial reports for this month are not available. This report provides a very high-level estimated financials for the close of the fiscal year ending September 30, 2023.

Complete financial reports will be available in the next month's Board package.

SILICON VALLEY CLEAN ENERGY AUTHORITY
Estimated Financial Statement Highlights ($ in millions)
September 30, 2023

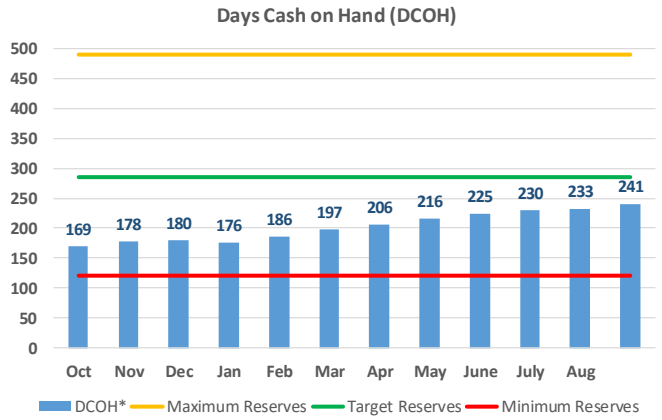
Balance Sheet Highlights:

> SVCE operations resulted in a change in net position of approximately $8.5M for the month of September and ~$115 million for the entire fiscal year 2022/2023.*
> Total Net Position increased further to approximately $328 M
> SVCE is investing ~97% of available funds generating FYTD interest/dividend income of around $8.5 million.



*Does not yet recognize unspent program dollars

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



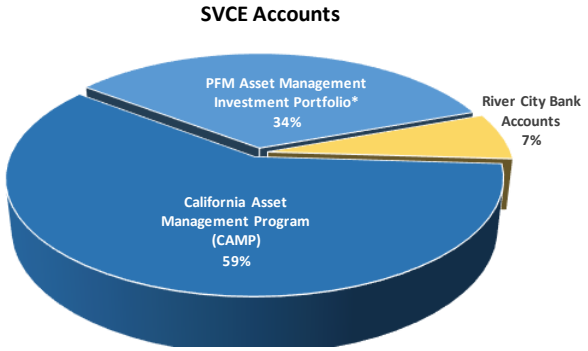
*Adjusted to reflect Mid-year budget adjustments and additional program funding

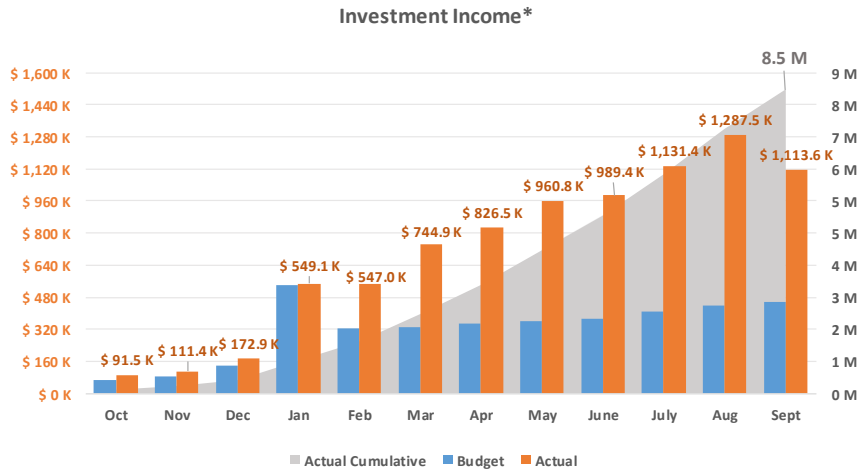
SVCE Yield-bearing Accounts:

Combined Ending Balance	249.3 M
Total Interest/Div. Earned FYTD	8.4 M
Average Return On Investments**	5.3%

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

** Average annualized Yield for the current month





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

SILICON VALLEY CLEAN ENERGY AUTHORITY

Estimated Financial Statement Highlights* ($ in millions)

September 30, 2023

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

- **Fiscal Year 2022/2023 operating revenues totaled around $505M, below budgeted annual revenue of $524M**
- **FYTD Power Supply costs are -4.3% below mid-year budget.**
- **Retail GWh sales for the month and FYTD landed around -8.8% and -2% below budget respectively.**

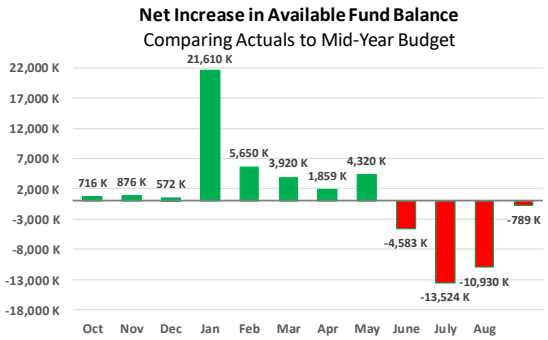
Variance Explanation:

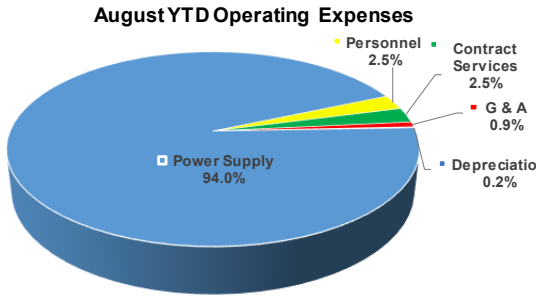
January *- the variance mainly reflects a big drop in prices from December'22 to January'23 resulting in $21.5M net power cost savings comparing to MY Budget estimations*

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.*

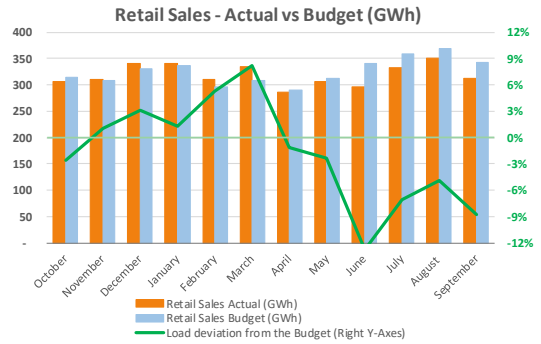
June, July, August, September *- lower than estimated customer load due to below historic-average temperatures; significantly higher RA prices and energy hedging costs.*

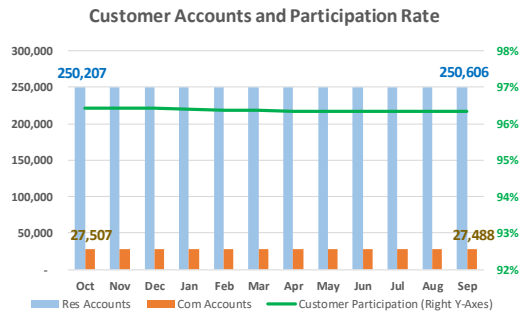




$ in thousands	September Actual	September Budget	September % Dif	Fiscal YTD Actual	Fiscal YTD Budget	Fiscal YTD % Dif	Main Drivers:
Revenue	51.9 M	55.1 M	-5.9%	505.0 M	524.0 M	-3.6%	• -13%, -7%, -5% and -9% lower than budgeted customer load for June, July, August and September
Total Operating Expenses	42.4 M	45.8 M	-7.4%	398.0 M	420.0 M	-5.2%	
Net Operating Income	8.5 M	9.4 M	-8.9%	106.0 M	104.0 M	2.0%	• *Staffing vacancies, underrunning professional services, and lower marketing expenses*
Net Non-Op. Income	0.9 M	0.5 M	97.4%	9.0 M	3.9 M	132.7%	• *Reflects higher Interest Income*
Change in Net Position	9.4 M	9.8 M	-4.0%	115.0 M	107.8 M	6.6%	

Customer Load Statistics:





Total Accounts	**278,094**
Opt-Out Accounts (Month)	**68**
Opt-Out Accounts (FYTD)	**925**
Opt-Up Accounts (Month)	**(7)**
Opt-Up Accounts (FYTD)	**(42)**

* 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
INVESTMENTS SUMMARY
October 1, 2022 through August 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	$ 29,477,603	$ 21,029,717
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	$ 166,966,244	$ 191,727,753
PFM Asset Management Investment Portfolio*	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 110,067,184	$ 110,047,741
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**	**$ 306,511,031**	**$ 322,805,211**

*Closing Marker Value

Return On Investments:

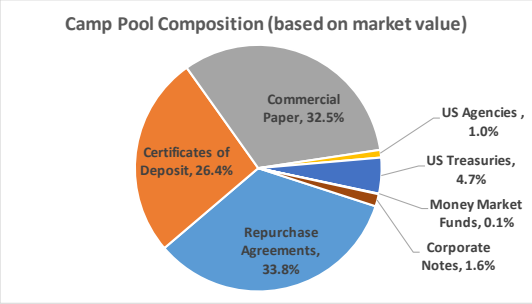
Annual % Yield	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
River City Bank Accounts	0.50%	0.58%	0.85%	1.07%	1.44%	2.39%	2.77%	2.85%	2.97%	3.06%	3.15%	3.37%
California Asset Management Program (CAMP)	0.00%	0.00%	0.00%	4.53%	4.73%	4.80%	4.97%	5.16%	5.24%	5.31%	5.52%	5.55%
PFM Asset Management Investment Portfolio	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	5.34%	5.35%
Average Return On Investments:	**0.50%**	**0.58%**	**0.85%**	**3.38%**	**3.68%**	**4.31%**	**4.75%**	**4.76%**	**5.02%**	**4.98%**	**5.23%**	**5.34%**

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	$ 7,858	$ 9,129
California Asset Management Program (CAMP)	$ -	$ -	$ -	$ 486,848	$ 510,145	$ 724,233	$ 791,314	$ 934,120	$ 975,711	$ 1,105,492	$ 938,383	$ 761,509
PFM Asset Management Investment Portfolio	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 328,431	$ 342,931
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**	**$ 1,274,672**	**$ 1,113,568**

CAMP Portfolio Statistics

As of September 30, 2023

Beginning of the Month Market Value	$ 166,966,244
End of The Month Market Value	$ 191,727,753
Yield at Market	5.55%
Weighted Average Maturity (days)	41

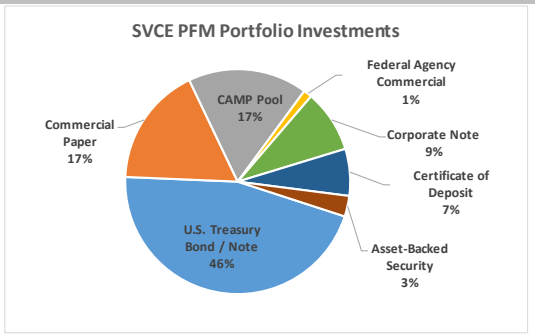


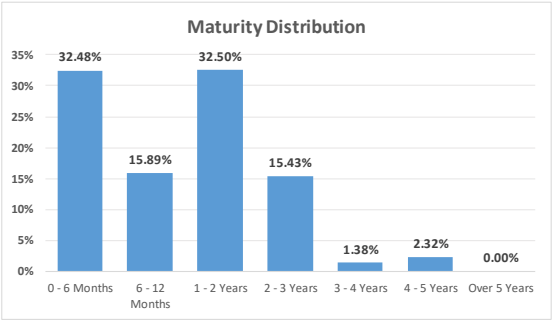
PFM Portfolio Statistics

As of September 30, 2023

Portfolio Par Value	$ 111,720,330
Portfolio Market Value (icl. Accrued Interest)	$ 110,669,278
Yield at Cost	5.35%
Yield at Market	5.43%
Benchmark Yield*	5.14%
Weighted Average Maturity (days)	543

*ICE BofA 0-3 Year U.S. Treasury Index





SVCE Investment Policy:
https://svcleanenergy.org/wp-content/uploads/2018/10/FP-08_Investments-Policy-F.pdf

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

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
Retail Sales Actual (GWh)	307	311	341	341	311	334	287	306	297	333	351	312	**3,831**
Retail Sales Budget (GWh)	315	308	331	336	295	309	290	313	340	358	369	342	**3,907**
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%*	*-4.9%*	*-8.8%*	***-2.0%***
Customer Participation Rate Res	96.4%	96.4%	96.4%	96.4%	96.3%	96.3%	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%	96.6%	96.8%	
Total Accounts	277,714	277,867	277,956	277,950	278,041	278,106	278,068	278,120	278,095	277,993	278,143	278,094	
Opt-Out Accounts	74	62	99	126	137	69	77	54	42	43	74	68	**925**
Opt-Up Accounts	-3	4	-6	-36	8	24	-7	-4	-3	-10	-2	-7	**-42**

Age Summary (as of 9/1/2023)

<30 days	$46,329,022
<60 days	$2,114,744
<90 days	$990,311
<120 days	$856,094
Older	$2,886,312

Accounts Receivable Days

37 Days

$53,176,482

TOTAL DUE

Bad Debt % (*Budget*)

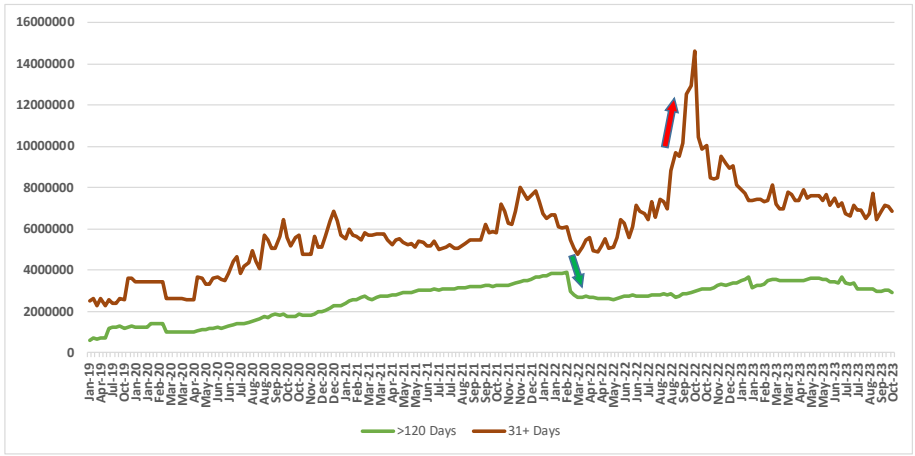
0.90%

Bad Debt % (Actual)

September 2023 FYTD

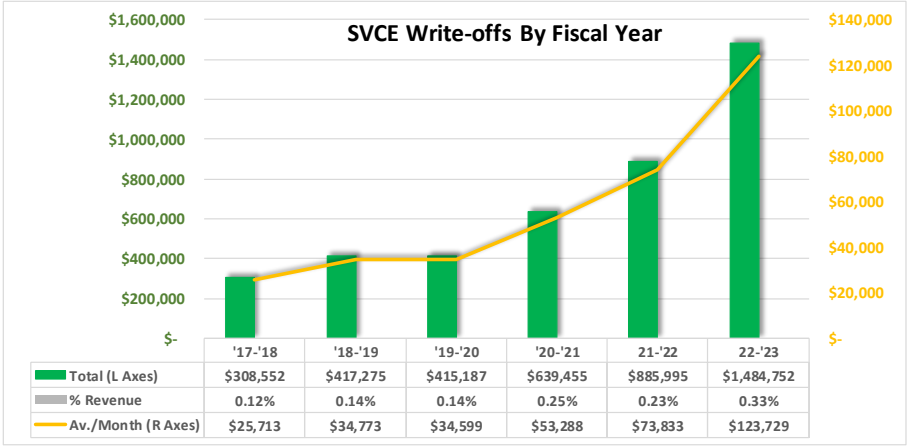
0.33%

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	$6.8 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
Total (L Axes)	$308,552	$417,275	$415,187	$639,455	$885,995	$1,484,752
% Revenue	0.12%	0.14%	0.14%	0.25%	0.23%	0.33%
Av./Month (R Axes)	$25,713	$34,773	$34,599	$53,288	$73,833	$123,729

Certificate of Compliance

During the reporting period for the period ended September 30, 2023, the account(s) managed by PFM Asset Management ("PFMAM") were in compliance with the applicable investment policy and guidelines as furnished to PFMAM.

Acknowledged : *PFM Asset Management LLC*

Note: Pre- and post-trade compliance for the account(s) managed by PFM Asset Management is provided via Bloomberg Asset and Investment Management ("AIM").

Managed Account Security Transactions & Interest

For the Month Ending **September 30, 2023**

Silicon Valley Clean Energy - SVCE Investment Portfolio - 4025-002 - (12517950)

Transaction Type Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
BUY										
09/01/23	09/01/23	BNP PARIBAS NY BRANCH COMM PAPER DTD 08/03/2023 0.000% 04/29/2024	09659BDV9	2,250,000.00	(2,166,403.13)	0.00	(2,166,403.13)			
09/05/23	09/08/23	JOHN DEERE CAPITAL CORP CORPORATE NOTES DTD 09/08/2023 5.300% 09/08/2025	24422EXC8	425,000.00	(424,842.75)	0.00	(424,842.75)			
09/05/23	09/12/23	COMMONWEALTH BK AUSTR NY CORPORATE NOTES DTD 09/12/2023 5.499% 09/12/2025	20271RAS9	800,000.00	(800,000.00)	0.00	(800,000.00)			
09/06/23	09/07/23	US TREASURY N/B NOTES DTD 02/15/2023 4.000% 02/15/2026	91282CGL9	5,000,000.00	(4,900,976.56)	(12,500.00)	(4,913,476.56)			
09/06/23	09/07/23	US TREASURY NOTES DTD 08/31/2019 1.250% 08/31/2024	912828YE4	4,000,000.00	(3,840,781.25)	(961.54)	(3,841,742.79)			
09/06/23	09/08/23	STATE STREET CORP NOTES (CALLABLE) DTD 08/03/2023 5.272% 08/03/2026	857477CD3	400,000.00	(397,792.00)	(2,050.22)	(399,842.22)			
09/06/23	09/08/23	BANK OF AMERICA NA CORPORATE NOTES DTD 08/18/2023 5.650% 08/18/2025	06428CAC8	850,000.00	(851,028.50)	(2,668.06)	(853,696.56)			
09/06/23	09/08/23	GOLDMAN SACHS GROUP INC CORP NOTES (CALL DTD 02/25/2016 3.750% 02/25/2026	38143U8H7	400,000.00	(381,680.00)	(541.67)	(382,221.67)			
09/06/23	09/08/23	CITIGROUP INC CORP NOTE (CALLABLE) DTD 11/03/2021 1.281% 11/03/2025	172967ND9	500,000.00	(472,190.00)	(2,223.96)	(474,413.96)			
09/06/23	09/08/23	JPMORGAN CHASE & CO (CALLABLE) CORP NOTE DTD 06/01/2021 0.824% 06/01/2025	46647PCH7	600,000.00	(575,664.00)	(1,332.13)	(576,996.13)			
09/06/23	09/08/23	WELLS FARGO & CO CORP NOTES DTD 04/22/2016 3.000% 04/22/2026	949746RW3	400,000.00	(372,684.00)	(4,533.33)	(377,217.33)			
09/06/23	09/08/23	MORGAN STANLEY CORP NOTES (CALLABLE) DTD 02/18/2022 2.630% 02/18/2026	61747YEM3	400,000.00	(380,292.00)	(584.44)	(380,876.44)			

Managed Account Security Transactions & Interest

For the Month Ending **September 30, 2023**

Silicon Valley Clean Energy - SVCE Investment Portfolio - 4025-002 - (12517950)

Transaction Type Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
BUY										
09/06/23	09/11/23	TOYOTA MOTOR CREDIT CORP CORPORATE NOTES DTD 09/11/2023 5.600% 09/11/2025	89236TKZ7	550,000.00	(549,906.50)	0.00	(549,906.50)			
09/07/23	09/15/23	CHAIT 2023-A1 A DTD 09/15/2023 5.160% 09/15/2028	161571HT4	805,000.00	(804,776.85)	0.00	(804,776.85)			
09/12/23	09/19/23	AMXCA 2023-3 A DTD 09/19/2023 5.230% 09/15/2028	02582JKD1	825,000.00	(824,963.12)	0.00	(824,963.12)			
09/18/23	09/20/23	NATIXIS NY BRANCH CERT DEPOS DTD 09/20/2023 5.610% 09/18/2026	63873QP65	825,000.00	(825,000.00)	0.00	(825,000.00)			
09/19/23	09/20/23	US TREASURY N/B NOTES DTD 11/30/2022 4.500% 11/30/2024	91282CFX4	7,000,000.00	(6,925,078.13)	(96,393.44)	(7,021,471.57)			
09/19/23	09/20/23	US TREASURY N/B NOTES DTD 08/31/2022 3.250% 08/31/2024	91282CFG1	5,000,000.00	(4,899,218.75)	(8,928.57)	(4,908,147.32)			
09/19/23	09/20/23	US TREASURY N/B NOTES DTD 08/31/2023 5.000% 08/31/2025	91282CHV6	5,000,000.00	(4,991,015.63)	(13,736.26)	(5,004,751.89)			
09/20/23	09/27/23	HDMOT 2023-B A3 DTD 09/27/2023 5.690% 08/15/2028	41285YAC9	935,000.00	(934,788.60)	0.00	(934,788.60)			
09/21/23	09/22/23	CITIGROUP GLOBAL MARKETS COMM PAPER DTD 06/07/2023 0.000% 03/04/2024	17327AC47	2,000,000.00	(1,949,068.89)	0.00	(1,949,068.89)			
09/21/23	09/25/23	AMERICAN HONDA FINANCE CORPORATE NOTES DTD 01/13/2022 1.500% 01/13/2025	02665WEA5	400,000.00	(379,076.00)	(1,200.00)	(380,276.00)			
09/21/23	09/25/23	COMCAST CORP CORP NOTES (CALLABLE) DTD 10/05/2018 3.950% 10/15/2025	20030NCS8	400,000.00	(387,656.00)	(7,022.22)	(394,678.22)			
09/21/23	09/25/23	BANK OF NY MELLON (CALLABLE) CORP NOTES DTD 04/24/2020 1.600% 04/24/2025	06406RAN7	850,000.00	(796,637.00)	(5,704.44)	(802,341.44)			
09/21/23	09/25/23	COOPERATIEVE RABOBANK UA CORPORATE NOTES DTD 01/12/2022 1.375% 01/10/2025	21688AAS1	400,000.00	(378,000.00)	(1,145.83)	(379,145.83)			

Managed Account Security Transactions & Interest

For the Month Ending **September 30, 2023**

Silicon Valley Clean Energy - SVCE Investment Portfolio - 4025-002 - (12517950)

Transaction Type / Trade	Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
BUY										
09/21/23	09/25/23	CATERPILLAR FINL SERVICE CORPORATE NOTES DTD 05/13/2022 3.400% 05/13/2025	14913R2V8	450,000.00	(434,988.00)	(5,610.00)	(440,598.00)			
09/21/23	09/25/23	NATIONAL AUSTRALIA BK/NY CORPORATE NOTES DTD 06/09/2022 3.500% 06/09/2025	63254ABD9	500,000.00	(483,240.00)	(5,152.78)	(488,392.78)			
09/25/23	09/26/23	TOYOTA MOTOR CREDIT CORP COMM PAPER DTD 09/25/2023 0.000% 03/25/2024	89233GCR5	1,500,000.00	(1,458,219.17)	0.00	(1,458,219.17)			
09/25/23	09/26/23	CREDIT AGRICOLE CIB NY COMM PAPER DTD 09/25/2023 0.000% 03/26/2024	22533TCS3	2,500,000.00	(2,429,348.61)	0.00	(2,429,348.61)			
09/25/23	09/28/23	FHMS K065 A1 DTD 07/24/2017 2.864% 10/01/2026	3137F1G36	851,285.21	(814,540.27)	(1,828.56)	(816,368.83)			
09/26/23	09/29/23	CITIBANK NA CORP NOTES (CALLABLE) DTD 09/29/2023 5.864% 09/29/2025	17325FBA5	380,000.00	(380,000.00)	0.00	(380,000.00)			
09/28/23	09/29/23	BMW US CAPITAL LLC CORPORATE NOTES DTD 08/11/2023 5.300% 08/11/2025	05565ECC7	500,000.00	(497,395.00)	(3,533.33)	(500,928.33)			
Transaction Type Sub-Total				**47,696,285.21**	**(46,707,250.71)**	**(177,650.78)**	**(46,884,901.49)**			
INTEREST										
09/01/23	09/25/23	FHMS K058 A1 DTD 11/09/2016 2.340% 07/01/2026	3137BSP64	565,176.82	0.00	1,102.09	1,102.09			
09/15/23	09/15/23	CARMX 2022-2 A3 DTD 04/28/2022 3.490% 02/16/2027	14317HAC5	725,000.00	0.00	2,108.54	2,108.54			
Transaction Type Sub-Total				**1,290,176.82**	**0.00**	**3,210.63**	**3,210.63**			
PAYDOWNS										
09/01/23	09/25/23	FHMS K058 A1 DTD 11/09/2016 2.340% 07/01/2026	3137BSP64	12,863.35	12,863.35	0.00	12,863.35	659.25	0.00	
Transaction Type Sub-Total				**12,863.35**	**12,863.35**	**0.00**	**12,863.35**	**659.25**	**0.00**	

Managed Account Security Transactions & Interest

For the Month Ending **September 30, 2023**

Silicon Valley Clean Energy - SVCE Investment Portfolio - 4025-002 - (12517950)

Transaction Type					Principal	Accrued		Realized G/L	Realized G/L	Sale
Trade	Settle	Security Description	CUSIP	Par	Proceeds	Interest	Total	Cost	Amort Cost	Method
Managed Account Sub-Total					(46,694,387.36)	(174,440.15)	(46,868,827.51)	659.25	0.00	
Total Security Transactions					($46,694,387.36)	($174,440.15)	($46,868,827.51)	$659.25	$0.00	

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1c

Item 1c:	**Approve Employment Agreement with Chief Executive Officer**
To:	Silicon Valley Clean Energy Board of Directors
From:	George Tyson, Chair of Ad Hoc CEO Selection Subcommittee
Date:	11/8/2023

RECOMMENDATION

Approve Employment Agreement with a new Chief Executive Officer (CEO) based on the recommendation of the Board's Ad Hoc CEO Selection Subcommittee.

BACKGROUND

CEO Girish Balachandran announced his plans to retire from his position, effective April 1, 2024. The Board of Directors formed a three member Ad Hoc CEO Selection Subcommittee (the "Subcommittee"), comprised of Chair Tyson, Vice Chair Walia, and Director Rennie, to administer the selection process for a new CEO. The Subcommittee utilized a recruiter, shortlisted candidates, and interviewed selected applicants. The Subcommittee completed its work by identifying a recommended candidate for CEO of SVCE.

ANALYSIS & DISCUSSION

The Subcommittee will make a recommendation to the Board of Directors for appointment of the new CEO in a closed session of the November 8, 2023 meeting. If the Board agrees with the recommendation and appoints a new CEO, then the Subcommittee recommends that the Board consider the attached employment agreement (See Attachment 1). Due to privacy concerns for the Subcommittee's recommended candidate, their name is being withheld pending the Board's consideration and appointment.

The terms outlined in the Employment Agreement were benchmarked across operational CCAs. As such, the Agreement will provide the new CEO an annual salary of $403,000, 40 hours of management leave in addition to the SVCE standard Paid Time Off, and a $400 per month transportation allowance for an electric car. The term of the Agreement expires on September 30, 2027, but will automatically renew on October 1, for additional one year renewal terms unless either party gives the other written notice of non-renewal at least 120 days prior to the end of the term. The Agreement also provides for a CEO performance evaluation within the first six months, and annually thereafter.

ATTACHMENTS

1. Employment Agreement

DRAFT
CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT BETWEEN SILICON VALLEY CLEAN ENERGY AND _____

This Employment Agreement ("Agreement") is made as of and entered into as of _____, 2023 (the "Effective Date") by and between the Silicon Valley Clean Energy Authority, an independent public agency ("SVCE"), and _____, an individual ("CEO").

RECITALS

A. SVCE desires to employ CEO as its Chief Executive Officer and CEO desires to accept appointment as Chief Executive Officer.

B. CEO represents that he/she has the requisite education, experience, specialized skills and training and is otherwise qualified to serve as the Chief Executive Officer.

NOW, THEREFORE, in consideration of these recitals and the performance by the parties of the promises, covenants, and conditions herein contained, SVCE and CEO agree as provided in this Agreement.

1. Appointment of Chief Executive Officer. As of the Commencement Date, defined in Section 2 below, SVCE does hereby appoint and employ CEO in the capacity of Chief Executive Officer and CEO does accept employment upon the terms and conditions set forth herein. This Agreement shall supersede and replace any and all prior agreements between SVCE and CEO.

2. Term.

A. Commencement Date. The term of this Agreement shall commence on April 1, 2024, ("Commencement Date") and terminate on September 30, 2027 ("Term"). This Agreement will automatically renew on October 1 of each year, for additional one year renewal terms on the terms and conditions that are in force at the time of the renewal, unless either party gives the other party written notice of non-renewal at least 120 days prior to the end of the term of this Agreement.

B. Transition Period. Notwithstanding anything to the contrary in paragraph A of this Section 2, in the event that there is an election to utilize the "Transition Period," as such term is defined in that certain Employment Agreement, dated December 13, 2017, between SVCE and Girish Balachandran, as amended by that certain Amendment No. 6, effective September 14, 2023, the Commencement Date shall be the date on which the Transition Period commences.

3. Duties and Authority. CEO shall exercise the full powers and perform the duties of the position of Chief Executive Officer of SVCE, as set forth in Exhibit A attached

hereto. CEO shall exercise such other powers and perform such other duties as SVCE Board of Directors may from time to time assign.

4. Obligations. CEO shall devote his/her full energies, interest, abilities and productive time to the performance of this Agreement, and utilize his/her best efforts to promote SVCE's interests. CEO shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which is actually or potentially in conflict with or inimical to, or which materially interferes with his/her duties and responsibilities to SVCE. As set forth in Section 5 of this Agreement, CEO shall be exempt from the overtime pay provisions of California law (if any) and federal law and as such is expected to engage in those hours of work that are necessary to fulfill the obligations of the Chief Executive Officer position.

5. Salary and Benefits.

A. Base Salary. SVCE shall pay CEO an annual base salary of $403,000 The annual salary will be prorated and paid on SVCE's normal paydays, subject to legally permissible or required withholding. CEO's salary is compensation for all hours worked and for all services under this Agreement, including those involving any position, office or appointment associated with SVCE. CEO shall be exempt from the overtime pay provisions of California law (if any) and federal law.

B. Benefits.

(1) SVCE Employee Benefits. Unless stated otherwise in this Agreement, CEO shall be entitled to receive the benefits offered to all full-time SVCE employees (SVCE Benefit Programs). SVCE reserves the right to enhance, reduce, terminate, and amend, or to otherwise change its SVCE Benefit Programs at any time. Any such change to any benefit available shall apply to CEO, including any new or additional benefits, without the need to amend this Agreement.

(2) Paid Time Off and Management Leave. CEO shall be subject to any PTO policy applicable to SVCE employees generally; provided, however, that on March 31, 2024, CEO may cash out up to eighty percent (80%) of the PTO that CEO accrued as of March 31, 2024. In addition to PTO, CEO shall receive forty (40) hours of management leave annually at the beginning of each fiscal year, commencing with the Commencement Date. Management leave time must be used within the fiscal year in which it is received. Any unused management leave shall not be carried over.

(3) Business Expenses; Professional Development. SVCE recognizes that CEO may incur certain reasonable job-related expenses of a non-personal nature. SVCE agrees to reimburse or to pay such business expenses incurred by the CEO in the course of his/her duties. CEO shall submit such expenses according to SVCE's normal expense reimbursement procedures. All expenses must be supported by documentation meeting SVCE's normal requirements and must be submitted within time

limits established by SVCE. SVCE shall pay reasonable sums for professional dues and subscriptions for CEO necessary for CEO's continued participation in associations and organizations, which memberships are necessary and desirable for the continued professional development of CEO and for the good of SVCE. Notwithstanding the foregoing, SVCE Board of Directors shall have discretion to establish appropriate amounts, in the annual SVCE budget or otherwise, for job-related and professional development expenses and travel costs.

(4) Office Equipment. SVCE shall provide CEO with a SVCE-issued cellular device and laptop device, including business-related software, to maintain communication with SVCE Board of Directors and SVCE staff. Such equipment and software shall remain the sole property of SVCE and SVCE reserves the right to monitor the use of its equipment. CEO agrees that CEO has no privacy rights in the use of such equipment and the equipment shall be returned upon termination or separation from employment. Alternatively, CEO may use SVCE Benefit Programs for office equipment, including, but not limited to electing compensation for use of personal cellular device.

(5) Personal Vehicle Use. Any rules, policies or practices to the contrary notwithstanding, CEO shall be provided a monthly auto allowance of Four Hundred Dollars ($400) in exchange for making a vehicle available for the CEO's use for SVCE-related business and/or functions during, before and after normal work hours. CEO shall comply with all SVCE policies related to the use of his/her own vehicle, which includes providing SVCE with proof of current automobile insurance with liability limits in the amount set by SVCE. The allowance paid pursuant to this paragraph will be paid only upon receipt of evidence that the CEO's vehicle is an electric vehicle that is powered by an electric motor that draws electricity from a battery (i.e., all-electric vehicle).

6. Evaluations. CEO's performance of the duties and responsibilities shall be evaluated by the SVCE Board of Directors within 6 months of the Commencement Date; and thereafter, SVCE Board of Directors may conduct an evaluation of CEO's performance on or before the one year anniversary of the first evaluation. CEO will request and schedule such reviews, as appropriate, pursuant to SVCE Board of Directors agenda procedures or as otherwise directed by SVCE Board of Directors. In addition, SVCE Board of Directors may, but is not required to, review CEO's salary and benefits as part of the evaluation process or at any other time. Said review and evaluation shall be in accordance with specific criteria developed jointly by SVCE and CEO. Said criteria may be added to or deleted from as SVCE Board of Directors may from time-to-time determine in consultation with the CEO. Nothing in this paragraph is intended to limit additional interim evaluations or reviews or to limit the normal communications process between SVCE Board of Directors and CEO.

7. Indemnification. Except as otherwise permitted, provided, limited or required by law, including without limitation California Government Code Sections 825, 995, and 995.2 through 995.8, SVCE will defend and indemnify CEO, using legal counsel of SVCE's choosing, against legal liability for acts or omissions by CEO occurring in the course and scope of employment under this Agreement. In the event SVCE provides

funds for legal criminal defense pursuant to this section and the terms of the Government Code, CEO shall reimburse SVCE for such legal criminal defense funds if CEO is convicted of a crime involving an abuse of office or position, as provided by Government Code Sections 53243 – 53243.4. Further, in the event CEO is convicted of a crime involving an abuse of office or position, CEO shall reimburse SVCE for any paid leave or cash settlement, as provided by Government Code Sections 53243 – 53243.4.

8. <u>At-Will Employment Relationship-Termination</u>.

A. Under the terms of this appointment and California Government Code Section 36507, CEO is appointed by and serves at the pleasure of SVCE Board of Directors and is an "at-will" employee. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of SVCE to terminate this Agreement and the employment of CEO at any time, with or without cause, as provided in this paragraph. Accordingly, CEO may be terminated: (i) with cause, at any time, upon written notice, and (ii) without cause, by giving thirty (30) calendar days advance written notice to the CEO, unless the parties mutually agree to waive or alter the time required for such notice. Upon termination, the employment relationship shall end.

B. In the event CEO is terminated by SVCE Board of Directors without "cause" before expiration of this Agreement, or any extension thereof, and during such time that CEO is willing and able to perform the duties of the Chief Executive Officer, SVCE agrees to pay CEO immediately upon termination a lump sum cash payment equal to his/her then monthly base salary for a period of Two (2) months.

C. Any other term of this Agreement notwithstanding, the maximum severance that CEO may receive under this Agreement shall not exceed the limitations provided in Government Code Sections 53260 – 53264, or other applicable law. Further, in the event CEO is convicted of a crime involving an abuse of office or position, CEO shall reimburse SVCE for any paid leave salary offered pending investigation or cash settlement (including severance), as provided by Government Code Sections 53243 – 53243.4.

D. In the event SVCE terminates CEO for cause, then SVCE may terminate this Agreement immediately, without providing CEO with any notice, opportunity to be heard, or right of appeal. CEO shall be entitled to only the compensation accrued up to the date of termination, payments for accrued unused vacation leave, and such other termination benefits and payments as may be required by law. CEO shall not be entitled to any severance benefits and payments. For purposes of this Agreement, for "cause" is defined to mean as follows:

(1) Conviction of a felony or any offense involving a violation of CEO's official duties;

(2) If, during the term of this Agreement, CEO becomes mentally or physically incapable of performing the Chief Executive Officer's functions and duties as set forth in this Agreement with reasonable accommodation, and it reasonably appears such incapacity will last for more than six (6) months;

(3) Continued abuse or use of prescription or non-prescription drugs or alcohol that materially affects the performance of Chief Executive Officer's duties;

(4) Repeated and protracted unexcused absences from the Chief Executive Officer's office and duties;

(5) Refusal to comply with a lawful order or instruction issued by a majority of SVCE Board of Directors at a lawfully convened meeting;

(6) Deliberate falsification of SVCE records or official documents, or instructing a SVCE employee to commit an act which CEO knows or has reason to know is a crime;

(7) Failure and refusal to carry out the duties of the Chief Executive Officer as set forth in this Agreement;

E. CEO may terminate this Agreement by giving one hundred twenty (120) calendar days advance written notice to SVCE Board of Directors, unless the parties mutually agree to waive or alter the time required for such notice.

9. Integration of Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning CEO's employment with SVCE. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

10. Confidential Information. CEO acknowledges and agrees that in the performance of his/her duties, SVCE discloses and entrusts his/her with certain confidential proprietary information. CEO agrees not to directly or indirectly disclose or use at any time any such information, whether it be in the form of records, lists, data, personnel information, reports or otherwise, of a business or technical nature, which was acquired or viewed by CEO during CEO's relationship with SVCE unless such disclosure is authorized by SVCE in writing, required by law, or required in the performance of the duties of the Chief Executive Officer. This provision shall survive the termination or expiration of this Agreement.

11. Method of Amendment. No amendments to this Agreement may be made except by a writing signed and dated by SVCE and CEO.

12. Notices. Any notice to SVCE under this Agreement shall be given in writing to SVCE, by personal service, by overnight delivery service providing confirmation of delivery, or by registered or certified mail, postage prepaid, addressed to the Clerk at SVCE's then principal place of business. Any such notice to CEO shall be given in a like manner and, if deposited with an overnight delivery service or mailed, shall be addressed to CEO at his/her home address then shown in SVCE's files. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of delivery, if served personally on the party to whom notice is to be given, (b) on the next delivery day following deposit with an overnight delivery service or (c) on the third calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this Section.

13. General Provisions.

A. Severability. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

B. Entire Agreement. This Agreement sets forth the final, complete and exclusive agreement between SVCE and CEO relating to the employment of CEO as Chief Executive Officer by SVCE. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The foregoing notwithstanding, CEO acknowledges that, except as expressly provided in this Agreement, his/her employment is subject to SVCE's generally applicable rules and policies pertaining to employment matters, such as those addressing equal employment opportunity, sexual harassment and violence in the workplace.

C. Choice of Law and Venue. This Agreement shall be interpreted and construed pursuant to and in accordance with the local laws of the State of California and all applicable SVCE Codes, Ordinances and Resolutions. The parties agree that venue shall be in Santa Clara County, California.

D. Independent Review of Agreement. CEO acknowledges that he/she has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. CEO acknowledges that he/she has made an independent judgment upon the financial and legal effects of this Agreement and has not relied upon any representation of SVCE, its officers, agents or employees other than those expressly set forth in this Agreement.

E. Drafting of Agreement. The Parties hereto acknowledge and agree that although this Agreement has been drafted by SVCE's legal counsel, CEO has reviewed, or had an opportunity to review the terms of this Agreement with his/her legal counsel. Consequently, the doctrine that ambiguities in an agreement should be resolved against the drafting party shall not be employed in connection with this Agreement and this Agreement shall be interpreted in accordance with its fair meaning.

F. Voluntary Agreement. CEO represents and warrants that he/she has read carefully and fully understands all the provisions of this Agreement, that he/she is free to enter into this Agreement and to render the services described in it, that he/she entering into and performance of this Agreement will not breach or violate or conflict with any other agreement (written or oral) to which he/she is a party, and that he/she has had an opportunity to consult with his/her legal counsel prior to entering into this Agreement and has either done so or voluntarily chosen not to do so. CEO is voluntarily entering into this Agreement. SVCE represents and warrants that it has the right and power to enter into this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed personally as the date and year first written above.

_____, an individual:

_____

SILICON VALLEY CLEAN ENERGY AUTHORITY:

_____
George Tyson, Chair

ATTEST:

_____
Andrea Pizano, SVCE Clerk

APPROVED AS TO FORM:

_____
Trisha Ortiz, Counsel for SVCE

EXHIBIT A
CHIEF EXECUTIVE OFFICER DUTIES

Silicon Valley Clean Energy (SVCE) is a not-for-profit, community-owned joint powers authority providing clean electricity from renewable and carbon-free sources to more than 288,000 residential and commercial customers in 13 Santa Clara County jurisdictions. SVCE has investment grade credit ratings from S&P and Moody's Investor Services.

The mission statement of SVCE is, "Reduce dependence on fossil fuels by providing carbon free, affordable, and reliable electricity and innovative programs for the SVCE community."

SVCE provides electric service as a CCA under the CPUC Code Section 366.2. SVCE has the rights and powers to set rates for the electricity it furnishes, incur indebtedness, and issue bonds or other obligations. SVCE is governed by a board of directors consisting of elected representatives from each jurisdiction. SVCE has a local rate-setting process in which its board has authority to raise rates to grow annual revenues and reserves, if needed. As a public agency, net revenues are returned to the community to keep rates competitive and promote clean energy programs. Silicon Valley Clean Energy is advancing innovative solutions to fight climate change by decarbonizing the grid, transportation, and buildings.

The Chief Executive Officer (CEO) reports to the Board of Directors and is responsible for strategic leadership of the organization, including management of power supply planning and procurement, finance and rates, local energy and decarbonization programs, energy services and customer relations, strategic development, administrative services, and regulatory and legislative affairs. CEO will plan, organize, direct, and coordinate all operations of the Silicon Valley Clean Energy Authority; supervise and direct staff and consultant and administrative services to the Board of Directors; support any committees established by the Board of Directors; and perform such other duties and services as directed by the Board of Directors to achieve its key milestones as updated by the Board from time to time via the Board-approved Strategic Plan. CEO will direct all activities of the SVCE, including operations, resource procurement and planning, organizational development, finance, regulatory and legislative affairs, external communications, and strategic planning.

The CEO represents SVCE to a variety of boards, committees, and commissions, and in public hearings and meetings. Additionally, the CEO provides frequent communication and maintains positive relationships with SVCE's member agencies, customers, private businesses, regulatory agencies including the California Public Utilities Commission (CPUC), California Energy Commission (CEC), California Independent System Operator (CAISO), California Air Resources Board (CARB), California Community Choice Association (CalCCA), Pacific Gas & Electric company and other IOUs, and other key stakeholders.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1d

Item 1d:	**Adopt Resolution Amending SVCE Conflict of Interest Code to Add Multiple Positions**
From:	Girish Balachandran, CEO
Prepared by:	Andrea Pizano, Sr. Executive Assistant and Board Clerk
Date:	11/8/2023

RECOMMENDATION

Adopt Resolution 2023-19 amending the SVCE Conflict of Interest Code to add multiple positions in the list of designated positions for filing.

BACKGROUND

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

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

The last Conflict of Interest Code amendment was approved at the March 2023 Board of Directors meeting.

ANALYSIS & DISCUSSION

Over the past six months, various positions have been created and filled under the Personnel Officer's authority. SVCE staff and general counsel feel the following new positions should report financial interests in the proposed assigned disclosure categories based on the decisions he/she will be making:

Designated Position	Assigned Disclosure Category
Deputy Director of Marketing and Communications	2
Director of Human Resources	2
Director of Government and Legislative Affairs	2
Regulatory Analyst	2
Senior Manager of IT and Administrative Services	2

In accordance with the requirements of the Political Reform Act and the County of Santa Clara, a new conflict of interest code must be adopted by resolution which includes the newly created or identified positions as well as any changes to the existing Conflict of Interest Code. The attached resolution amends Appendix A to SVCE's code to reflect the new positions identified above. The remainder of the Conflict of Interest Code has not been changed.

Agenda Item: 1d **Agenda Date: 11/8/2023**

STRATEGIC PLAN
Not applicable.

ALTERNATIVES
None.

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

ATTACHMENT
1. Resolution 2023-19 Amending the Authority's Conflict of Interest Code to Add Multiple Positions

RESOLUTION NO. 2023-19

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

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

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

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

WHEREAS, the Board of Directors of the Authority has adopted a conflict of interest code, and has amended this code as appropriate due to changed circumstances, with the most recent code adopted by Resolution 2023-03; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Authority rescinds Resolution No. 2023-03 and adopts the following attached Conflict of Interest Code including its Appendices of Designated Positions and Disclosure Categories.

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

ADOPTED AND APPROVED this 8th day of November 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:

_____
Clerk

SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

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

The most current version of 2 Cal. Code of Regs. Section 18730 is available on the website of the Fair Political Practices Commission (https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730.-Provisions-of-Conflict-of%20Interest-Codes.pdf.pdf).

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

SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

APPENDIX "A"

DESIGNATED POSITIONS

Designated Position	Assigned Disclosure Category
Member of Board of Directors	1
Alternate Member of Board of Directors	1
Audit Committee Member	2
Chief Executive Officer	1
Chief Financial Officer & Director of Administrative Services	1
Chief Operating Officer and Director of Power Resources	1
Finance and Administration Committee Member	2
General Counsel	1
Administrative Services Manager	2
Associate Legislative Analyst	2
Associate Manager of Decarbonization Programs & Policy	2
Associate Power Analyst	1
Associate Power Resources Planner	1
Communications Manager	2
Deputy Director of Administrative Services	2
Deputy Director of Marketing and Communications	2
Deputy Director of Decarbonization Programs & Policy	2
Director of Decarbonization Programs & Policy	2
Director of Energy Services & Community Relations	2
Director of Government and Legislative Affairs	2

Director of Human Resources	2
Director of Regulatory & Legislative Policy	2
Director of Strategic Development	2
Energy Services Manager	2
Financial Analyst	2
Human Resources Generalist	2
Management Analyst	2
Manager of Decarbonization Programs & Policy	2
Manager of Technology & Administrative Services	2
Policy Analyst	2
Power Analyst	1
Power Data Analyst	1
Power Resources Manager	1
Power Resources Planner	1
Power Contracts & Settlements Manager	1
Power Settlements & Compliance Analyst	1
Principal Policy Analyst	2
Principal Power Analyst	1
Rates Manager	2
Regulatory Analyst	2
Regulatory and Compliance Manager	2
Risk Controls Project Manager	2
Senior Data Analyst	2
Senior Financial Analyst	2
Senior Government Affairs Manager	2
Senior Management Analyst	2

Senior Manager of Communications	2
Senior Manager of Energy Policy and Regulatory Analysis	2
Senior Manager of IT and Administrative Services	2
Senior Manager of Decarbonization Programs & Policy	2
Senior Manager of Power Operations	1
Senior Manager of Power Resources	1
Senior Manager of Public Sector Services	2
Senior Policy Analyst	2
Senior Power Analyst	1
Senior Power Resources Planner	1
Senior Quantitative Analyst	2
Senior Rates Analyst	2
Senior Regulatory Analyst	2
Senior Risk Manager	2
Technology Services Manager	2
Wholesale Energy Markets Manager	1
Consultant	3
Newly Created Position	*

* Newly Created Position

A newly created position that makes or participates in the making of governmental decisions that may foreseeably have a material effect on any financial interest of the position-holder, and which specific position title is not yet listed in the Authority's conflict of interest code is included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular newly created position, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position's duties and, based upon that

description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008.)

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

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

SILICON VALLEY CLEAN ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

APPENDIX "B"

DISCLOSURE CATEGORIES

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

Category 1: Persons in this category shall disclose:

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

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

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

Category 3: Each Consultant, as defined for purposes of the Political Reform Act and applicable regulations[1], shall disclose pursuant to the broadest disclosure category in the Authority's conflict of interest code subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such a written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of

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

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

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1e

Item 1e:	**Approve Plan to Implement Net Billing Tariff (Solar Billing Plan, NEM3) for New Solar Customers without Modification Beginning December 15, 2023**
From:	Girish Balachandran, CEO
Prepared by:	Peyton Parks, Energy Services Principal
Date:	11/8/2023

RECOMMENDATION

Staff requests the Board of Directors (Board) approve implementation of the Net Billing Tariff (NBT) program, as ordered by the California Public Utilities Commission (CPUC) and designed by Pacific Gas and Electric (PG&E) and without modification, for new solar customers only in order to begin billing under the tariff terms beginning December 15, 2023, as follows:

1. Use of the CPUC's Avoided Cost Calculator (ACC) to determine the value of solar exports for customers under NBT;
2. Billing settlement will happen on a monthly basis; and
3. Increase in the size limit of solar relative to load to allow for increased electrification.

The NBT changes will not impact the approximately 35,000 SVCE customers on existing Net Energy Metering (NEM) program tariffs. Additionally, staff will collect and analyze customer performance data during the course of 2024 to suggest potential tariff modifications to the Board in the first quarter of 2025.

EXECUTIVE COMMITTEE RECOMMENDATION

At the October 27, 2023 SVCE Board Executive Committee meeting, staff presented the proposed NBT tariff (Attachment 1) program as provided for in this staff report. The Executive Committee unanimously supported the staff proposal and directed staff to move forward in seeking Board approval for implementation consistent with the requirements under PG&E's NBT tariff.

BACKGROUND

Since its inception, SVCE has offered a comprehensive Net Energy Metering (NEM) program to support customers that self-generate renewable electricity at their homes or businesses. NEM describes a relationship between a customer and a utility by which a customer's self-generated electricity can create financial value for the customer by sending excess generation back to the grid. The predominate technology type for NEM agreements is solar, with over 32,000 residential installations and 2,500 commercial installations territory wide.

Solar itself gained tremendous momentum in California during the mid-2010's as declining technology and installation costs paired with rising electricity rates to make it an affordable and prudent investment for customers. Currently, though, it is understood that the proliferation of solar without paired storage has raised three major concerns for the state:

1. The rate of exchange for NEM credits is mismatched to the actual value the excess electricity provides to the grid.

2. It has helped to contribute to the glut of renewable electricity on the grid during the day, exacerbating the familiar 'duck curve' and subsequent ramp-up of thermal (natural gas) power plants in the early evening.
3. Solar customers, by way of NEM, are also absolved of paying much of the utilities' fixed costs associated with maintaining and operating the grid which can result in a shifting of cost from solar to non-solar customers, creating equity concerns.

To address these issues, the CPUC, together with the three California investor-owned utilities (IOUs), proposed a major revision to NEM in the fall of 2021. This original proposal was met with strong headwinds from consumer advocacy groups and the solar industry, and a revised proposal was issued in fall of 2022 which passed the CPUC in December 2022. The decision addresses the issues by 1) changing the valuation mechanism of export electricity from retail rates to mirroring wholesale rates, 2) strongly encouraging paired battery installation through export price signals, and 3) by ensuring that solar customers are contributing to grid-related fixed costs.

Following the decision, customers had until April 15, 2023 (120 days) to file a net metering agreement application with the IOUs to be considered for NEM '2.0' prior to the transition to NBT. All net metering applications received after April 15, 2023 have been accepted under the terms of the new NBT. PG&E plans to implement the billing rules of the new tariff beginning December 15, 2023 for solar customers approved to net meter after April 15th. SVCE staff is working with Calpine Energy Solutions on billing implementation ahead of the transition.

The most significant divergence between the NBT and prior versions of the NEM tariff is how exported energy is valued. NBT will value electricity exports using the CPUC's Avoided Cost Calculator (ACC) which will produce a set of 8,760 hourly values annually. These values are intended to be better aligned to grid wholesale pricing than the retail exchange rates of the current NEM version and the price signal by which battery storage is strongly encouraged.

ANALYSIS & DISCUSSION

NBT implements a number of changes to NEM, illustrated in Table 1 below. These changes were designed to address equity and compensation issues created under NEM, as well as encourage the installation of paired battery storage with solar systems to help address the 'duck curve' problem.

Table 1: Comparison of Existing NEM 2.0 to Proposed NBT Tariff

Feature	NEM 2.0	Net Billing Tariff	Comments
Rate Requirement	Any TOU Rate	E-ELEC	TOU rate designed for electric appliance households (heat pump, EV)
Export Compensation	Retail minus Non-bypassable charge	Avoided Cost Calculator (ACC) + Adders	Intended to match export value more closely with wholesale energy value; early adopters auto-enrolled with 'adder'
Billing Settlement	Annual	Monthly	Export values offset charges, accrued charges will not carry forward to True-up
System Size Limits	<= 110% Annual Usage	<= 150% Annual Usage	Additional sizing intended for future electrification efforts
Average System ROI	6 Years	9 Years*	*Assumes system paired with battery storage
Greatest Customer Value	Export, Self-Consumption	Self-Consumption	kWh consumed, or stored for later consumption, provides greatest value

The fundamental change to NEM under the NBT is the use of the ACC to determine export pricing. Historically, solar exports had been valued at or very near to retail rates and had included the value of transmission and distribution (T&D). The ACC provides an annual forecast of hourly prices for solar exports and apply to generation only. One effect of this is that T&D charges can no longer be offset by solar exports. This aspect applies primarily to PG&E's business, non-residential, customers.

For SVCE, the value of generation-related exports will vary hourly throughout the year, introducing a new layer of complexity to billing operations. Another effect of the ACC is that the average value of solar exports for customers under NBT will decline from $0.15-$0.20/kWh under previous NEM versions to $0.05-$0.07/kWh. The lower average price of export is meant to encourage storage of daytime solar energy for use in the evening. A customer that deploys stored energy from a battery during the most expensive evening peak hours contributes to the well-being of the grid by reducing peak demand. That customer will also see the greatest rate of return for their solar energy because self-consumption is a direct reduction of both T&D and generation at the retail value.

SVCE filed comments in support of the NBT in its current form due to its alignment with the organization's values of equity, grid stewardship through energy storage, and enabling future electrification. Staff has recommended that NBT be adopted as-is, but also recognizes that there are malleable aspects of NBT that can be adjusted to potentially further our interests in the name of these values:

- Export Rate – It is possible for SVCE to create its own variable or fixed rate for export. Higher rates encourage customer export to the grid, lower rates further incentivize storage
- Export Adders – Adders per kWh can be added to certain hours of the day to encourage discharge from batteries during peak above and beyond self-consumption
- Low-income adjustments – SVCE can choose to implement differing or beneficial rules for protected customer classes to encourage solar adoption in these categories
- VPP or Demand Response – With more batteries coming online under NBT it may be possible to implement Virtual Power Plant or Demand Response programs
- SVCE could decide to offer rebates or incentives for purchases of batteries

It is unknown at this time which, if any, of the above modifications will be most effective at delivering on SVCE's goal of enabling future electrification in an equitable and economically responsible manner. Due to the complexity of applying thousands of billing determinates to customer bills, as well as the unknown nature of new solar customer performance on NBT, staff recommends that the Board adopt the NBT without modification to the ACC calculation for implementation on new solar customer bills beginning December 15, 2023. Existing customers on NEM 1.0 and NEM 2.0 will not be impacted. Staff will evaluate customer data for performance and recommend modifications.

ALTERNATIVE

Staff is open to alternative plans or program modifications from the Board of Directors to the proposed NBT program, including the potential modifications highlighted above. In its current proposal staff has attempted to underscore the importance of understanding the mechanics of the program through customer performance under the tariff for one year prior to making modifications to the program.

STRATEGIC PLAN

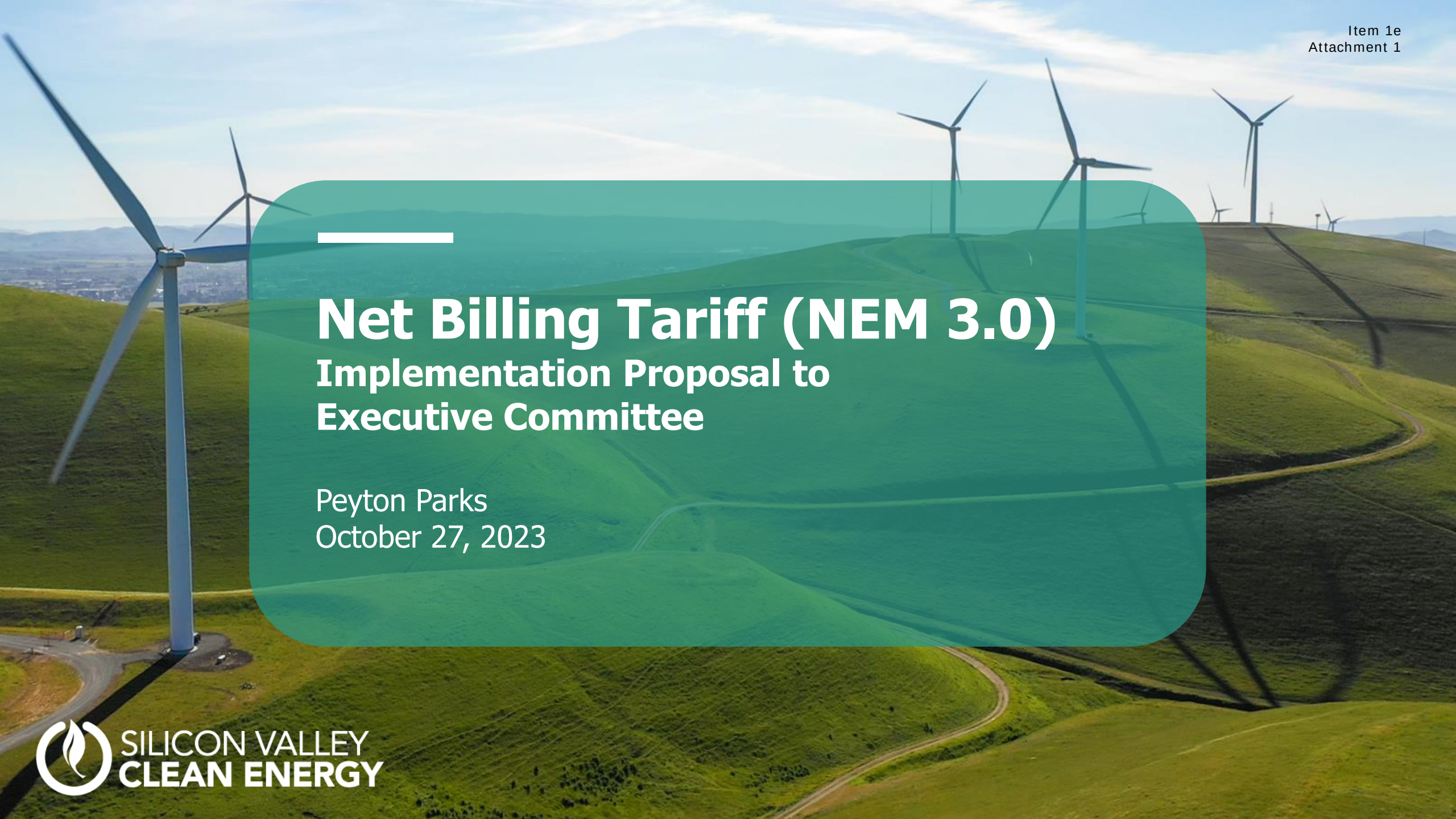
This recommendation to support updated solar NEM programming to align with PG&E's NBT is consistent with the strategic plan, Goal 8, Measure 2: 'Enact and maintain competitive service offerings for SVCE customers that deliver measurable economic and environmental benefits' and 'Establish new rate program(s) to promote electrification, and matching of clean energy supply and demand.'

FISCAL IMPACT

Implementation of the Net Billing Tariff will likely have negligible financial impacts in its first year due to low anticipated customer enrollment and comparatively lower export rates for energy than previous versions of the NEM program. Staff intends to study the financial performance of customers under the tariff in order to inform future NEM-integrated program design in the future.

ATTACHMENT

1. Presentation to the SVCE Executive Committee for Implementation of Net Billing Tariff (NEM3, Solar Billing Plan)



Net Billing Tariff (NEM 3.0)

Implementation Proposal to Executive Committee

Peyton Parks
October 27, 2023

SILICON VALLEY CLEAN ENERGY

Agenda

- **Background on Net Billing Tariff**
- **Differences between NEM 2.0 and NBT**
- **Drivers behind the change**
- **SVCE Position and Future Potential**
- **Potential levers for program improvement**
- **NBT Program 'Unknowns' and options**
- **Staff Recommendation for 2024**

Key Terms

- **NEM 3.0** – Colloquial term for Net Billing Tariff
- **Net Billing Tariff** – PG&E and SVCE internal terminology
- **Solar Billing Plan** – Customer-facing term used for bill presentment
- **Avoided Cost Calculator** (ACC) – The hourly determinate of solar export pricing

Background

Timeline and Highlights

- After earlier proposal revisions, in December 2022 CPUC approved major changes to Net Energy Metering in CA
- SVCE provided comments to the proceeding in favor of the changes, which incentivize solar with paired storage over stand-alone solar installations
- Solar interconnection applications filed with PG&E on or after April 15, 2023 are subject to new rules. Existing NEM customers are unaffected until end of 20-year NEM agreement
- Beginning December 15, 2023 Net Billing Tariff calculations will go live on customer bills.
- Staff proposes following PG&E export pricing and billing structure for first year

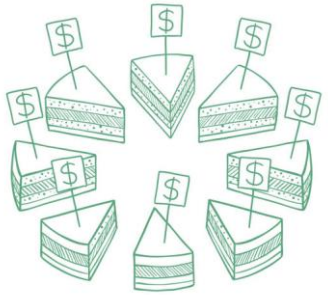
Background - Key Differences NEM 2.0 vs NBT

New solar installations since SVCE inception in 2017 have fallen under NEM 2.0 rules

Feature	NEM 2.0	Net Billing Tariff	Comments
Rate Requirement	Any TOU Rate	E-ELEC	TOU rate designed for electric appliance households (heat pump, EV)
Export Compensation	Retail minus Non-bypassable charge	Avoided Cost Calculator (ACC) + Adders	Intended to match export value more closely with wholesale energy value; early adopters auto-enrolled with 'adder'
Billing Settlement	Annual	Monthly	Export values offset charges, accrued charges will not carry forward to True-up
System Size Limits	<= 110% Annual Usage	<= 150% Annual Usage	Additional sizing intended for future electrification efforts
Average System ROI	6 Years	9 Years*	*Assumes system paired with battery storage
Greatest Customer Value	Export, Self-Consumption	Self-Consumption	kWh consumed, or stored for later consumption, provides greatest value

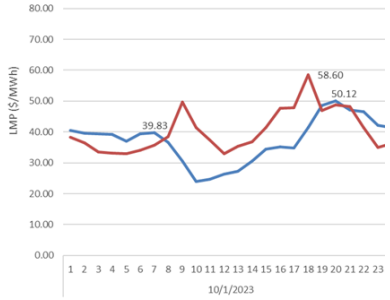
Background – Three Drivers of Change

Equity



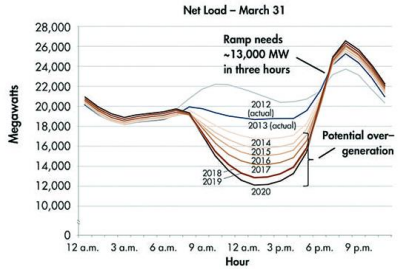
- Solar exports that offset T&D charges absolve solar customers of paying for fixed grid costs
- These costs get shifted to non-solar customers that don't have solar on their roofs.

Export Valuation Alignment



- The Avoided Cost Calculator (ACC) values NBT solar exports near the hourly wholesale grid price
- This is intended to be a better reflection of the exports' value to the grid compared to retail pricing.

Grid Stewardship



- NBT strongly incentivizes customers to pair storage with their solar to achieve the best ROI
- This functions as a price signal to increase the number of dispatchable batteries on the grid

Important Reminder!

Net Billing Tariff is **ONLY** applicable to **NEW** Net Energy Metering applications received by PG&E **AFTER April 15, 2023**

Existing NEM 1.0 and NEM 2.0

35,510

- NOT affected by NBT decision
- Will continue to export kWh at the retail rate
- No value proposition or ROI change
- After end of 20-year Net Metering Agreement term, customers transition to NEM 3 or then-applicable tariff

New NBT Customers

< 500*

- New solar installations in 2023 and onward
- Rate of uptake slowed due to industry-wide push to install under NEM 2.0

*Exact number of customers to be confirmed via PG&E update to customer attribute file in 2024

SVCE Position and Potential

SVCE's Position on NBT is in Alignment with PG&E

- SVCE believes the move to NBT is 'directionally correct' in reducing the export rate paid to solar customers and promoting battery storage installation
- Solar is already heavily incentivized by tax credits and most likely does not need the rich incentive of retail exchange credits to continue its high adoption rates
- Self-generation is repeatedly shown to be a vital part of electrification, helping homeowners who electrify to avoid the rising cost of electricity prices
- Electrified homes with solar + storage tend to look more like efficiency measures, reducing total load from the grid with no/minimal exports.

NBT appears to be a step in the right direction for a number of measures:

- Right-sizing of solar systems, limiting export
- Battery installation
- Enabling future electrification
- Carbon-free self-generation

However, it may be possible to customize the Net Billing Tariff to further advance SVCE's interests in a number of distinct ways

Levers for Program Customization

Export Rate

Potential to create SVCE's own variable or fixed/flat export pricing calculation for entire year

Adders and 'Bonus'

$/kWh additional compensation to incentivize exports at strategic hours, or less to optimize charging

CARE/FERA Incentives

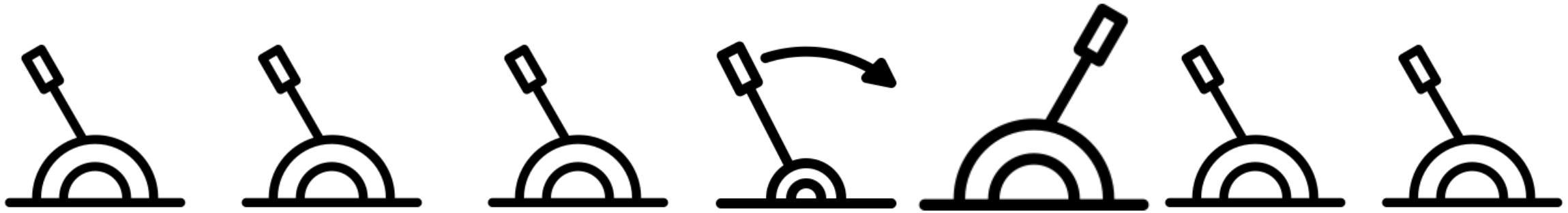
Flat adders or bonuses to make solar more attractive to low-income customers, above and beyond PG&E's existing compensation

VPP or DR Enrollment

Provide custom DR incentives to piggy-back on existing programs or create our own

Battery Rebates/ Programs

Design and implement rebates for battery storage pairings to provide best customer value under NBT



Options for NBT Rollout December '23

Program 'Unknowns'

At this time there are critical pieces of information that have not been made available to SVCE that might influence its decision-making

- **Customer enrollment volume**
- **Finalized 2024 ACC pricing sheet**

Program Options

	Option 1:	Option 2:	Option 3:	Option 4:
Course of Action	Follow PG&E ACC	Follow PG&E ACC with 'Sweetener'	Set an SVCE 'Custom' Rate (flat for all hours)	Set an SVCE 'Custom' Rate (swings dramatically, deeply incentivize storage)
Implementation Effort	Easy	Hard	Medium	Hard
Implementation Cost	Free	Custom Rate, charged by Calpine	Free, staff time only to develop 8760 rate sheet	Free, staff time only to develop 8760 rate sheet
Incremental cost to bottom line?	**TBD**	**TBD**	**TBD**	**TBD**
Alignment with 'Spirit' NBT: Storage	High	Medium/Low	Medium	High
Benefit to customer?	Medium, ACC makes ROI difficult to determine	High, Provides additional value for exported kWh	Medium, Provides little/no extra value, but makes export rate predictable	VARIES! Provides little/no extra value, makes export rate unpredictable. Without battery no benefit

Staff Recommendation - NBT Rollout December '23

	Option 1:
Course of Action	Follow PG&E ACC
Implementation Effort	Easy
Implementation Cost	Free
Incremental cost to bottom line?	**TBD**
Alignment with 'Spirit' NBT: Storage	High
Benefit to customer?	Medium, ACC makes ROI difficult to determine

Option 1: Follow PG&E ACC for 2024

- Staff recommends that SVCE follow PG&E's NBT implementation model **without modification** for CY 2024.
- Staff proposes that the first 12 months of customer performance should be monitored and analyzed with the intention of making future recommendations to customize the program.
- Staff will return to the board in Q1 2025 with additional recommendations
- Reminder: This decision will not affect currently-enrolled NEM 1.0 and NEM 2.0 customers.

Questions/Comments?

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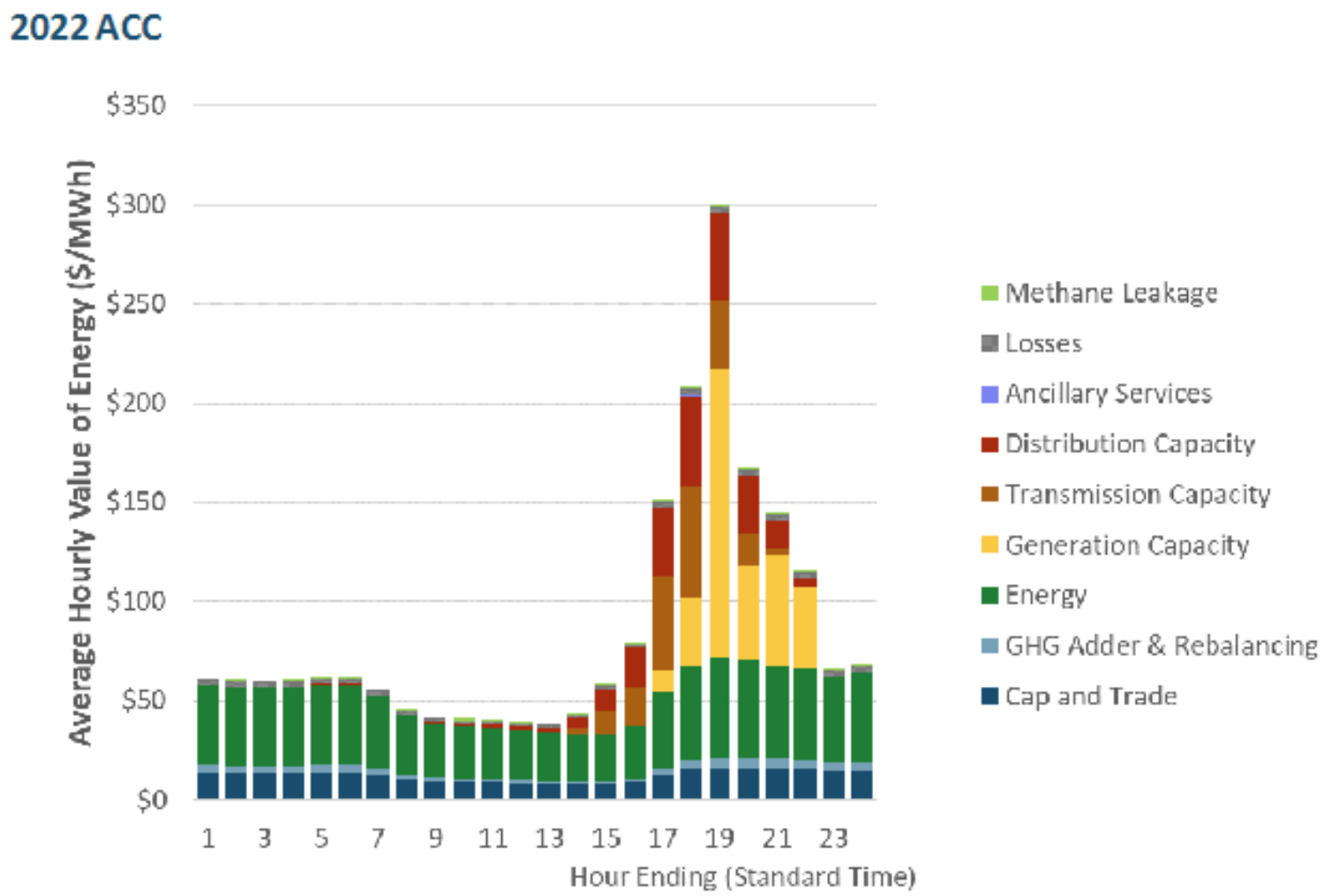
Avoided Cost Calculator (ACC)



SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1f

Item 1f:	**Approve Scholarship Funds for 2024 EmPower Silicon Valley Student Short-Film Competition**
From:	Girish Balachandran, CEO
Prepared by:	Julianne Miller, Community Outreach Fellow Pamela Leonard, Deputy Director of Marketing & Communications
Date:	11/8/2023

RECOMMENDATION

Approve the allocation of $20,000 from the marketing budget for scholarship prizes to be awarded in the proposed 2024 EmPower SV Short-Film Competition.

BACKGROUND

SVCE holds an annual scholarship competition to engage local youth in climate solutions to benefit their community. In previous years, SVCE hosted a competition that challenged high school students in the SVCE service area to engineer an electric bike, encouraging the exploration of electrification and innovation. However, due to the COVID-19 pandemic, this transitioned to a virtual short-film competition seeking to empower local middle and high school students to address climate change and solutions through video. Due to its continued success, SVCE proposes to host the fourth year of this competition to grow its diverse student involvement, accessibility, and wide range of skills and interests.

ANALYSIS & DISCUSSION

In the fourth year of this competition for 2024, middle and high school students in the SVCE service area, as individuals or small teams, will submit a short-film (no more than three minutes) depicting a community-driven solution to the impacts of climate change centered around decarbonization, electrification and innovation. With this competition, students will be introduced to or familiarized with concepts of electrification, and SVCE will have more visibility into our communities' strengths and contributions toward addressing climate change from the lens of our youth.

The proposed Empower SV Short-Film Competition will be held from February to May 2024. The competition will begin with a virtual kick-off event, during which staff will introduce participants to the SVCE mission and the topics of electrification, decarbonization and innovation. At the competition's close, a panel of judges will select main prize and honorable mention winners. Each submission will be showcased on the SVCE website and promoted during a potential in-person film festival event and award show The film festival will be held at a community site and will include a viewing party and award ceremony, alongside an SVCE informational booth to grow customer relations and further promote the SVCE mission.

- Staff recommends an allocation of $20,000 for scholarships under this program. The competition will designate four categories with one main prize of $3,000 each to distribute the award more equitably and recognize the diverse skillsets and interests of participants. Each category will have one honorable mention awarded a $2,000 prize, further distributing the award across a greater number of submissions. Staff anticipates that these scholarship prizes will be successful in incentivizing student participation and acknowledging the time and creative effort spent on developing the short-film.

The event and scholarship awards are a great opportunity to communicate the SVCE dedication to reinvesting in and benefiting the communities it serves. Furthermore, it will serve to empower local youth to grow their involvement in the climate crisis and explore climate solutions to support their community.

STRATEGIC PLAN

This event aligns with customer and community goals in SVCE's board-adopted Strategic Plan, specifically with Goal 10 – Empower customers with the awareness, knowledge and resources needed to make effective clean energy choices.

ALTERNATIVE

SVCE seeks the approval of a general allocation of $20,000 for a 2024 scholarship program. If the Empower SV Short-Film Competition is not approved by the SVCE Board as a scholarship program for 2024, staff will explore other prize options, modify award categories, or explore alternative student scholarship competition ideas.

FISCAL IMPACT

There is no incremental fiscal impact. The $20,000 in scholarship funds will be allocated from the board-approved Energy Services & Community Relations marketing budget.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1g

Item 1g:	**Closing Report of the Ad Hoc Committee of the Board to Address Legislative Responses to Industry Transition**
From:	Girish Balachandran, CEO
Prepared by:	Bena Chang, Director of Government and Legislative Affairs
Date:	11/8/2023

RECOMMENDATION

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

BACKGROUND

The Ad Hoc Committee was convened at the December 2022 SVCE Board of Directors Meeting and expires at the end of 2023. The Closing Report contains documentation of the Ad Hoc Committee's operations and activities during its tenure and is the required final product of the Ad Hoc Committee upon its expiration.

ANALYSIS & DISCUSSION

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

STRATEGIC PLAN

The activities of the Ad Hoc Committee including presentation of this Closing Report support Goal 16 of SVCE's Strategic Plan, "Support legislation which advances SVCE's mission to reduce dependence on fossil fuels by supporting the development of a low carbon, affordable, and reliable electric system while simultaneously advancing economy-wide decarbonization."

ALTERNATIVE

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

FISCAL IMPACT

None.

ATTACHMENTS

1. Closing Report of the Ad Hoc Committee of the Board to Address Legislative and Regulatory Responses to Industry Transition
2. 2023 Legislative Bill Tracker with positions and results of bills that SVCE followed and took positions on.

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

I. Committee Operations

Formation

Formation of the Ad Hoc Committee of the Board to Address Legislative Responses to Industry Transition ("Ad Hoc Committee") was authorized by the SVCE Board of Directors at its December 2022 meeting with the following legislative platform policies:

- Affordability and Rates
- Climate Mitigation/Fuel Switching
- Clean, Reliable Grid
- Competitive Equity/Do No Harm
- Health Impact/Safety
- Equity

Members of the Ad Hoc Committee were selected at the February 8, 2023 Board of Directors Meeting. Membership consisted of: Chair Yvonne Martínez Beltrán, Vice Chair Larry Klein, Director Zach Hilton, Director Bryan Mekechuk, Director Elliot Scozzola, and Director Margaret Abe-Koga.

Committee Activities

The Ad Hoc Committee held its inaugural meeting on March 29, 2023. At the meeting, the Committee elected Director Yvonne Martínez Beltrán as Chair and Director Larry Klein as Vice Chair. The committee discussed the state budget and legislation around central procurement, interconnection, and Brown Act flexibility.

The Ad Hoc Committee held its second meeting on June 21, 2023. The committee received an update from staff on the state budget and discussed legislation around central procurement and interconnection.

The Ad Hoc Committee held its final meeting on October 30, 2023, and received a recap on the 2023 legislative session and a forecast of the 2024 legislative session from Jennifer Tannehill from Aaron Read & Associates. The Committee provided input on the draft 2024 Legislative Policy Platform and discussed updates on interconnection legislation and regulatory activities.

II. Legislative Platform Policies

The Ad Hoc Committee provides the following updates to the Board on each of the Legislative Platform policies:

Affordability and Rates

- SVCE supported two bills, SB 488 (Alvarado-Gil) and AB 625 (Aguiar-Curry) that would have either allowed or made it more feasible for CCAs to participate in biomass programs that our ratepayers contribute to. Unfortunately, neither bill made it through the legislative process. SVCE will continue to work with the bill sponsor on these issues.

Climate Mitigation/Fuel Switching

- SVCE supported two building electrification bills this year: SB 527 (Min), which would have directed the California Public Utilities Commission to create a neighborhood decarbonization pilot program, and AB 593 (Haney), which would have directed the California Energy Commission to create a plan to get to zero emissions in buildings. Unfortunately, both bills became two-year bills.

Clean, Reliable Grid

- SVCE supported SB 410 (Becker), which directs the California Public Utilities Commission to set minimum and maximum timelines for distribution system energization projects. The Governor signed SB 410 into law.

- SVCE also worked with CalCCA, our trade association, to support several other bills that addressed the energization project backlog for the distribution system. Only one other bill, AB 50 (Wood), which directs the California Public Utilities Commission to set criteria for "timely" service interconnections was signed by the Governor.
- SVCE also worked with CalCCA to support SB 420 (Becker) to streamline permitting for transmission projects. The Governor vetoed the bill and said it should be addressed by the Administration's Infrastructure Strike Team.

Competitive Equity/Do No Harm

- SVCE worked closely with CalCCA to negotiate changes to the Governor's Budget Trailer Bill on reliability, which became AB 1373 (Garcia). The bill covered a variety of policy proposals, including central procurement and capacity payments for reliability shortfalls. CalCCA was able to amend several parts of the bill to narrow central procurement authority and reduce double payments between the capacity payment and the California Public Utilities Commission's penalty.

Health Impact/Safety

- SVCE engaged in legislation that would remove barriers to building decarbonization and improve health as noted in the climate mitigation section above.

Equity

- SVCE provided comments in the Equitable Building Decarbonization Program proceeding at the California Energy Commission and led a joint CCA comment letter to the U.S. Department of Energy to advocate for broad and flexible definitions of low-income households that are not limited to certain census tracts.

2023 SVCE Legislative Bill Tracker					
Bill Number	**Bill Author**	**Bill Summary**	**SVCE Position**	**Bill Status**	**Leg Program (if position)**
Clean Energy/Power Supply					
AB 3	Zbur	Requires CEC to issue report on best procurement strategy for offshore wind, to create a port plan, and study the feasibility of in-state manufacturing and assembly of offshore wind facilities.	Watch	Signed by Governor	
AB 538	Holden	Directs CAISO to present a governing plan to the CEC for regionalization.	Watch	Two-year bill	
SB 438	Alvarado-Gil	Allows CCAs to participate in the Bioenergy Renewable Auction Mechanism (BioRAM) if POUs are not able to procure their share of the program.	Support	Two-year bill	Competitive Equity
AB 625	Aguiar-Curry	Would extend the sunset date of the BioMAT program, along with other provisions.	Support		Competitive Equity
AB 1068	Valencia	Would relax the ex parte rules by allowing parties to contact the personal staff of a commissioner during the week of a commission business hearing, as long as the staffer is acting in their capacity as a legal or policy advisor.	Watch	Signed by Governor	
SB 663	Archuleta	Would allow renewable hydrogen to count in the Renewable Portfolio Standard program.	Watch	Two-year bill	
AB 1373	Garcia	Authorizes DWR to centrally procure certain resources, establishes a capacity payment for deficiencies in resource adequacy, among other provisions.	Neutral	Signed by Governor	Competitive Equity
Generation Projects					

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Leg Program (if position)
SB 420	Becker	Requires the Governor to identify a lead agency to monitor clean energy and electrical transmission facility planning and development. The agency would be the lead agency for CEQA and would deem those projects as eligible for CEQA streamlining.	Watch	Vetoed by Governor	
SB 619	Padilla	Would expand the transmission facilities eligible for CEC certification.	Watch	Two-year bill	
Building Decarbonization					
SB 48	Becker	Creates building performance standards for energy efficiency and GHG reductions in large buildings.	Watch	Two-year bill	
AB 593	Haney	Directs CEC to create a plan for how to get to zero emissions in buildings before January 1, 2024 and to implement the plan through the Equitable Building Decarb Program by 2025.	Support	Two-year bill	Climate Change Mitigation/Fuel Switching
SB 527	Min	Would direct CPUC to establish a Neighborhood Decarbonization Program to facilitate the cost-effective decarbonization of a targeted natural gas zone.	Support	Two-year bill	Climate Change Mitigation/Fuel Switching
AB 698	Essayli	Prohibits state agencies and local governments from adopting an ordinance or policy that directly or indirectly results in banning gas stoves from buildings.	Watch	Two-year bill	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Leg Program (if position)
SB 795	Stern	Requires the CEC to establish an HVAC equipment sales tracking system and code compliance data repository to enable the CEC, the Contractors State License Board and local permitting offices to identify noncompliant installers and reduce the cost of code enforcement.	Watch	Two-year bill	
Electric Vehicles Decarbonization					
SB 233	Skinner	Requires all new ZEVs and EVSEs sold in CA have bidirectional capability by January 1, 2027.	Watch	Two-year bill	
SB 507	Gonzalez	Requires the CEC to assess our progress towards ensuring 100% of new light-duty cars are ZEVs by 2035 (extends the current assessment horizon, which ends by 2030). Assessment will evaluate different usage types (rural, single-family, carshare, low-income communities).	Watch	Two-year bill	
AB 591	Gabriel	Requires companies to include universal connectors on new publicly available charging stations or to install them when making upgrades or major repairs to existing stations.	Watch	Two-year bill	
AB 1482	Gabriel	Requires the CEC to give preference to projects that have established expedited EV charging permitting processes to projects under the Clean Transportation Program.	Watch	Two-year bill	
Rate and Affordability Related Bills					

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Leg Program (if position)
SB 572	Stern	Directs the CEC and CPUC to work with each other, FERC, and the Public Advocates Office to consider "additional requirements to protect ratepayers from price spikes, stranded assets, duplication of service, and risk of windfall profiteering and market manipulation in wholesale and retail markets."	Watch	Two-year bill	
AB 982	Villapudua	Would direct the CPUC to transfer Public Purpose Programs from utility bills to the State's General Fund. Would require a separate appropriation of General Fund revenues to support these programs. Would include programs that are administered by third-parties that are funded by ratepayers. Amended to remove CARE and FERA.	Watch	Two-year bill	
Interconnection Bills					
SB 83	Wiener	Would require an 8-week shot clock for building interconnections. CPUC to determine compensatory damages to developers if miss shot clocks.	Watch	Two-year bill	
AB 50	Wood	Requires CEC to determine criteria for "timely service" for increased service or reenergization.	Watch	Signed by Governor	
AB 643	Berman	Requires the CPUC to submit a report to the legislature before June 1st each year with information on interconnection timelines of customer-sited energy generation and storage resources.	Watch	Two-year bill	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Leg Program (if position)
SB 410	Becker	Requires CPUC to set minimum/maximum timelines for service connections.	Support	Signed by Governor	Clean, Reliable Grid
AB 914	Friedman	Exempts from CEQA the expansion or upgrade of an existing electrical substation, existing electrical line facilities, or new electrical line facilities under 200 KV.	Watch	Two-year bill	
AB 1293	Irwin	Requires the CPUC to provide guidance to IOUs about prioritizing their distribution queues.	Watch	Two-year bill	
Brown Act Bills					
SB 537	Becker	Would allow bodies that cover multiple cities and counties or special districts or JPAs to continue to use pandemic-era flexibility for Board members to teleconference into meetings if the Board member lives more than 40 miles from the in-person meeting location. Only applies to appointed Boards. Revised AB 2449 rules to add immunosuppressed relative to the "just cause" reasons for teleconferencing into a meeting.	Watch	Two-year bill	
AB 557	Hart	Extends AB 361 (Rivas) authorities indefinitely, but still requires a declared state of emergency. Changes the legislative body findings vote to every 45 days from every 30 days.	Watch	Signed by Governor	
SB 411	Portantino	Would extend emergency teleconference provisions indefinitely and without regard to a state of emergency only for neighborhood councils in LA.	Watch	Signed by Governor	

Bill Number	Bill Author	Bill Summary	SVCE Position	Bill Status	Leg Program (if position)
AB 817	Pacheco	Allows non-decision-making subsidiary bodies like advisory boards and commissions to use flexible pandemic-era teleconferencing rules.	Watch	Two-year bill	
AB 1379	Papan	Would remove AB 2449 rules. Instead would require a legislative body to post agendas at a singular physical location. Would provide the ability to teleconference without publicly disclosing the address or posting agendas at remote locations. Would require at least 2 meetings a year that are in person within the service territory.	Watch	Two-year bill	
Miscellaneous					
AB 9	Muratsuchi	Requires CARB to accelerate state GHG reduction goal to 55% below 1990 levels by December 31, 2030 instead of 40% below 1990 levels.	Watch	Two-year bill	
AB 735	Berman	Would establish the High Road Utility Careers program administered by state workforce development board to connect individuals with careers in the utility sector. Focuses on individuals with employment barriers.	Watch	Two-year bill	
SB 638	Eggman and Niello	Climate Resiliency and Flood Protection Bond for $3.5 billion to repair/expand levees, $500 million for the Delta, and $500 million for multi-benefit flood management.	Watch	Two-year bill	

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1h

Item 1h:	**Legislative Response to Industry Transition 2023 Ad Hoc Committee Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Yvonne Martinez Beltran, Committee Chair
Date:	11/8/2023

The Legislative Response to Industry Transition 2023 Ad Hoc Committee held its final meeting on October 30, 2023, and received a recap on the 2023 legislative session and a forecast of the 2024 legislative session from Jennifer Tannehill from Aaron Read & Associates. The Committee provided input on the draft 2024 Legislative Policy Platform and discussed updates on interconnection legislation and regulatory activities.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1i

Item 1i:	**Executive Committee Report**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Tina Walia, Executive Committee Chair
Date:	11/8/2023

The Executive Committee met October 27, 2023 and heard discussion items from staff on proposed changes to SVCE's GreenStart and GreenPrime offerings, an update on the Net Billing Tariff, and an update on a permit modernization and policy experimentation program rollout.

Monica Padilla, Acting CEO, introduced the first item regarding GreenStart and GreenPrime and shared the importance of ensuring SVCE staff received direction from the Executive Committee for the November board meeting to prepare for the rates discussion and decision at the December board meeting.

Maren Wenzel, Senior Manager of Energy Policy and Regulatory Analysis, and Don Bray, Director of Strategic Development, presented an overview of SVCE's product offerings, challenges with carbon-free energy procurement in 2024, short-term options to achieve 100% clean or alternatives for both GreenStart and GreenPrime, and longer-term pathways to achieving SVCE's mission. Staff presented potential options for both GreenStart and GreenPrime for 2024, and shared the recommended path for 2024:

<u>GreenStart</u>
1. Continue to seek carbon-free resources within budget parameters for calendar year 2024;
2. Approve the procurement of nuclear carbon-free resources, provided allocations from PG&E are not available;
3. If carbon-free resources are not available within budget, adjust 100% Clean goal for 2024 to current position of ~78% Clean, and

<u>GreenPrime</u>
1. Discontinue Green-e Certification for 2024;
2. Re-price GreenPrime premium for 2024 from $0.008/kWh to $0.012/kWh, reflecting underlying cost increases but maintaining 100% RE/CF GreenPrime as a viable alternative to GreenStart;
3. Communicate GreenPrime rate and process changes to customers in December 2023.

The Committee discussed staff's recommendation in great depth, reviewing the options presented and providing initial feedback. The general consensus of the committee was to support staff's recommendation for both GreenStart and GreenPrime and to present the item to the Board of Directors for consideration at the November board meeting.

Peyton Parks, Energy Services Principal, presented an implementation proposal for the net billing tariff (NBT), which was to follow PG&E's NBT implementation model without modification for CY 2024. Staff proposed that the first 12 months of customer performance should be monitored and analyzed with the intention of making future recommendations to customize the program, and staff would return to the board in Q1 2025 with additional recommendations. The committee was supportive of staff's plan.

Agenda Item: 1i **Agenda Date: 11/8/2023**

Zoe Elizabeth, Deputy Director of Decarbonization Programs and Policy, and Tony Eulo, Senior Manager of Public Sector Services, presented on the permit modernization and policy experimentation program launch, which would partner SVCE and member agencies to work toward sensible local policies and smoother local permitting through technical resources and grants. The committee was supportive of the program.

Materials from this meeting can be found on SVCE's website: SVCE Executive Committee Meeting, October 27, 2023

The next meeting of the Executive Committee is scheduled for November 27, 2023 at 1:00 p.m.; materials will be posted no later than 72 hours in advance of the meeting.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1j

Item 1j:	**California Community Power Report**
To:	Silicon Valley Clean Energy Board of Directors
From:	Girish Balachandran, CEO
Date:	11/8/2023

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.

There is no report this month as the regularly scheduled meeting on October 18, 2023 was adjourned.

The next meeting of the board will be November 15, 2023 at 1:00 p.m.; meeting materials can be found on the CC Power website: https://cacommunitypower.org/meetings/

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 1k

Item 1k:	**Additional Committee Reports**
To:	Silicon Valley Clean Energy Board of Directors
Prepared by:	Andrea Pizano, Sr. Executive Assistant and Board Clerk
Date:	11/8/2023

There are no reports for the 1) Finance and Administration Committee and 2) Audit Committee as they have not met since the last report.

The next meeting of the Finance and Administration Committee will be held in November, based on member availability, and the next meeting of the Audit Committee will likely be scheduled around the February timeframe to receive the financial audit results.

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:	11/8/2023

REPORT

Staff Updates

Britta Bradshaw joined SVCE October 16, 2023 as our new Power Resource Manager. Britta will be responsible for heading up the origination function for long-term clean energy and storage resources, assisting with short-to-mid-term portfolio management, supporting clean product offerings for all customers including C/I custom products, and supporting the development of SVCE's IRP and long-term energy needs. She comes to us from PG&E where she was a Structured Energy Transactions Principal with 10 years of experience. At PG&E she led the team responsible for origination, negotiation, and execution of agreements for over 3 gigawatts of energy storage and renewable resources. Britta holds two degrees, including a Master of Environmental Management: Environmental Economics and Policy – Business and Environment Energy from Duke University Nicholas School of the Environment; and a Bachelor of Arts in Anthropology; Certificate: Environmental Studies from Princeton University.

Adam Pearse joined SVCE October 16, 2023 as our new Regulatory Analyst. Adam will be SVCE's lead for many of the finance proceedings including Provider of Last Resort (POLR) and ERRA/PCIA, helping to ensure fair and reasonable protections for SVCE and our customers. Adam has been as an environmental litigator for the past 10 years, working at non-profits in Washington, DC, and in private firms in San Francisco. Before attending law school at Tulane University in New Orleans, Adam was an English teacher in France and then a math and science teacher in New York City, during which time he earned a Master's in Education from City College of New York.

Brett Sirianni joined SVCE as our new Information Technology Analyst on October 30, 2023. Brett will be joining the IT team at a critical time as SVCE pushes forward on strengthening our cyber security posture. Brett brings a vast skillset, wealth of knowledge and over 16 years of experience that will help us with our maturity as we continue to grow. Brett has worked in high tech, startups, small companies and in the CCA (MBCP) world. He even owned his own IT company.

Willy Wang joined SVCE November 6, 2023 as Power Resource Planner. In his role at SVCE, Willy will be responsible for monitoring CAISO regulatory proceedings and policy issues and will provide general support to the 4PRO team including assisting with monitoring and reporting on SVCE's power resource portfolio. Willy started his energy career at Southern California Edison in 2006 working as Strategic Planning Manager overseeing complex regulatory cases. Most recently Willy worked for Bloom Energy where he managed a multinational team responsible for a portfolio of hydrogen fuel cell assets. Willy holds two degrees including an MBA from Cornell University and a Bachelor of Science in Electrical Engineering from UCLA. He is a Chartered Financial Analyst since 2010.

Personnel Officer Update

The month of October continued to be a busy one for recruitment. In addition to our four newest employees, offers have been made for the positions of Marketing Specialist and Sr. Financial Analyst. Interviews for Communications Specialist, Program Marketing Manager and Power Resources Manager are underway.

Open positions can be found on SVCE's website: Current Job Openings

Yellow Pine Event Recap

Early this month SVCE staff joined Central Coast Community Energy and NextEra Energy Resources at a ribbon cutting event to celebrate the Yellow Pine I solar + battery storage project in Clark County, Nevada. Thank you to our Directors who attended the ribbon cutting and Chair Tyson for speaking on behalf of SVCE. This new project provides SVCE 50 megawatts of renewable electricity and 104 megawatt hours of battery, enough electricity to power 14,329 SVCE homes.

SVCE's End-of-Year Event, Reflect & Recharge

Please join us on Wednesday, December 13th, at 4:00 p.m. at Cupertino Community Hall for SVCE's end-of-year event, Reflect & Recharge! The event will host industry leaders to discuss the future as it relates to meeting our statewide decarbonization and clean energy goals, and will feature a discussion with our staff leadership to reflect on local impacts to date and the vision for our next stages as an agency. Please RSVP by December 1.

CEO Agreements Executed

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

1) SMUD, Amendment: Electric Showcase Award Program Support, amended not to exceed amount $88,900
2) SMUD, Amendment: CHIIP Support, amended not to exceed amount $107,250
3) SMUD, Amendment: SMB Program Support, amended not to exceed amount $48,600
4) Aaron Read & Associates, Agreement: Lobbyist Services, not to exceed $96,000, 12/1/23 – 11/30/24
5) Peninsula Clean Energy, Amendment: Professional Services Cost Reimbursements, not to exceed $740,000
6) Kestrel, Agreement: Provide an external review of CCCFA project revenue bonds series 2023, not to exceed $22,000
7) Chapman and Cutler, LLP, Agreement: Legal services , not to exceed $175,000, 10/16/23 – 3/31/24
8) Shute Mihaly & Weinberger, Agreement: Special Counsel legal consulting services, not to exceed $99,999, 10/13/23 – 11/1/26
9) Nicole Arlette Hirsch, PhD, Agreement: Diversity, Equity & Inclusion Training, not to exceed $46,179, 11/1/23 – 11/31/24
10) Sunrun, Agreement: Technical Support Services, 10/26/23 – completion of work.

SILICON VALLEY CLEAN ENERGY

CEO Power Supply Agreements Executed

Counterparty Name	Execution/Effective Date	Transaction Type	Product	Start Date	End Date	Notional Value
East Bay Community Energy	10/6/2023	Purchase	Resource Adequacy	6/1/2024	6/30/2024	$736,000
San Diego Gas & Electric	10/10/2023	Purchase	Resource Adequacy	1/1/2024	4/30/2024	$771,750
San Diego Gas & Electric	10/10/2023	Purchase	Resource Adequacy	8/1/2024	8/31/2024	$705,600
Silicon Valley Power	10/10/2023	Purchase	Resource Adequacy	6/1/2024	6/30/2024	$832,000
Clean Power Alliance	10/20/2023	Purchase	Resource Adequacy	3/1/2024	3/31/2024	$56,425
Clean Power Alliance	10/20/2023	Sale	Resource Adequacy	3/1/2024	3/31/2024	$38,125
Calpine	10/17/2023	Purchase	Resource Adequacy	7/1/2024	7/31/2024	$3,600,000
Google Energy, LLC	10/20/2023	Purchase	Resource Adequacy	1/1/2024	12/31/2024	$2,821,400

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
- 11/3: Attended CC Power "Getting it Built Right" Workshop

ATTACHMENTS

1. Yellow Pine Event Recap
2. Clean Power Update, November 2023
3. FY23 Q4 Decarbonization Strategy and Programs Quarterly Report
4. Energy Services & Community Relations Update, November 2023
5. Regulatory and Legislative Update, November 2023
6. Agenda Look Ahead, November 2023 – March 2024

Yellow Pine I

Wednesday, November 1, 2023

New construction project located in Clark County, NV.
Developed by NextEra Energy. Jointly procured with Central Coast Community Energy.

SVCE Portion
50 MW Solar Capacity
104 MWh Battery Storage

14,329 homes can be powered each year with an average of 154,322 MWh of electricity provided by the project annually

32,688 metric tons of CO2 avoided annually from the carbon-free electricity produced*

*Based on SVCE portion

NEXTera ENERGY
SILICON VALLEY CLEAN ENERGY
Yellow Pine
Energy Center I
Commissioning Ceremony

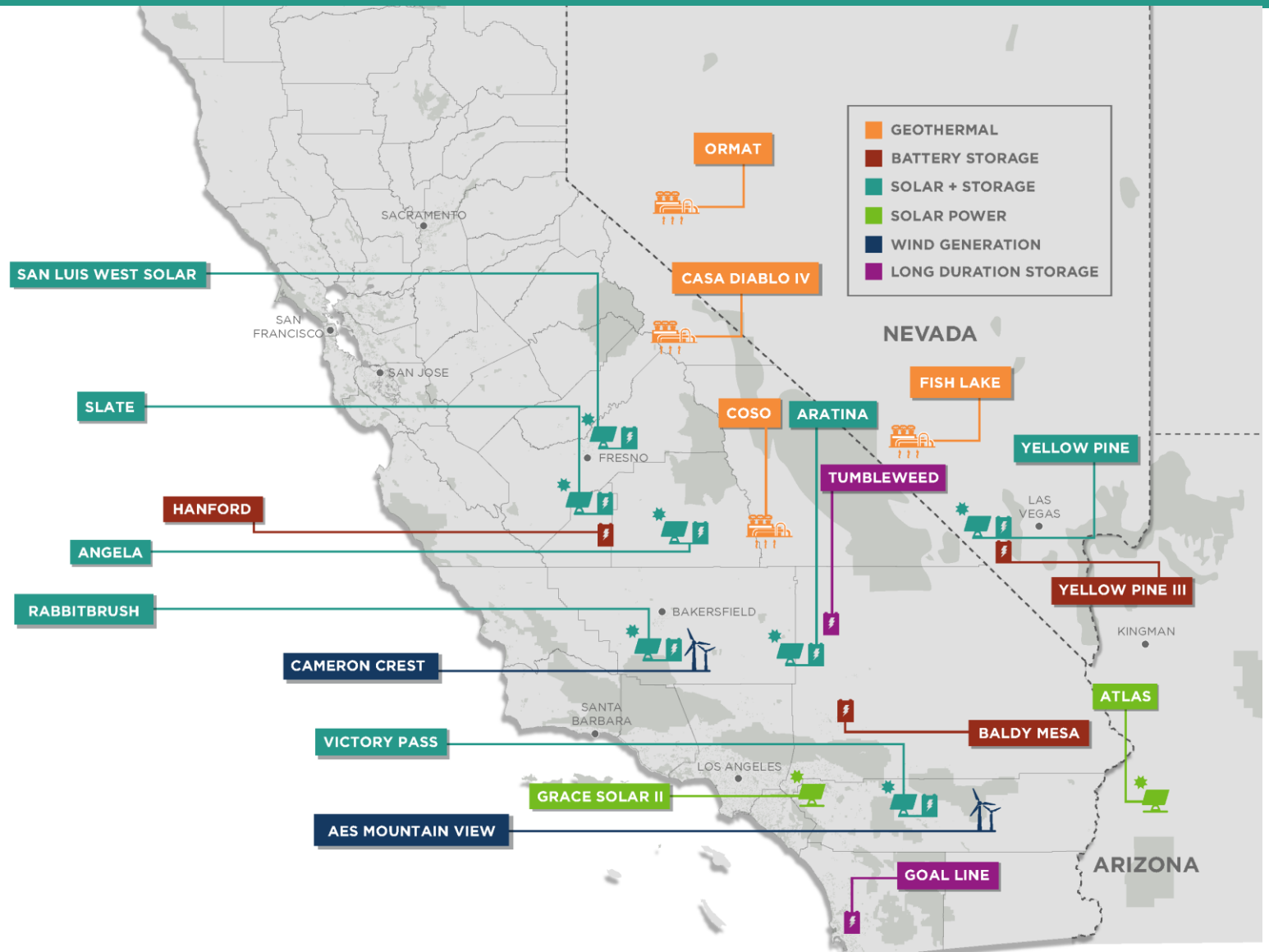
Yellow Pine
Energy Center I
Commissioning Ceremony
Central Coast Community Energy
SILICON VALLEY CLEAN ENERGY
NEXTera ENERGY

CEO Report
Clean Power Update

SVCE Board Meeting
November 8, 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 10/27/2023

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*

Victory Pass Solar + Storage

COD in Q1 2024

Developer: Clearway

Riverside County, CA

PV: 100 MW

BESS: 25 MW

Will meet approx. 8% of SVCE's load

THANK YOU!

DECARBONIZATION PROGRAMS

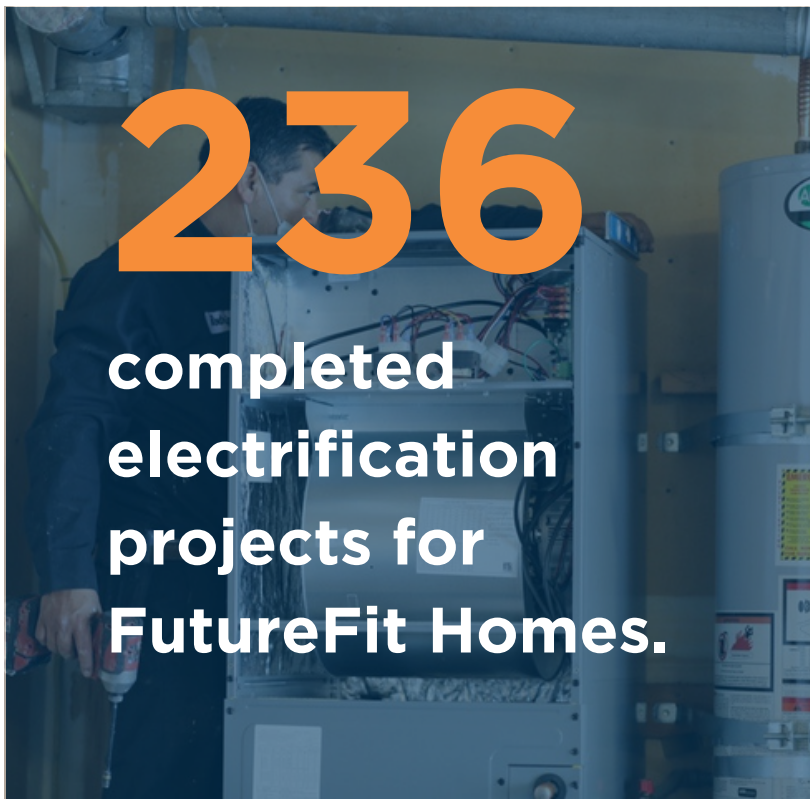
SILICON VALLEY CLEAN ENERGY

Quarterly Report

FY23 Q4 Milestones

150 applicants for All-Electric Showcase Awards.

267 L2 connector installations and 10 DCFC installations for CALeVIP.



236 completed electrification projects for FutureFit Homes.

PROGRAMS PORTFOLIO

FY23 Q4

Quarterly Report

Active Programs

See Glossary for program descriptions. Title links to program homepage (if available).

Name	Budget	Potential Impact	Cumulative Impact To-Date	Last Quarter (Update)	Next Quarter (Target)
Electrification Rate Discount	$9.5M	5,000 customers enrolled	850 enrolled	Created tracking for enrolled customer and setup processes including welcome emails and surveys	Review Phase 1 learnings and decide on revisions. Host focus group to learn about customer behavior
CHIIP, including Affordable Housing EVI Incentives	$8.9M	• 25 MUDs with EVI • 4,000 L1/L2 chargers at affordable housing	• 22 reservations • 1 completed	See cumulative impact	Expand enrollment
CALeVIP 1.0	$6M	• 85 DCFC installed • 1,100 L2 installed	• 10 DCFC installed • 267 L2 installed	Closed application window	DCFC and L2 project payments as they complete
Community Energy Resilience	$5.15M	13 agencies complete projects	13 agencies selected a project	See cumulative impact	Execute last 4 grant agreements before 12/31/23 deadline
FutureFit Homes - Residential Incentives	$4.05M	750 homes fully/partially electrified	236 homes fully/partially electrified	See cumulative impact. New marketing videos also released.	Expecting increase in rebates paid as summer projects finalize
Decarbonization Demonstration Grants	$3.2M	8 local public facing electric projects	1 project complete	See cumulative impact. All grant agreements executed.	Continue project work, demonstrate value of completed project and share lessons
FutureFit Fundamentals Contractor Training	$1.7M	• 300 contractors trained • 500 graduate incentives	104 contractors completed training	See cumulative impact. Program connected to FutureFit Homes. Program materials updated.	Working on new graduate bonus
Electric Showcase Awards 2.0	$1.5M	Highlight building electrification success stories	150 applications, 16 winners, $95,000 awarded	See cumulative impact	Promote winners, present to local councils and tour two of the winning homes
FutureFit Homes and Buildings: C&I and SMB Incentives	$1.25M	20-30 SMBs electrified	In progress	Building electrification rebates launched for small and medium business customers in July	Continue program roll out
Customer Resource Center (eHub)	$1.1M	• 1.5M email opens • 250K unique web visits	1.4M email opens, 262K web visits, 206 rebate claims	See cumulative impact	100K email opens, 10K web visits, 100 rebate claims, launch induction cooktop promo

PROGRAMS PORTFOLIO

FY23 Q4

Active Programs

Name	Budget	Potential Impact	Cumulative Impact To-Date	Last Quarter (Update)	Next Quarter (Target)
Priority Zone DC Fast Charger (PZDCFC) 2.0	$875K	10 DCFC installations near MUD hotspots	4 DFCF sites with 10 100+ kW ports	See cumulative impact	Monitor site construction progress and milestones
FutureFit Assist	$725K	• 60 assessments • 36 projects done • 250 ports	52 applications	See cumulative impact	Expand enrollment
GridShift EV Charging	$600K	Bill/emissions savings and load shifting capacity	• 1,184 EVs enrolled • 31 rebates	Launched August sign-up incentive & marketing efforts (direct mail, email, DMV ads)	Launch ongoing sign-up incentive & referrals
Reach Codes 2.0	$600K	Require all new buildings to be emissions-free	12 agencies adopt electrification ordinances	Ninth Circuit's Berkeley decision stalled progress	Monitor and support agencies as the legal case evolves
Decarbonization Engagement Grants	$442K	5 communities engage residents on climate action topics	In progress	5 communities executed agreements	Work to complete projects, share during MAWG meetings
Fleet Electrification	$300K	Complete for 5 member agency and 5 SMB fleets	In progress	5 agencies in process to complete electrification plans	Solicit additional participants, and work with 5 enrolled agencies to complete plans
SV Transportation Electrification Clearinghouse	$150K	Create cohort to enable equitable electrification.	In progress	Planned to host a stakeholder meeting on MF EV charging opportunities	Conduct relaunch to assess how to increase impact
Lights On Silicon Valley	Power Supply Budget	750 SFH and 5 MF completed	581 enrolled SFH	Sunrun continued to enroll and install customers	Construction to complete, delivery will begin

PROGRAMS PORTFOLIO

FY23 Q4

Planning

Name	Budget	Potential Impact	Last Quarter (Update)	Next Quarter (Target)
Multifamily Direct Install (TE and BE)	$12.5M	300 to 1,000 MF AH units electrified	RFP released	Evaluate proposals, select winner
Permit Modernization	$3.2M	13 member agencies improve electrification permitting	Program design completed	Release to member agencies
Tariffed On Bill (TOB) Financing	$3M	500 to 1,000 customers finance electrification	CPUC decision received which outlines path for IOUs to develop TOB proposals based on SVCE's	Working group develops TOB proposals and evaluates next steps with TECH
Existing Building Policy Experiment	$1.9M	Spur action on building electrification and reduce building gas combustion	Program design completed	Release to member agencies
FutureFit Homes Concierge	$892K	3,600 customers use hotline, 1,200 use tech assistance, 350 use electrification plans	Worked with vendor on implementation plan and tech requirements	Develop webpage, train vendor on SVCE programs, and prepare for launch
Feasibility Assessment, Natural Gas Phase Out	$300K	Complete study that informs local, regional, and statewide policies	Developed SPW for phase 1 analysis	Hire contractor and kickoff work
SV Building Electrification Strategic Taskforce	$150K	Educate stakeholders about building electrification	Completed program design and joined 2 workforce coordination efforts	Map stakeholders, list feedback received on workforce, housing, and LMI building electrification issues

Closed/Inactive

Name	Budget	Summary
Innovation Onramp	$2.4M	10 pilots complete. The final pilot from 2021 with NeoCharge was completed in May 2023. Future program pathway is being determined. $1.2M budget remaining.
FutureFit Homes Heat Pump Water Heater	$1.5M	Program closed in December 2022. Active applications were transitioned to FutureFit Homes Incentives program.
Reach Codes 2019	$400K	Reach Codes 2019 were adopted by 12 of 13 member agencies. Several agencies updated Reach Codes in the 2022 code cycle.
Medical Battery Program	$200K	All 50 batteries are claimed by customers who require electricity for medical devices and are at high risk of power outages.

PROGRAMS HIGHLIGHTS

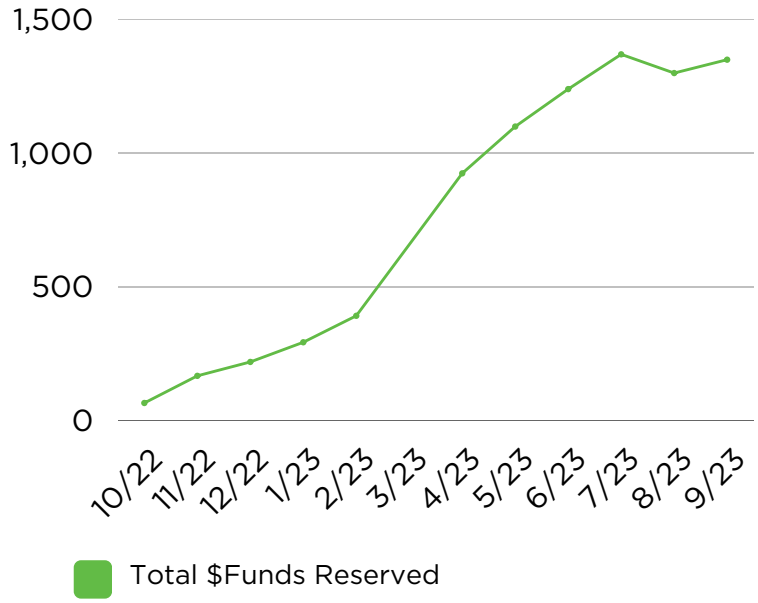
FY23 Q4

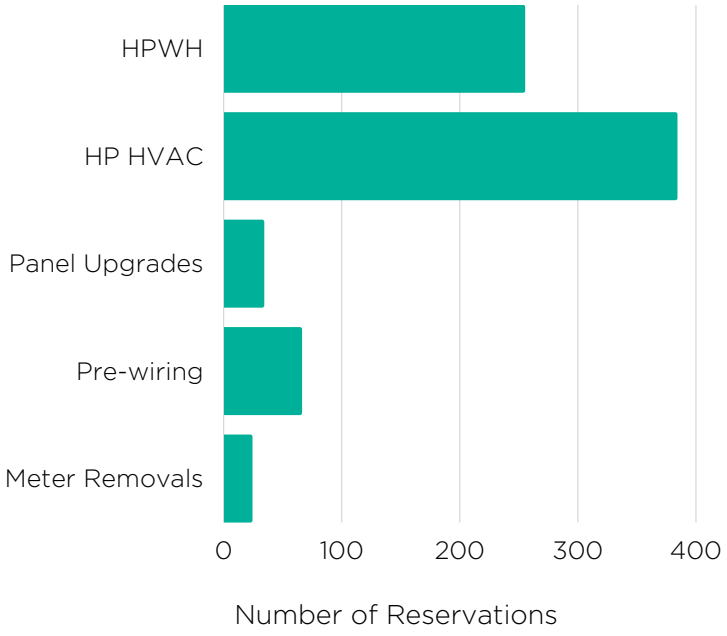
FutureFit Homes

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: $611K

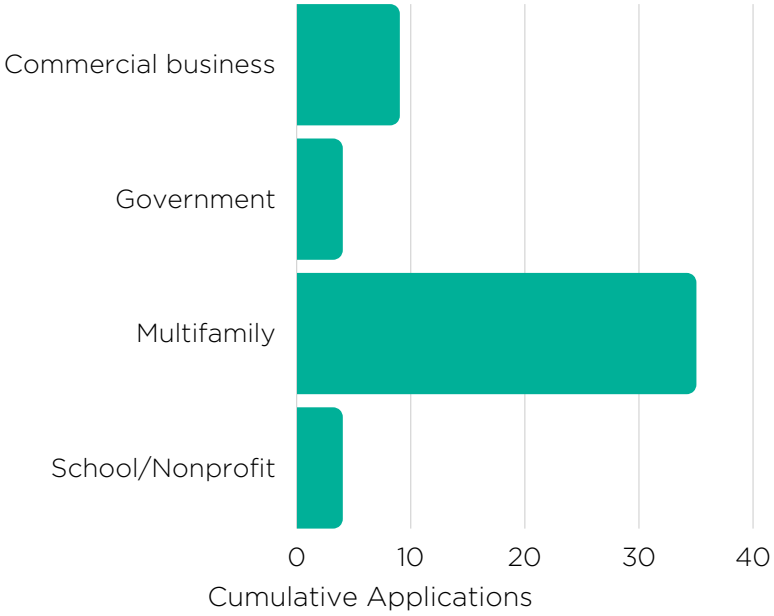
Rebates reserved: $1.35M





Future Fit Assist

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



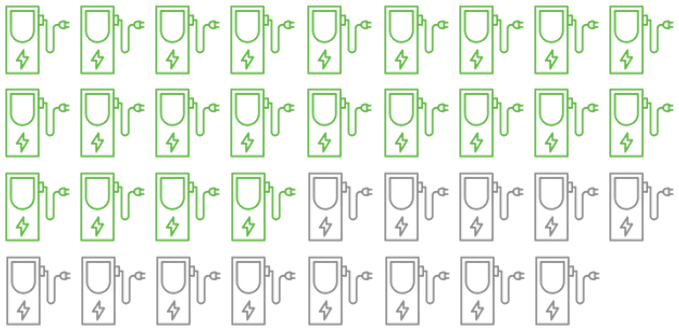
Charging Installation Incentive Program (CHIIP)

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

Funds Reserved: $824K

Approved Reservations: 22

Goal: 35 Sites, 150 ports



PROGRAMS HIGHLIGHTS

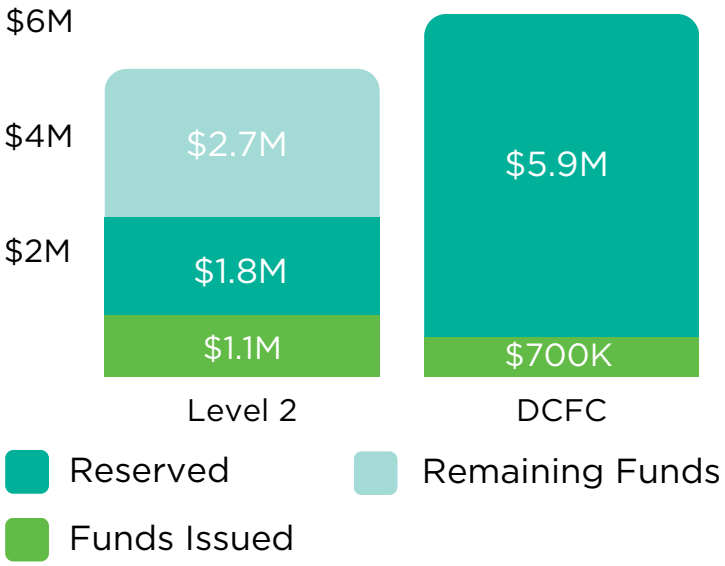
FY23 Q4

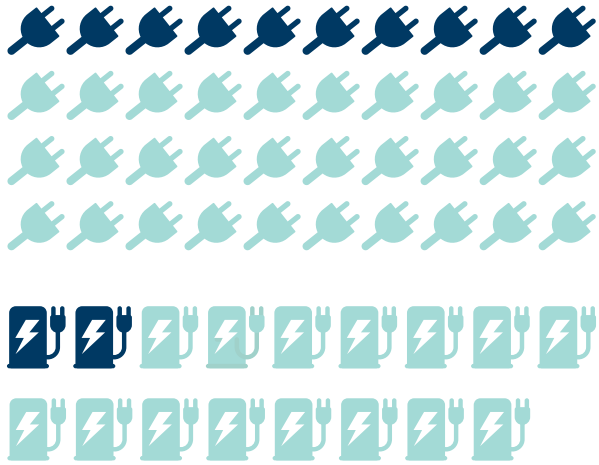
CALeVIP

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

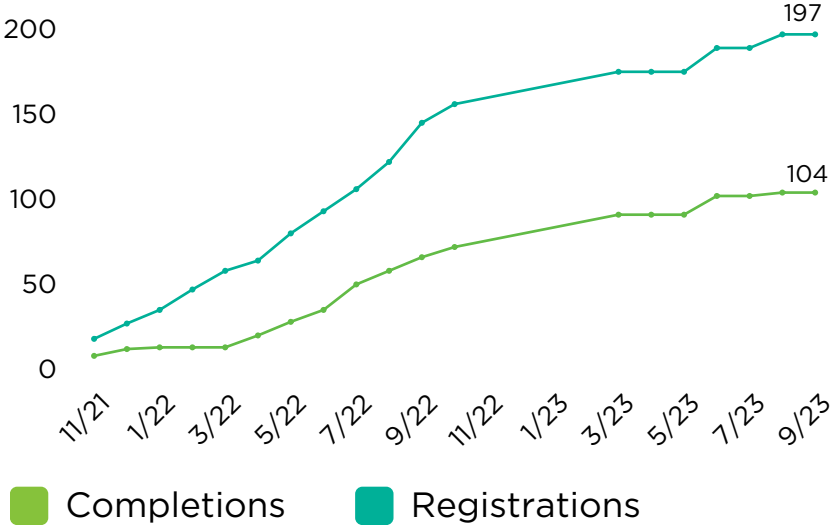
= 5 DCFC Installations

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)



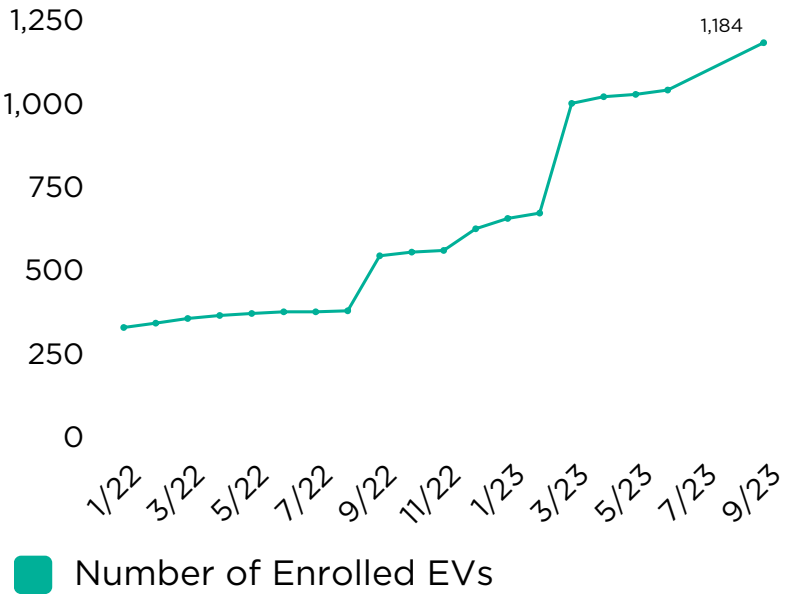
= 5 Participants Complete Course

PROGRAMS HIGHLIGHTS

FY23 Q4

GridShift EV Charging

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



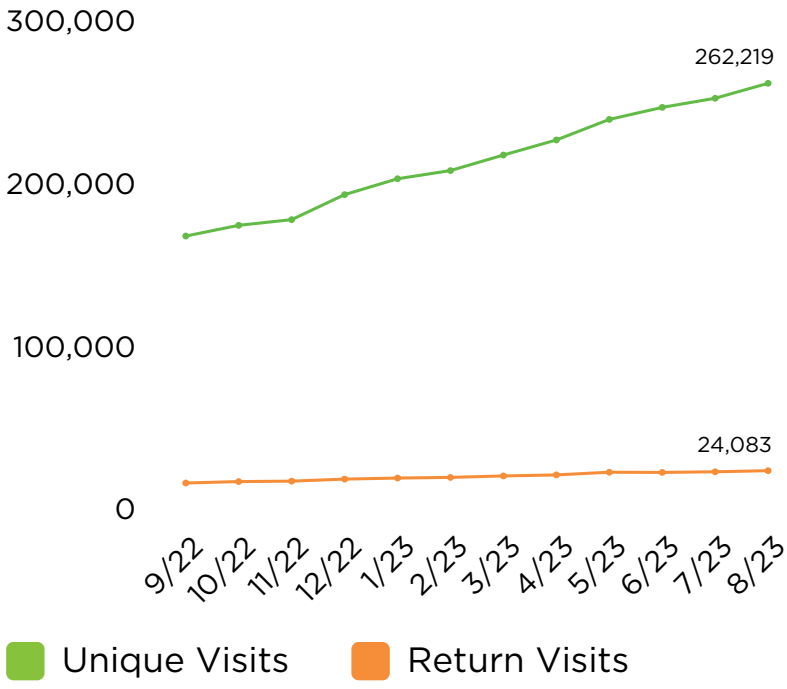
Rebate Goal: $30K

Goal: 120 EV Chargers

Charger Rebates Reserved: 31

eHub Report

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



Website Visit Goal:
Reach 250K Unique Visitors

Email Goal:
Conduct 10 email campaigns

= 1 email campaign completed

Built Environment

Community Energy Resilience: Resources (grants) and tools for member agencies to increase individual and collective capacity to adapt to future power outages.

Electric Showcase Awards 2.0: Award program to recognize residential, commercial, and non-profits who are early adopters of existing building electrification.

Decarbonization Demonstration Grants: Grants to encourage member agencies and other key groups an opportunity to electrify their facilities. Focus on projects with public visibility for education/awareness purposes.

Decarbonization Engagement Grants: Grants for member agencies and other key groups to work on smaller electrification engagement initiatives to engage their communities.

Electrification Rate Discount: Custom rate to promote building electrification.

Existing Building Policy Experimentation: Assess and support potential policy levers that member agencies can explore to mitigate emissions from existing buildings.

Feasibility Assessment of Natural Gas Phase Out by 2045: Feasibility study to identify technical, legal, and economic barriers and opportunities for phasing out natural gas service by 2045 in SVCE's service territory.

FutureFit Fundamentals Contractor Training: Training and financial incentive program for contractors to expand their knowledge and installation of electrification technologies.

FutureFit Homes - Concierge: Comprehensive one-on-one phone or web assistance to SVCE customers to assist them in applying for electrification incentives, technical assistance, or developing a whole-home electrification plan.

FutureFit Homes - Residential Incentives: Incentives for various building electrification technologies for single- and small multi-family residential customers. Includes major appliances as well as eventual gas meter removal.

FutureFit Homes and Buildings - C&I Incentives: Incentives for demonstration projects at a handful of small and medium business properties.

Multifamily BE Direct Install: Comprehensive building electrification retrofits with a direct installer for multifamily affordable housing sites.

Permit Modernization: Benchmark and streamline member agency permitting and inspection processes to identify barriers and opportunities to electrification.

Reach Codes 2.0: Provide model building energy codes supportive of all-electric design and EV infrastructure to member agencies along with consultant support.

GLOSSARY

Built Environment

SVBEST: Regular regional stakeholder convenings to coordinate program alignment across building decarbonization workstreams.

Tariffed On Bill (TOB) Financing: Equitable financing pilot program for electrification for low-moderate income residents focusing cost recovery through on-bill charges that are lower than bill savings.

Mobility

CALeVIP 1.0: Incentives for L2 and DCFC publicly-accessible EV chargers funded by California Energy Commission and SVCE as part of a regional collaboration.

CHIIP: Incentive program for L1 and L2 EV charging at hard-to-reach multifamily properties.

Fleet Electrification Program: Competitive application for SVCE's fleet electrification planning support and funding for site upgrades targeting a broad set of fleet types.

FutureFit Assist: Technical assistance for preliminary site design and pertinent rebates for charging at multifamily housing and small and medium workplace properties.

Multifamily TE Direct Install: Comprehensive transportation electrification retrofits with a direct installer for multifamily affordable housing sites.

Priority Zone DC Fast Charger (PZDCFC) 2.0: Competitive grant application for DCFC installations in "priority zones" that support designated multifamily housing clusters.

SVTEC: Regular regional stakeholder meetings focused on information sharing, solving critical issues, and attracting external funding to the SVCE community in support of EV infrastructure deployment.

Power Supply

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

Medical Battery Program: Pilot program to deploy ~50 portable batteries to qualified customers who rely on power for medical equipment.

Education & Outreach

Customer Resource Center (eHub): Online customer resource center and marketplace to enable engagement, education, and action related to clean electricity, EVs, and home electrification.

Grid Integration

GridShift EV Charging: Managed EV charging phone app that optimizes charging to reduce associated costs and emissions. Includes incentives for reducing grid peak demand.

1. Outreach Events & Sponsorships

Date	Sponsorship	Location
11/4/2023	**Wineries of Santa Clara Valley Association Vine-to-Wine** 1:00 p.m. – 7:00 p.m. *Sponsorship and tabling*	Mountain Winery 14831 Pierce Road Saratoga, CA 95070
11/13/2023	**Heat Pump Summit** 8:30 a.m. – 6:30 p.m. *Sponsorship and tabling*	UC Berkeley - Pauley Ballroom Expo Hall MLK Student Union, 2495 Bancroft Way, Berkeley, CA 94720
11/26/2023	**Festival of Lights Parade** 6:00 p.m. – 8:00 p.m. *Sponsorship*	Downtown Los Altos, 1st & State St. Los Altos, CA 94022
12/2/2023	**Los Gatos Parade (tentative)** 11:00 a.m. *SVCE truck in parade*	Downtown Los Gatos, Almendra Ave. at North Santa Cruz Ave. Los Gatos, CA 95030
12/8/2023	**Assemblymember Low Holiday Open House (tentative)** Time TBD *Staff attendance and tabling*	Location TBD

Outreach Events, cont'd.

SVCE sponsored the inaugural La Ofrenda Festival in Gilroy and created an altar to honor climate and clean energy pioneers that was on display all of October.

We created a blog post with more information about who we're remembering on our ofrenda.

https://svcleanenergy.org/2023/09/28/gilroy-la-ofrenda-festival/

2. Customer Participation

	Participation Rate	Overall Participation Rate
Residential	96.31%	96.35%
Commercial	96.76%	

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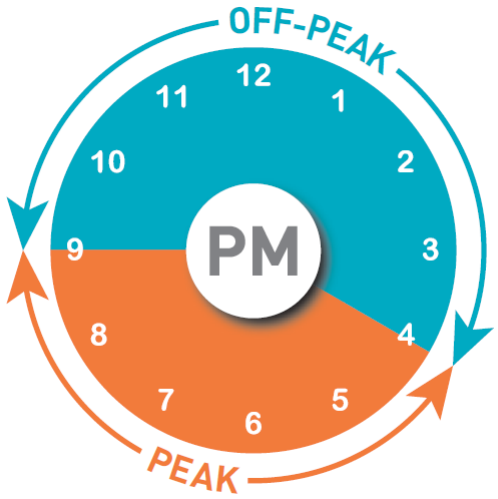
3. SVCE's Electrification Discount Rate (E-ELEC)

What is it?

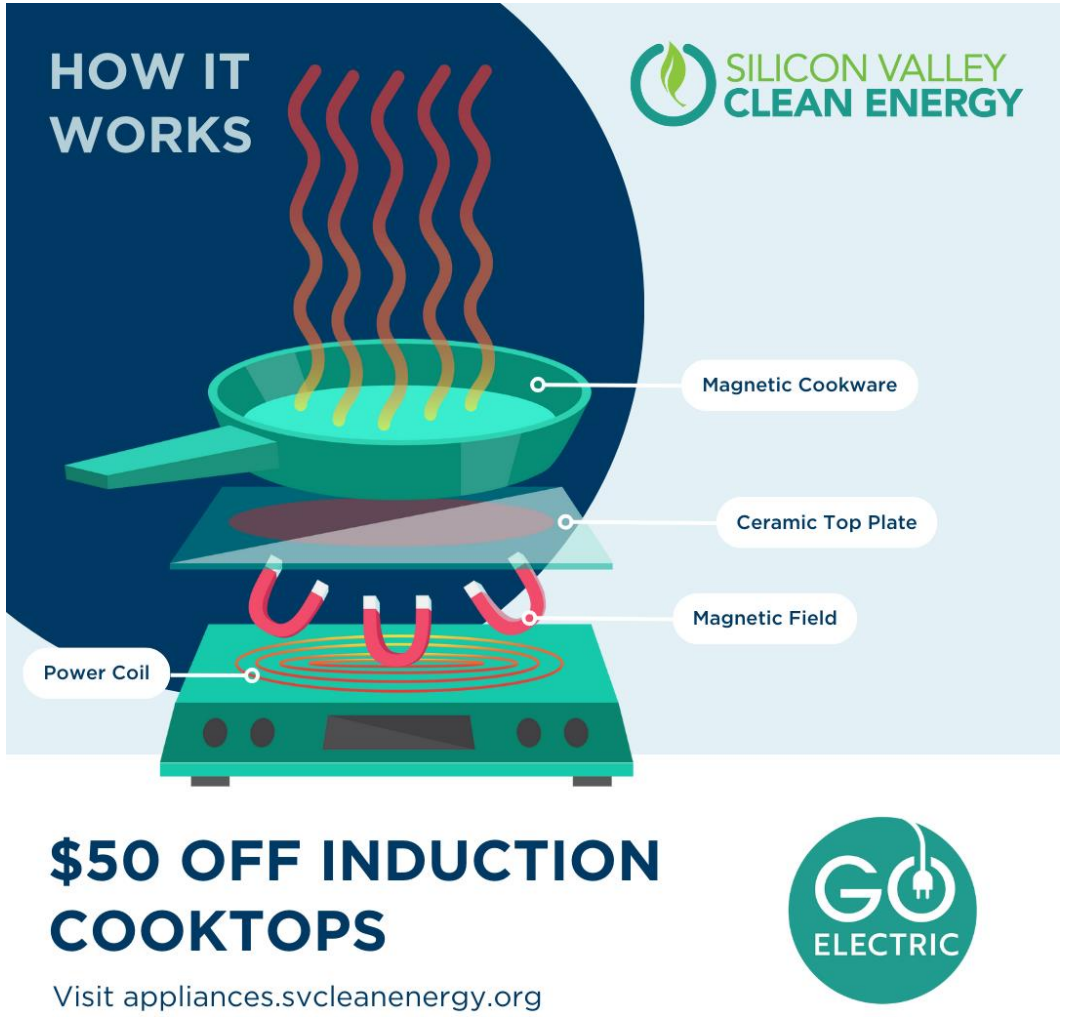
- SVCE **pre-funded a multi-year discount** on the E-ELEC rate to help reduce bill impacts of electrification
- Available to customers owning a **heat pump space/water heater, EV, or battery**
- Now open to **NEM customers**



Key Stats

- Enrollment recently surpassed **930 customers**
- Average generation discount **savings of 13% ($14/mo)**
- Approximately **1/3** of participants live in **low-to-moderate income** areas
- Nearly **5%** of participants are **CARE/FERA** customers who are saving a combined **33%** discount off monthly electric bills

4. Induction Cooktop Promotion



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

Promotion Details: Customers can get $50 off induction cooktops through the Appliances Assistant.

Launched October 25, closes February 29

5. Education Fund Now Open

Now accepting Education Fund applications through January 19, 2024.

Changes to the 2023 Education Fund

- Now open to elementary and middle schoolers alongside the usual high school and community college students
- Outreach and application materials now available in four languages: English, Spanish, Traditional Chinese, Vietnamese
- Applications open for four months instead of two

Sharing with your community

- Social media posts and newsletter
- In-person promotion at community events
- PeachJar school advertising reaching ~100 elementary and middle schools

6. Member Agency Working Group – October Update

The most recent MAWG meeting was held on October 26, 2023, and was attended by 10 different agencies and organizations with a total of 24 participants.

The following agenda items were presented and discussed:

- SVCE Decarbonization Grant Project Spotlight: Vargas Elementary School
- EV Charger Maintenance Discussion
- Member Agency Grant Support Discussion
- BayREN Public Programs

7. Press Releases & Media

Press Releases

- $80,000 in Grants Available Through the Silicon Valley Clean Energy Education Fund, *Press Release, 10-19-23*

Media

- Honors, happenings, opportunities, comings and goings — Sept. 2023, *The Jewish News of Northern California, 09-28-23*
- Inside 40+ Bay Area homes that have gone electric, *The Almanac, 09-29-23*
- Home briefs: Classic Eichlers, electric homes, historic orchard all open for tours in October, *The Almanac, 10-03-23*
- Cupertino home is a Silicon Valley Clean Energy showcase, *East Bay Times, 10-08-23*
- *Milpitas salon is a Silicon Valley Clean Energy showcase*, *The Mercury News, 10-08-23*

7. Press Releases & Media

- Sunnyvale households are Silicon Valley Clean Energy showcases, *The Mercury News, 10-08-23*
- Electric Home Tour -- What were your takeaways?, *Mountain View Voice, 10-15-23*
- Campbell households are Silicon Valley Clean Energy showcases, *The Mercury News, 10-15-23*
- Saratoga home is a Silicon Valley Clean Energy showcase, *The Mercury News, 10-15-23*
- *Los Gatos home is a Silicon Valley Clean Energy showcase*, *The Mercury News, 10-22-23*

SVCE Legislative and Regulatory Update

November 8, 2023

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Policy Updates

Regulatory Update:

1. Review of CPUC's Net Billing Tariff (NEM 3.0) Decision
2. High DER Proceeding

Legislative Update:

1. SVCE Legislative Positions

Regulatory Update

Key Regulatory Activities

Activity	Purpose	Status
Integrated Resource Planning R.20-05-003	"Umbrella proceeding" to ensure that collectively the CPUC jurisdictional LSEs are on track to meet the state's reliability and clean energy goals.	On October 5th, a ruling was issued seeking comment on the proposed Preferred System Plan and Transmission Planning Process (TPP) portfolios. The CPUC is proposing that the CAISO use the 25 MMT scenario based on the individual LSE IRP plans as the base case scenario. A second sensitivity studying the impact of gas retirements is also proposed. Additionally, the ruling seeks feedback on recent Petitions for Modification (PFM) to the Mid-term Reliability (MTR) order. Most notably is the request by California Energy Storage Alliance (CESA) and others for an additional extension for the long-lead time resources, such as geothermal and long duration energy storage. The ruling suggests that if the PFM is granted, there will likely be an additional 2,000 MW of capacity ordered to be online by 2028. SVCE is actively engaged with CalCCA in drafting comments on the ruling, which are due November 13, 2023.

Key Regulatory Activities

Activity	Purpose	Status
Decision Conditionally Approving Extended Operations at Diablo Canyon Nuclear Power Plant, Pursuant to Senate Bill 846 R.23-01-007	CPUC process to determine monitoring of the Diablo Canyon Power Plant extension, including cost and benefit allocations.	On October 26th, the CPUC issued a proposed decision (PD) related to the extension of Diablo Canyon Power Plant (DCPP). Key topics included allocation of the costs and benefits from DCPP. If adopted as written, PG&E would be obligated to allocate both the RA and GHG-free attributes from DCPP to all CPUC jurisdictional ratepayers – in Northern and Southern California – for the plant's extended operations. At the time of writing, SVCE staff is still reviewing the PD, however, expects to generally support the decision as written. Comments on the PD are due in mid-November.

Legislative Update

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	Signed into law
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)	Governor's energy reliability proposal.	Competitive Equity	Neutral	Signed into law

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~~

November 2023	December 2023	January 2024	February 2024	March 2024
Board of Directors, November 8:	**Special Meeting: SVCE End-of-the-Year Event, December 13, 4pm** **Board of Directors, December 13:** Consent: Minutes October 2023 Treasurer Report Program Admin Consultant Agreement Multifamily Direct Install Program Agreement Data Analytics Support Agreements Program Application/Portfolio Tool Development Agreement Committee Reports Regular Calendar: Rate Change CC Power PPA (tentative) MRP/Gas Peaker Community Investment Policy Annual Customer Survey Results Board Elections Update	**Board of Directors, January 10:** Consent: Minutes November 2023 Treasurer Report Scheduling Coordinator Services Agreement Battery Energy Storage System Optimization Software Agreement Committee Reports Regular Calendar: Chair and Vice Chair Appointment Executive Committee Membership Selection	**Board of Directors, February 14:** Consent: Minutes December 2023 Treasurer Report Update to Exhibits C and D of the SVCE JPA Committee Reports Regular Calendar: Committee Selections - 2024 SVCE's Load Management Standards Compliance Plan Preview	**Board of Directors, March 13:** Consent: Minutes January 2024 Treasurer Report Committee Reports Regular Calendar: Mid-Year Budget Audited Financial Statements Approve SVCE's Load Management Standards Compliance Plan Preview
Executive Committee, Nov. 27 (will be a combined meeting with Nov./December): MRP/Gas Peaker Community Investment Policy Introduction to SVCE's Load Management Standards Compliance Plan Obligation Board Elections Update Program Snapshot	**Executive Committee: CANCELLED**	**Executive Committee, TBD (tentatively scheduled for Jan. 26):** Appointment of Committee Chair and Vice Chair Establish regular meeting schedule	**Executive Committee, TBD (tentatively scheduled for Feb. 23):** TBD	**Executive Committee, TBD (tentatively scheduled for March 22):** TBD
Finance & Admin Committee, TBD: Rate Change Discussion				

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 3

Item 3:	**Approve 2024 Legislative Policy Platform and Identify Focus Areas for the 2024 Legislative Ad Hoc Committee**
From:	Girish Balachandran, CEO
Prepared by:	Bena Chang, Director of Government and Legislative Affairs
Date:	11/8/2023

RECOMMENDATION

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

1. A Policy Platform for 2024; and
2. Establish an Ad Hoc Committee of the Board to Address Legislative Responses to Industry Transition ("Ad Hoc Committee") for 2024; and adopt specific focus areas for the Committee so that SVCE can continue to strengthen our advocacy and improve our legislative outcomes.

BACKGROUND

Policy Platform

In December 2022, the Board approved the SVCE's Policy Platform. The Policy Platform contains principles on policies. Staff then implements the Platform by weighing in on legislation that aligns with the principles in the Policy Platform. This process allows SVCE to act in a timely manner to state and federal legislation.

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

In 2018, SVCE established an Ad Hoc Committee to improve SVCE's advocacy and outcomes by increasing engagement between SVCE staff and those Board members most interested in legislative matters. Subsequent Ad Hoc Committees were established every year to review the upcoming year's legislative matters. In 2023, the Ad Hoc Committee met in March, June and October, and the Committee expires at the end of 2023.

Staff requests that an Ad Hoc Committee be established to review legislative matters for 2024.

ANALYSIS & DISCUSSION

Policy Platform

California's energy landscape continues to evolve rapidly. As a result, it is critical that SVCE actively engage legislators to ensure policies support SVCE customers and allow us to meet our short and long-term goals. The Policy Platform presents a framework for focusing SVCE resources on the policies and issues that most impact the agency and our member communities. The 2024 Policy Platform includes guiding principles and example policies. The key policies include: 1) Affordability and Rates, 2) Climate Mitigation/Fuel Switching, 3) Clean, Reliable Grid, and 4) Competitive Equity/Do No Harm, 5) Health Impact/Safety, and 6) Equity. Details on policy areas can be found in the attached Policy Platform.

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

In 2024, anticipated activities of the Committee include:

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

Staff recommends the following policy areas for 2024:

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

SVCE staff encourage all Board members with an interest in legislative activities to consider joining the Committee, with the understanding that Committee membership involves additional time on top of regular Board duties. Appointment for this committee will occur at the February 14, 2024 board meeting.

STRATEGIC PLAN

Approving the Policy Platform, establishing a 2024 Ad Hoc Committee and approving the Committee Focus Areas for 2024 directly supports Goal 16 of the Strategic Plan to "Support legislation which advances SVCE's mission to reduce dependence on fossil fuels by supporting the development of a low carbon, affordable, and reliable electric system while simultaneously advancing economy-wide decarbonization."

ALTERNATIVE

If the Board does not establish an Ad Hoc Committee for 2024, SVCE staff will need to a) find alternative ways of including the Board in SVCE's policy advocacy, or b) conduct SVCE's 2024 legislative activities with less involvement of the Board. The former is likely to be more logistically complicated than establishing an Ad Hoc Committee and may increase email/communications traffic for the entire Board. The latter, given the high regard for local elected voices in Sacramento, is likely to make SVCE's advocacy significantly less effective.

FISCAL IMPACT

Approval of the 2024 Policy Platform and establishing an Ad Hoc Committee for 2024 is not expected to have any fiscal impact on SVCE.

ATTACHMENTS

1. 2024 Legislative Policy Platform

2024 Silicon Valley Clean Energy Legislative Policy Platform

Purpose

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

- Articulate SVCE's legislative priorities for the 2024 legislative session and beyond;
- Allow SVCE staff to take positions on bills for SVCE without explicit Board approval as long as they are consistent with this platform; and
- Guide optimal use of SVCE advocacy time and resources.

Process

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

Policy Platform

Affordability & Rates

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

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

Climate Change Mitigation/Fuel Switching

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

- Policy Examples:
    - Understand and advocate for funding opportunities to support clean energy and climate change mitigation, including the Federal Inflation Reduction Act. Support local administration/control of program dollars as appropriate.
    - Support efforts to transition buildings to electric, including removing the obligation to serve gas requirement, efforts to modernize permitting, and financing models.
    - Support efforts to encourage overall energy efficiency and conservation.
    - Support funding for EV charging infrastructure, and maintenance. Ensure EV policies are technology neutral and advocate for affordable EV charging access.
    - Advocate for the fair valuation of resources, including capturing the value of demand-side resources better in the CAISO.
    - Advocate for increased funding for clean energy workforce training and investments to reduce fossil fuel damage in low-income communities.
    - Support efforts to decarbonize industrial uses and processes, including reducing the use of baseload fuel cells that use natural gas.
    - Support industry practices in evolving to develop robust supply chains for all-electric technologies to prepare for future widespread electrification.
    - Support a climate bond that invests in decarbonizing the transportation, housing, and the electricity sectors.

Clean, Reliable Grid

- SVCE supports investments in, and removal of barriers to, building transmission to connect renewable projects that enable the transition to a cleaner grid. SVCE supports a reliable electric system, including the smart build out of the distribution grid to prepare for increased electrification without delays.

- Policy Examples:
    - Support investments in transmission and distribution grid upgrades and efforts to reduce interconnection barriers and distribution grid failures, including addressing permitting challenges, better

communications between IOUs and local governments, and increased transparency of the distribution planning process at the IOU level.
  - Support efforts to ease supply chain constraints and get renewable projects online faster.
  - Advocate for investments that increase the reliability of the electric system including encouraging carbon-free sources like nuclear, wind, and geothermal while recognizing the role of fossil fuels with the transition to renewables.
  - Ensure that penalties increase the production of renewables instead of simply raising the floor price of energy in the market.
  - Support efforts to explore regionalization to get a cleaner, more reliable grid.
  - Support innovative approaches to enhance grid reliability during peak events, such as behind-the-meter stationary sources (batteries), Virtual Power Plants, and vehicle-to-grid initiatives.

Competitive Equity/Do No Harm

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

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

Health Impact/Safety

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

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

Equity

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

- Policy Examples:
    - Support programs that invest in low-income and historically disadvantaged communities either through separate tracks that dedicate funding to or that give deeper levels of subsidies for these groups.
    - Support tenant access to the benefits of decarbonization programs and tenant protections.
    - Support efforts to repeal Proposition 209, which limits public agencies' ability to engage on equity efforts.
    - Support inclusive definitions of low-income and historically underserved communities that capture all communities and not just certain census tracts.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 4

Item 4:	**Authorize the Chief Executive Officer to Make Changes to the GreenStart and GreenPrime Retail Rate Offerings**
From:	Girish Balachandran, CEO
Prepared by:	Monica Padilla, COO & Director of Power Resources Don Bray, Director of Strategic Development Maren Wenzel, Sr. Manager of Energy Policy & Regulatory Analysis
Date:	11/8/2023

RECOMMENDATION

Authorize the Chief Executive Officer ("CEO") to make changes to Silicon Valley Clean Energy's (SVCE) two retail rate products, GreenStart and GreenPrime, starting in 2024 as follows:

1) Approve purchase of carbon free attributes from nuclear power sources to help increase SVCE's reportable clean energy for 2024 for the GreenStart product and direct staff to only purchase nuclear attributes if sufficient attributes can be found to provide the portfolio with 100% carbon-free energy;
2) Authorize the CEO to reduce the clean energy target for GreenStart in the case that clean energy attributes are not available within the approved FY 2024 budget parameters;
3) Remove requirement that GreenPrime energy be sourced by Green-e certified Renewable Energy Credits (REC); and
4) Increase cost premium for GreenPrime from 0.8 cents per kilowatt hour (kWh) to 1.2 cents/kWh.

The above changes are proposed for calendar year 2024. Staff intends to return to the Board by mid-2024 with a broader discussion on SVCE's pathway towards meeting long-term 100% clean requirements and any additional changes necessary to SVCE's product offerings.

EXECUTIVE COMMITTEE RECOMMENDATION

At the October 27, 2023 Executive Committee meeting, staff led a discussion about the challenges of meeting GreenStart and GreenPrime and alignment needed to SVCE's product offerings given such challenges and California's ambitious goals to achieve 100% carbon neutral in the electricity sector by 2045. Staff presented recommended changes to both product offerings and laid out several alternatives. The Executive Committee was supportive of the modifications presented by staff as reflected in the recommendation via this staff report to the Board. Further, the Executive Committee recognizes the challenges in balancing SVCE's mission in an affordable and sustainable way and supports a broader discussion on future product offerings.

BACKGROUND

SVCE offers two standard rate products for its customers, GreenStart and GreenPrime. SVCE currently procures its carbon-free energy needs for the GreenStart product via large-hydro and both short-term and long-term Renewable Portfolio Standard (RPS) eligible resources such as wind and solar. Today, through the Power Cost Indifference Adjustor (PCIA) mechanism and related Voluntary Allocation/ Market Offer (VAMO) process, a portion of SVCE's clean portfolio is also met with allocated legacy PG&E resources, including both RPS, large hydro electricity and nuclear from the Diablo Canyon Nuclear Power Plant. GreenStart sales volume in 2023, represents approximately 90% of SVCE's overall load.

SVCE's GreenPrime is comprised of 100% renewable energy. The product is backed by 'Green-e Certified' RECs which are verified voluntary RECs from newer built projects. GreenPrime sales volume in 2023 is 190 GWh, approximately 5% of SVCE's overall load[1]. Half of this annual volume is purchased by SVCE's member agencies

[1] The remainder of SVCE load is served by the GreenPrime Direct product, reserved for specific large C&I customers.

to serve municipal load, demonstrate community leadership, and maximize GHG reduction. Another ~45% of GreenPrime volume is purchased by large commercial customers, to demonstrate their commitment to renewables and satisfy requirements of voluntary programs such as the US Environmental Protection Agency's prestigious 'Green Power Partnership' program, and the US Green Building Council's Leadership in Energy and Environmental Design (LEED) program for construction of green buildings. The remaining 5% of GreenPrime load serves approximately 2,000 residential customers who have 'opted up' to receive 100% renewable energy. Since SVCE's launch, GreenPrime customers have paid a premium of 0.8 cents per kWh for the product (8/10ths of a cent). Prior to this year, this amount generally covered the incremental cost to SVCE of GreenPrime supply**.**

Historically, roughly 50% of the GreenStart product is sourced from RPS resources from both long-term Power Purchase Agreements (PPAs) and short-term RPS products with the balance coming from carbon-free energy. The market prices for carbon-free energy have increased dramatically due to the increased demand from corporate buyers, poor hydro conditions in the Pacific Northwest, and increasing climate targets in both California the Pacific Northwest. Carbon-free prices have increased by approximately 15x since SVCE's inception in 2017 to today rising from $1.75 per MWh to $25 per MWh. Carbon-free procurement costs were $4.1 million in 2017 and if the same volumes were procured today the costs could be up to $58.5 million.

Both GreenStart and GreenPrime rely on RPS products. RPS prices have also seen dramatic increases over the past year, largely due to increased demand from corporate buyers, on-going delays for new projects, and the end of a RPS Compliance Period Four (CP4)[2] increasing demand. As recently as 2022, SVCE paid approximately $12 for Renewable Energy Credits (RECs) but in recent solicitations have seen prices from $70-80. For GreenPrime, this is further complicated by the need for 'Green-e Certified' RECs which are particularly scarce and typically purchased year to year.

Additionally, in June 2023, the California Public Utilities Commission (CPUC) issued D.23-06-006 which determined that PG&E is no longer obligated to offer allocations of nuclear and large hydro resources to load serving entities (LSEs) such as SVCE. The decision requires that if PG&E does not offer hydro allocations, LSE customers should be compensated for the hydro portfolio via the PCIA based on a calculated Market Price Benchmark (MPB). The decision also determined that there is insufficient data to determine an MPB for nuclear attributes, effectively setting their PCIA value at zero. In 2023 PG&E indicated that it will not offer nuclear allocations for 2024, but will provide hydro allocations for 2024. In subsequent years, once Diablo Canyon is in its extension period and paid for by all rate-payers, SVCE may once again receive GHG-free allocations for the resource, however a final determination of that issue is pending a vote by the CPUC.

Combined, the market and policy changes impacting carbon free resources have created a supply deficit. Based on recent Requests for Offers (RFO) results, staff is not certain sufficient supply is available on the market to meet the 100% Clean requirements for GreenStart at any price.

Table 1 below provides an overview of how SVCE has historically achieved its 100% Carbon-Free energy portfolio, including its current position for 2024.

Table1: Historical and Projected Clean Purchases

	2020	2021	2022	2023	2024
SVCE Retail Sales (MWh)	3,877,807	3,746,139	3,605,920	3,645,419	3,950,160
SVCE Short-Term RPS (MWh)	1,845,291	1,583,628	924,472	134,989	151,100
SVCE Long-Term RPS (MWh)	0	187,555	893,754	1,584,391	1,962,976
PG&E Large-Hydro Allocation (MWh)	170,858	203,266	289,616	520,150	337,678*
PG&E DCPP Allocation (MWh)	388,205	798,257	976,706	1,000,200	0

[2] RPS Compliance Period Four sets a 40% overall RPS target for 2021 through 2024 and requires at least 65% of RPS resources come from contracts of ten years or greater in term. Failure to meet both requirements may result in penalties as assessed by the California Public Utilities Commission.

Carbon Free Purchases	1,937,035	1,240,206	950,823	1,052,203	1,050,869
Net Open Clean Position	0%	0%	0%	0%	~15%
	Actuals			Forecast	

*Expected value. PG&E has confirmed the hydro allocation will be offered for 2024.

ANALYSIS & DISCUSSION

GreenStart

Once SVCE receives its hydro allocation for 2024, the organization expects to have an 85% carbon free portfolio for its GreenStart product. The cost of procuring the remaining 15% deficiency with hydro resources is estimated at $25 per carbon-free attribute, or thirty million dollars ($30 million) total. Given responses to recent solicitations, SVCE is uncertain that sufficient hydro supply can be procured, even at high prices.

Through market solicitations, SVCE believes there may be an opportunity to purchase carbon-free attributes from nuclear resources to help satisfy its clean position for GreenStart. It is expected the cost of these attributes would be lower than those for hydro resources. While SVCE does not have an explicit policy to prevent purchases of nuclear power from its carbon-free portfolio, staff sought approval in 2019 to allow the inclusion of nuclear allocations from PG&E on the basis that nuclear power is considered carbon-free, already exists as part of PG&E's Power Content Label (PCL) and California's system power and were paid for through the PCIA. Like taking an allocation, short-term purchases of nuclear energy will not extend the life of a nuclear plant nor generate additional nuclear energy. Further nuclear energy is a baseload resource with very little variability making it a more predictable resource compared to hydroelectricity which is highly dependent on precipitation conditions. GreenStart options are outlined in the Table 2.

Table 2: GreenStart Alternatives

	Option #1 Current Policy	Option #2 Buy Nuclear	Option #3 No Additional Purchases
Description	Maintain 100% Carbon Free for 2024 – assumes SVCE can purchase additional CF resources	Maintain 100% Carbon Free for 2024 with nuclear purchases	Stick with current Carbon Free position (~78%-85% in 2024) which assume PG&E Large Hydro allocations.
Expected Reportable Emissions on Power Content Label	74 lbs of Co2*	74 lbs of Co2*	~170 lbs of Co2, includes grid emissions
Benefits	Maintains SVCE's historic product offering	Same as Option #1, but at a lower incremental cost	• Lower power supply cost, which helps maintain SVCE reserves, discount and/or program funding
Drawbacks	• ***May not be feasible*** • Expensive, ~$30M above budget • Limited emissions reductions for grid	• ***May not be feasible*** • Expensive • Limited emissions reductions for grid • Requires board approval	• May create concern from customers, especially GreenStart customers with Climate Action Plans

*emissions associated with Coso Geothermal renewable resources

Option 1, to maintain existing policy and attempt to purchase sufficient hydro resources to cover the net open clean position, is expected to increase power supply costs by roughly $30M. However, as mentioned above this option may not be feasible as supply is limited. This option would however maintain the organization's historic product offering.

Under Option 2, SVCE staff believes it may be able to maintain its carbon free portfolio at a lower cost if the board approves the purchase of nuclear attributes. Staff would only pursue this option if the organization can achieve 100% carbon free energy below the originally budgeted cost of procuring carbon-free resources.

Finally, Option 3, would preserve SVCE's reserves by not procuring additional carbon free resources, however would increase reportable emissions for the organization which may be of concern to GreenStart customers. In 2022, SVCE's PCL attributed 74 lbs carbon dioxide (Co2) per MWh to the GreenStart product. Should SVCE meet its 100% Clean goal in 2024, it would expect a similar emissions reporting in 2024. If the organization does not procure any additional carbon-free energy and maintains a 85% clean position, it is estimated that the PCL reportable emissions would increase to approximately ~175 lbs Co2/MWh in 2024.

Staff recommends pursuit of Option 2, to procure a carbon free portfolio with the use of nuclear purchases. This will allow the organization to maintain a 100% carbon-free portfolio at budgeted costs and maintain a reportable emissions level for GreenStart similar to what was reported in 2023. However, if staff is not able to acquire sufficient nuclear resources below budgeted costs, then staff recommends not purchasing additional RPS or carbon-free resources and maintaining the existing clean position as described in Option 3.

GreenPrime

GreenPrime is facing critical challenges for 2024. RPS resources as noted above have become expensive and difficult to find, especially for 2024. Further, Green-e certified RECs are more difficult to find and carry an additional premium to general RPS RECs. And since Green-e RECs are traditionally purchased year-to-year, the 0.8 cents per kWh premium will no longer be sufficient to meet the incremental cost of GreenPrime in 2024. Starting in 2024, staff recommends moving away from Green-e certification, and raising the premium charged for GreenPrime.

The Green-e Certification program is offered by the Center for Resource Solutions (CRS), a national non-profit focused on sustainability policy and standards. Green-e Certification ensures that RECs used to meet voluntary reporting programs minimize greenwashing risk, by sourcing from Green-e certified renewables projects, and satisfying clear and audited accounting standards. Green-e certification (or equivalent) of RECs is recommended by both the US EPA's Green Power Partnership program, and the USGBC's LEED program.

SVCE could consider allocating RECs from an SVCE PPA project that was Green-e Certified, as SVCE has supply well in excess of State RPS requirements. However, doing so would mean that these RECs could not be used to satisfy SVCE's SB350 long-term procurement requirements for Compliance Period 4. Missing the CP4 requirement could result in substantial fines for SVCE.

CCAs generally offer a 100% RPS product, and most are facing similar issues with associated REC pricing and sourcing. Locally, both MCE and EBCE are 'self-certifying' their 100% RPS product RECs rather than certifying via Green-e. They are relying on required reporting via WREGIS (Western Renewable Energy Generation Information System) and California's annual power source disclosure reporting and associated PCL to demonstrate product content and accounting for their 100% RPS products.

SVCE has contacted program personnel at the US EPA and USGBC and ensured that Green-e is not an exclusive certification requirement for the Green Power Partnership and LEED programs respectively. Beginning in 2024, staff recommends it report to its GreenPrime customers a product content via a combination of required WREGIS and PCL reporting, and continuation of an annual independent audit of GreenPrime RECs retirements. And as in prior years, the SVCE Board will continue to vote to ratify SVCE's annual PCL submissions to the California Energy Commission.

Discontinuation of Green-e Certification will provide SVCE with more internal sourcing options for GreenPrime RECs in the future and reduce additional cost and availability issues.

Given the dramatic increase in RPS and carbon-free prices described above, the current 0.8 cents per kWh premium for GreenPrime is not sufficient to cover the incremental cost for 2024. For illustration, using a marginal 2024 REC costs of $75/MWh and marginal carbon-free costs of $25/MWh, the incremental cost of GreenPrime in 2024 would be ~2.5 cents per kWh, approximately 3 times the current premium.

It's important to note that PG&E has a competing 100% RPS product, Solar Choice. The current premium for Solar Choice varies by customer segment – from 1.1 cents per kWh for medium commercial customers to 2.3 cents per kWh for residential customers. New subscriptions in PG&E's program are currently being waitlisted, as the program has reached its cap of 272 MW and a petition for expanded capacity is currently being considered by the CPUC. GreenPrime rate change alternatives for 2024 are outlined in the Table 3.

Table 3: GreenPrime Alternatives

	Option #1 Status Quo	Option #2 Directional Price Increase	Option #3 Price at Standard Discount to PG&E	Option #4 Price at SVCE 2024 Cost Recovery Rate
Price Change/ GP Cost Premium	**No change** 0.8 cents per kWh	**50% increase for 2024** 1.2 cents per kWh	**100% increase for 2024** ~1.6 cents per kWh	**200% increase for 2024** ~2.5 cents per kWh
Competitive Positioning	~50% discount to PG&E	~25% discount to PG&E	1-4% discount to PG&E (std discount policy)	50% premium to PG&E
Annual Bill Impact Res (6000 kWh) / C&I (10GWh)	N/A – no change	+$24 / +$40,000	+$48 / +$80,000	+$102 / +$170,000
Impact to 2024 SVCE Reserve Contribution	< ~$3.2M >	< ~$2.5M >	< ~$1.7M >	None (unless opt-outs)
Pro's	- No customer disruption - Affordable alternative if GS no longer carbon-free	- Price signal to customers - Possible alternative if GS no longer carbon-free	- Unlikely to result in opt-outs - Price still discounted to PG&E	- No impact to reserve contribution - No 2024 cross-subsidy
Con's	- $3.2M impact to 2024 reserve contribution, and 'cross-subsidy'	- Some customer disruption, opt-downs likely - $2.5M impact to 2024 reserve contribution, and cross-subsidy	- Major customer disruption, opt-downs very likely - High-priced alternative to GS - $1.7M impact to 2024 reserve contribution, and cross-subsidy	- Major customer disruption; many opt-downs likely - Opt-outs possible - Unlikely alternative to GS

Option 1, maintaining the status quo, limits customer disruption and maintains GreenPrime as an affordable 100% renewable and carbon-free alternative to GreenStart. This may be especially important if SVCE is not able to acquire additional carbon-free nuclear supply for 2024, resulting in increased GreenStart carbon emissions intensity. And GreenPrime customers would not see any relative price increase for GreenPrime in 2024. Under this option, the revenue collected from GreenPrime customers would be ~$3.2M less than the amount needed to cover the full incremental cost of GreenPrime in 2024.

Option 2 would increase the premium by 50% in 2024, to 1.2 cents per kWh. This would send a significant price signal to customers indicating the increased cost of GreenPrime, and likely result in some customer disruption. Many participating member agencies and commercial customers would re-evaluate their interest in GreenPrime, and potentially opt-down to GreenStart. However, they would be unlikely to opt-out to buy PG&E's Solar Choice product, as that option would still be more expensive. Even with a 50% increase in price to 1.2 cents/kWh, GreenPrime may still be a viable 100% RPS alternative to GreenStart, which may be especially important if SVCE is not able to acquire additional carbon-free resources for 2024. Under this option, the GreenPrime premium would under collect by ~$2.5M needed to cover the full incremental cost of GreenPrime in 2024.

Option 3 increases the premium by 100% in 2024 and would likely result in more significant customer disruption. While it's still not likely that customers would opt-out for PG&E's solar choice program, more customers would likely opt-down from GreenPrime – and/or, feel constrained by limited options if SVCE's GreenStart product has increased emissions intensity in 2024. Under this option, SVCE's contribution to reserves would be reduced by ~$1.7M, the needed to cover the full incremental cost of GreenPrime in 2024.

Finally, Option 4 increases the premium by 200%, the full amount needed to cover incremental costs in 2024. Under this scenario many opt-downs are likely and opt-outs to PG&E are possible, as PG&E's 100% RPS product would be lower-cost.

Staff recommends that SVCE discontinue Green-e Certification for 2024. This will allow for more sourcing options for GreenPrime in future years – including potentially from SVCE PPA projects - and will likely reduce the future cost of GreenPrime RECs that are especially problematic in 2024.

For GreenPrime pricing in 2024, staff recommends Option 2. Option 2 balances the need for managing customer impact and optionality vis-a-vi GreenStart, while at the same time recognizing and signaling increased near-term product costs. With the elimination of Green-e Certification requirements, SVCE has more long-term options for reducing the incremental cost of GreenPrime RECs in the future. And Option 2 keeps SVCE's 100% RPS product competitive versus PG&E for all customer classes. If SVCE were to raise the premium by 100% (as outlined in Option 3), the customer impact would be more substantial still, and potential increase in reserves contribution would be only $800k relative to Option 2.

STRATEGIC PLAN

Board approval to purchase carbon-free attributes will enable staff to meet the current board directed clean targets while maintaining cost and rate objective goals as outlines in SVCE's Strategic Plan, including:

> G7: Acquire clean and reliable electricity in a cost effective, equitable and sustainable manner; and
> G8: Manage and optimize power supply resources to meet affordability, GHG reduction and reliability objectives.

Staff believes the proposed solutions best balance affordability in the current market conditions while maintaining overall clean targets.

ALTERNATIVES

Staff has provided various alternatives to changes for GreenStart and GreenPrime as described in Tables 2 and 3. The Board may decide not to support staff's recommendation, and maintain the status quo for both product offerings, as follows:

GreenStart, SVCE staff pursues 100% clean target, which includes purchases above budgeted amount. This alternative would expose SVCE to significantly higher costs associated with its net open position. As noted above, staff is uncertain sufficient supply exists in the market to allow the organization to close its 2024 open position.

GreenPrime, Do not discontinue use of Green-e Certification and retain current premium at 0.8 cents per kWh. As noted above, this alternative would increase costs for the organization and sufficient Green-e certified RECs may not be on the market and SVCE would be under collecting ~$3.2M in retail revenue needed to cover the incremental cost of GreenPrime in 2024.

FISCAL IMPACT

Adoption of the proposed changes to GreenStart will not change the cost of procuring resources relative to the Board-approved fiscal year 2024 operating budget (FY 24 Budget). The proposed changes to GreenPrime are also consistent with budgeted supply cost in the FY 24 Budget however if the rate premium is approved will result in an increase in revenues for FY 24.

SILICON VALLEY CLEAN ENERGY

Staff Report – Item 5

Item 5:	**Authorize the Chief Executive Officer to Execute a 15-Year Power Purchase Agreement with SunZia Wind PowerCo LLC and Potential Replacement PPAs in Substantial Form and Any Necessary Ancillary Agreements and Documents**
From:	Girish Balachandran, CEO
Prepared by:	Monica Padilla, COO and Director of Power Resources Kris Van Vactor, Wholesale Energy Markets Manager
Date:	11/08/2023

RECOMMENDATION

Staff recommends that the Board delegate authority to the Chief Executive Officer (CEO) to execute the SunZia Wind PowerCo LLC, Power Purchase Agreement (PPA), in substantial form, and any subsequent Replacement PPAs and/or necessary ancillary agreements and documents as follows:

1. **SunZia Wind PowerCo LLC, Power Purchase Agreement (PPA) ("SunZia Wind")**
    a. 100 MW or approximately 315,672 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 September 30, 2026, through September 29, 2041.
    c. Total amount not-to-exceed $361,000,000.

The SunZia Wind PPA is needed to meet SVCE Board-directed clean energy targets; California's RPS and clean procurement mandates; and possible Resource Adequacy (RA) requirements.

BACKGROUND

In fall of 2022, Silicon Valley Clean Energy (SVCE) issued a Request for Offers (RFO) for long-term clean resources. The goal of the RFO was to secure a diverse set of renewable energy and clean capacity to meet SVCE's Renewable Portfolio Standard (RPS) and carbon-free objectives, while also complying with California's RPS and clean mandates under Senate Bill 100 ("SB 100") which set a goal of achieving a 60% RPS by 2030 and a 100% clean energy grid by 2045 with interim targets of 90% by 2035 and 95% by 2040 as provided for under Senate Bill 1020. Resources with at least ten years in term were sought to help meet Senate Bill 350 ("SB 350") which sets a long-term procurement requirement of 65% of RPS per compliance period. The 2022 SVCE RFO long term clean resources did not yield the additional diversity that SVCE was hoping to achieve. No wind or geothermal offers materialized. Through various conversations Pattern did approach SVCE in the late Spring timeframe with a bilateral offer for 100 MW of capacity.

Clean resources were also sought to meet obligations as ordered in the California Public Utilities Commission (CPUC) issuing Decision (D.) 21-06-035, the Mid-term Reliability Procurement Order (MTR Order), requiring CPUC-jurisdictional LSEs, such as SVCE, to procure and/or develop a collective 11,500 MW of new capacity by 2026. In February 2023, the CPUC issued D.23-02-040, the Supplemental Mid-term Reliability Procurement Order (Supplemental MTR Order), requiring an additional 4,000 MW of new clean capacity to come online by 2027 for a total of 15,500 MW (15.5 GW). SVCE's total share of the MTR Order and Supplemental MTR Order is 317 MW, which was determined based on SVCE's load ratio share of the CPUC's jurisdictional load in the

Pacific Gas and Electric transmission access area. While SVCE has made significant progress towards meeting the Supplemental MTR order, an open position still exists.

The latest procurement effort is also consistent with SVCE's Board-directed clean energy goals of delivering 100% clean energy on an annual basis and to achieve a 75% RPS by 2030 as provided for in the Board-approved 2022 Integrated Resource Plan (2022 IRP) October 12, 2022 SVCE Board of Directors Meeting, Item 3. In support of SVCE's goals and mandates, SVCE has 19 long-term contracts for clean energy, capacity and/or reliability products totaling over $3 billion over the life of the contracts. Currently, seven resources are online and estimated to meet approximately 32.7% of SVCE's retail sales in 2023 with the following RPS mix: Solar + Storage: 33%, Geothermal: 32%, Wind: 35%.

When all resources are on-line, SVCE will have achieved an 60.3% RPS from long-term resources and 42% of its peak capacity will be met from clean resources. Table 1 is a summary of PPAs executed to date to meet RPS, resource adequacy and/or MTR requirements.

Table 1: Board Authorized Clean Energy Contracts Executed

	Seller	Project Name	Technology	Generation MW	Storage MW	Storage MWh	Approximate % of Annual load in 2025	Approximate % of Annual load in 2028	Term (years)	Lifetime Not to Exceed Authority (MM$)	SVCE Board Approval	Status
1	MN8	Slate	Solar + Storage	93	46.5	186	6.70%	6.60%	17	$198	Oct-18	Online
2	Ormat	Casa Diablo	Geothermal	7			1.40%	1.40%	10	$43	Feb-20	Online
3	Atlantica	Coso	Geothermal	43.8			9.60%	6.50%	15	$331	Mar-20	Online
4	Leeward	Rabbitbrush	Solar + Storage	40	8	20	3.00%	3.00%	15	$64	Apr-20	Online
5	NextEra	Yellow Pine	Solar + Storage	50	26	104	4.10%	4.00%	20	$128	May-20	Online
6	Ayantus	Aratina	Solar + Storage	80	20	60	6.60%	6.60%	20	$174	Jun-20	Pre-construction
7	174 Power Global	Atlas	Solar	50			3.80%	3.80%	10	$32	Jan-21	Pre-construction
8	SB Energy	Angela	Solar + Storage	20	10	40	1.40%	1.40%	15	$35	Mar-21	Pre-construction
9	AES	Mountain View	Wind	33.3			3%	3%	20	$128	Apr-21	Online
10	Origis	San Luis West	Solar + Storage	62.5	15.625	62.5	4%	4%	15	$74	Apr-21	Pre-construction
11	Clearway	Victory Pass	Solar + Storage	100	25	100	8%	8%	15	$173	May-21	Construction
12	Terra-Gen	Cameron Crest	Wind	77.7			5%	5%	15	$150	May-21	Online
13	Rev Renewables	Tumbleweed	Long Duration Storage		15.9375	127.5	n/a		15	$100	Feb-22	Pre-construction
14	Onward	Goal Line	Long Duration Storage		14.2	113.6	n/a		15	$100	Mar-22	Pre-construction
15	Ormat	Geothermal Portfolio	Geothermal	16.75			3.30%	4.40%	20	$256	Jun-22	Pre-construction
16	OME	Fish Lake	Geothermal	1.82			0.40%	0.40%	20	$30	Jun-22	In-development
17	MRP	Hanford	Thermal + BESS	99.4	131.4	131.4			12	$280	Apr-23	In-development
18	NextEra	Grace	Solar	120	0			9%	15	$286	Aug-23	Pre-construction
19	NextEra	Yellow Pine III	Storage	0	115	460			15	$420	Aug-23	Pre-construction
		Total:		895	428	1405	60.30%	67.10%		$3,002		

ANALYSIS & DISCUSSION

1. SunZia Wind PowerCo "SunZia Wind"

SunZia Wind, is a 3,515 MW new build wind facility resource capable of producing over 11 million MWh of PCC1 RPS energy and renewable energy certificates (RECs). The SunZia Wind PPA for SVCE will be for 100 MW of the 3,515 MW facility and contribute around 316,000 MWh PCC1 RPS energy and renewable energy certificates (RECs), which will account for approximately 7-8% of SVCE's retail sales and count towards annual and long-term RPS requirements. The resource is offered at a fixed-price in dollars per MWh under a fifteen-year term with an expected COD of September 30, 2026. The project is in New Mexico (it spans Torrance, Lincoln and San Miguel Counties) and will be interconnected to the California Independent System Operator (CAISO) at the Palo Verde Inter-tie. SunZia Wind will have deliverability status and provided SVCE is awarded the necessary Import Allocation Rights, the project will be able to provide resource adequacy attributes to help SVCE meet its annual compliance obligation.

Pattern Energy ("Pattern") is the parent company and developer of SunZia Wind. Pattern is contemplating splitting the project geographically and thus may need to restructure the off-takers via new or "Replacement PPAs". The restructuring of the project and PPA is expected to happen prior to the commercial on-line status and may be necessary to achieve financing of the project. As such, SVCE's PPA includes a provision which allows for a Replacement PPA under certain conditions. The Replacement PPA will preserve the energy generation and value expected under the original PPA. Because of the timing to execute the Replacement PPA, staff is seeking authority to execute a Replacement PPA as part of the CEO's delegated authority.

Table 2 is a summary of the key features of the SunZia Wind PPA.

Table 2: Summary of Proposed Resources

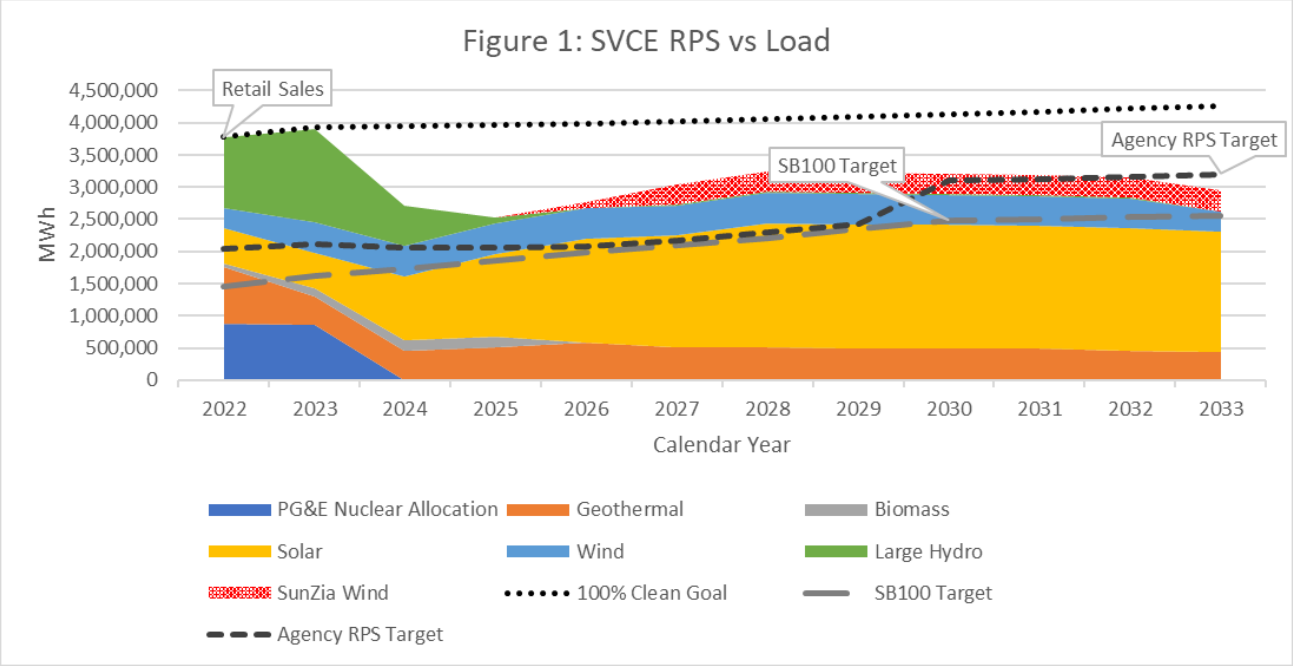
Counterparty	SunZia Wind PowerCo, LLC
Parent Company	Pattern Energy, Inc.
Product	New build wind PCC1 RPS Energy
Need and/or Compliance Obligation	SVCE's 100% Clean energy goal and RPS target SB100, SB350 and B1020 MTR Order and RA starting in 2026
Expected Delivery Term	15 years, September 30, 2026, through September 29, 2041.
Contract Capacity	100 MW wind
Location	New Mexico
Percentage of Retail Load Served/RPS	~7-8%

RPS Compliance & Integrated Resource Plan

SB100 sets annual RPS targets starting in 2020 growing to 60% in 2030 and further sets a 100% clean energy goal by 2045. SVCE's board-approved IRP further sets an RPS target of 75% by 2030. SunZia Wind provides an estimated 316,000 MWh of RPS eligible energy, bringing SVCE's expected RPS in 2028 to 80%.

Figure 1 illustrates SVCE's progress towards meeting the Board-approved and state mandated annual RPS targets as well as what the SunZia Wind PPA would do in terms of increasing RPS under contract for SVCE.

Figure 1: SVCE Annual Renewable Portfolio with SunZia Wind (2022-2033)



SB350, passed in 2016, requires Load Serving Entities (LSE) such as SVCE to acquire a minimum of 65% of the state mandated RPS requirement through long-term PPAs (10 years or greater) starting with Compliance Period No. 4 "CP4" (2021-2024). The mandated overall RPS for CP4 is 40%, thus the long-term RPS procurement requirement is 26%. SVCE's existing PPAs will achieve a combined 29.2% RPS in CP4 from long-term resources. SunZia Wind is expected to come on-line in 2026, helping meet long-term obligations in CP5. With the inclusion of SunZia Wind, SVCE's long-term RPS is 69.3% in CP5 and 79.5% in CP6, which is above California's mandated long-term RPS requirement of 33% and 37% respectively. This number represents SVCE position assuming all contracts are operational based on the on-line dates specified in the PPAs and that the resources perform consistent with the generation profiles provided in the PPAs as well. Table 3 shows SVCE's progress towards meeting the long-term RPS goals and mandates.

Mid-term Reliability Procurement Order & Resource Adequacy Capacity

SVCE has made significant progress towards meeting its allocation in all tranches of procurement mandates per the MTR Order. SVCE is slightly deficient in meeting its generic 2025, 2026 and 2027 requirements which orders the procurement of new clean energy capacity including standalone storage. SVCE's 100 MW share of SunZia Wind, will contribute approximately 34 MW of qualifying capacity helping to close SVCE's obligation starting in 2027[1].

SVCE has an obligation to procure sufficient capacity to meet grid reliability as prescribed by the CPUC's RA Program. Resources such as SunZia Wind effectively contribute clean capacity towards SVCE's RA requirements. The actual amount of counting capacity will vary depending on CPUC's rules as determined by the effectiveness of the resources ability to meet customer load on the worst days.

[1] For MTR credit, in 2027 New Mexico Wind has an Effective Load Carrying Capacity rating of ~34

Table 3: RPS Under SB100 and SB350 Long-term Contracting Requirement per Compliance Period

	CP#4 2021-2024	CP#5 2025-2027	CP#6 2028-2030
1. State Mandated RPS per Compliance Period - % of Retail Sales	40%	50%	57%
2. State Mandated % of Mandated RPS (Row #1) to be Contracted Under RPS Long-term Contracts	65%	65%	65%
3. State Mandated % of Retail Sales with RPS Long-term Contracts (Row 2* Row 1)	**26%**	**33%**	**37%**
4. SVCE: Current Compliance with Row #3: Existing RPS Achieved with Long-term Contracts	30.70%	66.00%	71.70%
5. SVCE: RPS Achieved with SunZia Wind	**30.70%**	**69.30%**	**79.50%**
Open Position relative to State Mandate (Row #3) +Above/ (-) Short	**4.70%**	**36.30%**	**42.50%**

Clean Energy and Capacity

Since its inception, SVCE has had a 100% clean energy goal measured annually. This has been achieved through a mix of RPS-eligible resources including wind, solar and geothermal combined with non-RPS eligible, but carbon-free resources such as large hydroelectricity and nuclear allocations from Pacific Gas and Electric. While SVCE's clean goal is ambitious, the Board has directed staff to evaluate a pathway to achieving a portfolio whereby load and resources are better matched in all hours of the day. To achieve this objective, staff must balance the need to also achieve reliability and affordability objectives.

Strategically, resources which can deliver clean energy in all hours of the day, such as geothermal, will best help SVCE balance its objectives however such resources are scarce. Solar plus storage, whether paired at the same site, or virtually collocated help achieve a more sustainable grid by pushing out solar generation in later hours of the day, when demand peaks. These types of resources are necessary to meet current retail product needs including GreenStart, GreenPrime and GreenPrime Direct in addition to help us build a pathway to 24/7 clean energy.

Out of state wind presents an opportunity for SVCE to further diversify its clean energy portfolio by technology and by geography. The wind profile for SunZia is such that the resource produces more in the winter/spring months than in the summer months. This pairs well with Solar that sees its production peak in the Summer.

SVCE does not have a clean capacity goal. Currently, short-term natural gas RA-only capacity contracts account for the vast majority of SVCE's RA portfolio. In 2022, 80% of SVCE's requirements were from RA-only contracts. By including SunZia Wind into the portfolio Energy Source from Wind increases by 7-8% and RA credit increases by close to ~3%. Table 4 is an illustration of SVCE's energy and capacity portfolio in 2028.

Table 4: Energy and RA Capacity Portfolio with SunZia Wind – Estimated for 2028

Estimated for 2028	Annual Energy (GWh)	Energy Source as a Percent of Total Retail Sales	Capacity Source as a Percent of Total RA Requirement
Biomass	0	0%	0%
Geothermal	503	12%	12%
Solar	1,820	45%	12%
Wind with SunZia	788	19%	6%
Large Hydroelectric	871	21%	0%
Battery Storage	0	0%	7%
Natural Gas RA-only	0	0%	47%
Hanford – Natural Gas	70	2%	17%
Total	4,052	100%	100%

ALTERNATIVE

While SunZia Wind is necessary to meet overall RPS goals, the Board may decide not to approve this RPS resource and instead procure short-term resources or issue a new RFO. Staff does not recommend this alternative, as renewable resources are scarce, and the cost of short-term RECs far exceeds the implied REC cost associated with SunZia Wind.

STRATEGIC PLAN

Board approval to delegate authority to the CEO to finalize and execute the SunZia Wind PPA will enable staff to meet the current board directed clean targets and California mandates for RPS, clean energy and reliability consistent with goals and objective as outlines in SVCE's Strategic Plan, including:

> G7: Acquire clean and reliable electricity in a cost effective, equitable and sustainable manner; and
> G8: Manage and optimize power supply resources to meet affordability, GHG reduction and reliability objectives.

FISCAL IMPACT

Ultimate execution of the agreements will result in cost to SVCE starting in Fiscal Year (FY) 2026 for SunZia Wind PPA, which will be included in the budget at that time. Staff's spending authority over the life of the projects will be limited to the amount recommended including $361,000,000 for SunZia Wind.

With the inclusion of the proposed contract SVCE's total expected lifetime cost is $3.36 billion across all Clean Energy PPAs, $361 million higher than in Table 1 above.

ATTACHMENTS

1. SunZia Wind Power Purchase Agreement – redacted version

CONFIDENTIAL
Pattern-SVCE SunZia PPA
Pattern 10/30/2023

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

Seller: SunZia Wind PowerCo LLC

Buyer: Silicon Valley Clean Energy Authority, a California joint powers authority

Description of Facility: A wind-powered electricity generating facility with a nameplate capacity of up to 3,515 MW, as described in Exhibit A, as such facility may be modified under the terms of this Agreement.

Milestones:

Milestone	Date for Completion
Execute Interconnection Agreement	3/27/2023
Obtain Bureau of Land Management Record of Decision for SunZia Transmission Line	5/18/2023
Expected Procurement of Major Equipment	11/30/2023
Expected Construction Start Date	[redacted]
Expected Commercial Operation Date	9/30/2026

Delivery Term: Fifteen (15) Contract Years.

Guaranteed Capacity: 100 MW_{AC}.

Expected Energy:

Contract Year	Expected Energy (MWh per Contract Year)
1 – 15	[redacted]

Contract Price: [redacted]

Product:

☒ Delivered Energy
☒ Green Attributes/Renewable Energy Credits (Portfolio Content Category 1) attributable to the Delivered Energy
☒ Capacity Attributes

DRAFT

Scheduling Coordinator: Seller/Seller Third Party.

Development Security and Performance Security

Development Security: [redacted]

Performance Security: [redacted]

DRAFT

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CONFIDENTIAL
Pattern-SVCE SunZia PPA
Pattern Draft 10/30/2023

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

This Renewable Power Purchase and Sale Agreement ("**Agreement**") is entered into as of [_____], 2023 (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**."

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
DEFINITIONS

1.1 **Contract Definitions.** The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12.

"**Adjusted Energy Production**" has the meaning set forth in Exhibit E.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Agreement**" has the meaning set forth in the Preamble and includes any Exhibits, schedules and any written supplements hereto, the Cover Sheet, and any designated collateral, credit support or similar arrangement between the Parties.

"**Alternative Delivery Point**" means a Scheduling Point, as defined in the CAISO Tariff, other than the Delivery Point, that is agreed upon by Buyer and Seller.

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"**Approved Meter**" means a CAISO-approved revenue quality meter or meters, or if a CAISO approved meter is not consistent with PTO requirements, then a PTO-approved meter or meters, together with a CAISO-approved or PTO-approved, as the case may be, data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

"**Available Capacity**" means the capacity from Buyer's Share of the Facility, expressed in whole MWs, that is available to generate Energy.

"**Balancing Authority**" has the meaning set forth in the CAISO Tariff.

"**Bankrupt**" means with respect to any entity, such entity that (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (f) is generally unable to pay its debts as they fall due.

"**Business Day**" means any day except a Saturday, Sunday, the Friday after the U.S. Thanksgiving holiday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. local time for the Party sending a Notice, or payment, or performing a specified action.

"**Buyer**" has the meaning set forth on the Cover Sheet.

"**Buyer's Share**" means the percentage that is equal to the quotient of the Guaranteed Capacity divided by the Installed Capacity (or, prior to the Commercial Operation Date, the total nameplate capacity of the Facility in operation at the time), not to exceed one hundred percent (100%), as such percentage may change from time to time with changes to the Installed Capacity, if applicable.

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

"**CAISO Operating Instruction**" has the same meaning as "Operating Instruction" as defined in the CAISO Tariff.

"**CAISO Tariff**" means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Procedures, including

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the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and, to the extent subject to approval by FERC, as approved by FERC.

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means Buyer's Share of any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver at a particular moment, including those that can be delivered to the CAISO Grid and that can be purchased and sold pursuant to the CAISO Tariff (e.g., Resource Adequacy Benefits).

"**Capacity Damages**" has the meaning set forth in Exhibit B.

"**Capacity Replacement Price**" means [redacted]

"**CEC**" means the California Energy Commission, or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified (or, with respect to periods before the date that is one hundred eighty (180) days following the Commercial Operation Date, that the CEC has pre-certified) that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Energy generated by the Facility qualifies as generation from an Eligible Renewable Energy Resource.

"**Change of Control**" means any circumstance in which (a) in respect of Buyer, the Person that has ultimate control over Buyer ceases to have such ultimate control, and (b) in the case of Seller, the Ultimate Parent ceases to have control over Seller; *provided* that, for the avoidance of doubt, it shall not be a Change of Control of Seller if the Ultimate Parent, itself or together with other Persons that would meet the requirements of the definition of Permitted Transferee, retains either (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of Seller or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in Seller, or (b) the right to direct the policies or operations of Seller.

"**COD Delay Damages Payment**" has the meaning set forth in Exhibit B.

"**Collateral Assignment Agreement**" has the meaning set forth in Section 14.2.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

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"**Commercial Operation Date**" has the meaning set forth in Exhibit B.

"**Compliance Actions**" has the meaning set forth in Section 3.12.

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Price**" has the meaning set forth on the Cover Sheet.

"**Contract Revenues**" has the meaning set forth in Section 4.5(b).

"**Contract Term**" has the meaning set forth in Section 2.1.

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**COVID-19**" means the pandemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, or the efforts of a Governmental Authority to combat or mitigate such disease.

"**CPUC**" means the California Public Utilities Commission, or successor entity.

"**CPUC Decisions**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 19-02-022, 20-06-002, 20-06-031, and any other existing or subsequent decisions, resolutions or rulings related to the Resource Adequacy Program or any successor program, as may be by the CPUC.

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody's. Unless

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otherwise indicated herein, if ratings by S&P and Moody's are not equivalent, the lower rating shall apply.

[redacted]

"**Curtailment Order**" means any of the following:

(a) the CAISO orders, directs, alerts, or provides notice to a Party, including a CAISO Operating Instruction, to curtail deliveries of Energy from the Facility for the following reasons: (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected;

(b) a curtailment ordered by a Transmission Provider for reasons including, but not limited to, (i) any situation that affects normal function of the electric system including, but not limited to, any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Transmission Provider's electric system integrity or the integrity of other systems to which the Transmission Provider is connected;

(c) a curtailment ordered by CAISO or a Transmission Provider due to scheduled or unscheduled maintenance on the Transmission Provider's transmission facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Energy at the Delivery Point; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Participating Transmission Owner.

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation or deliveries of Delivered Energy from the Facility pursuant to a Curtailment Order. Curtailment Period shall not include periods during which Seller reduces generation as a result of a Market Curtailment Period.

"**Damage Payment**" means [redacted]

"**Day-Ahead Forecast**" means a non-binding estimate of Buyer's Share of the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, not to exceed the Hourly Delivery Cap, for each hour of the immediately succeeding day, [redacted] using an industry-standard methodology that utilizes the potential generation of the Facility as a function of Available Capacity, wind speed and direction, wind turbine power curves and other pertinent data for the period of time, consistent with Prudent Operating Practice; *provided* that a Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediately succeeding day, each succeeding non-Business Day and the next Business Day.

"**Day-Ahead Market**" has the meaning set forth in the CAISO Tariff.

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"**Deemed Delivered Energy**" means (i) Buyer's Share of the amount of Energy, expressed in MWh, not to exceed the Hourly Delivery Cap, that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility and delivered to the Delivery Point due solely to Seller's reduction of generation during a Market Curtailment Period, [redacted]

"**Deemed Delivered RA**" means, for any month, the amount of Resource Adequacy Benefits expressed in kW, that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO).

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.8(e).

"**Delay Damages**" means an amount equal to [redacted]

"**Delivered Energy**" means, in any Settlement Period, (i) Buyer's Share of (a) the Energy produced by the Facility and delivered to the Delivery Point as measured in MWh by the Approved Meter, net of all Electrical Losses (other than Electrical Losses that are reflected in the meter readings) and Station Use, or (b) if a portion of the Facility output is curtailed, at Seller's election, in any Settlement Period that is not during a Curtailment Period or Market Curtailment Period, and Buyer's Share is not curtailed, then Delivered Energy for such Settlement Period will instead be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Delivery Point if the Facility was not so curtailed, [redacted]

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means, at Seller's option, (a) cash or (b) a Letter of Credit, in the amount set forth on the Cover Sheet.

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"**Disclosing Party**" has the meaning set forth in Section 18.2.

"**Dynamic Schedule**" has the meaning set forth in the CAISO Tariff.

"**Dynamic Transfer**" means either a Pseudo-Tie or a Dynamic Schedule.

"**E-Tag**" has the meaning set forth in the CAISO Tariff.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

"**Effective Date**" has the meaning set forth on the Preamble.

"**Electrical Losses**" means all transmission or transformation losses between the Facility and the Delivery Point, other than losses that are financially settled by Seller.

"**Eligible Renewable Energy Resource**" has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in MWh.

"**Energy Replacement Damages**" has the meaning set forth in Exhibit E.

"**EPC Contract**" means Seller's engineering, procurement and construction contract for the Facility.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Excess MWh**" has the meaning set forth in Section 3.3(d).

[redacted]

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Construction Start Date**" has the meaning set forth on the Cover Sheet.

"**Expected Energy**" means the quantity of Energy (with associated Green Attributes) that Seller expects to be able to deliver to Buyer at the Delivery Point during each Contract Year in the quantity specified on the Cover Sheet, as such amount may be increased or decreased by Seller, based on a wind resource assessment from a Licensed Professional Engineer, by an amount equal to no more than five percent (5%) of the Expected Energy amount set forth on the Cover Sheet in a Notice to Buyer indicating the final amount by the earlier of the date that is [redacted]

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"**Facility**" means the energy generating facility described on the Cover Sheet and in Exhibit A.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Floor Price**" means [redacted]

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Forced Facility Outage**" means an unexpected failure of one or more components of the Facility or any outage on the Transmission System that prevents Seller from making power available at the Delivery Point and that is not the result of a Force Majeure Event.

"**Future Environmental Attributes**" means Buyer's Share of any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations and/or under any and all other international, federal, regional, state or other Law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by a wind generation facility as opposed to from a conventional generation resource.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO and WREGIS; *provided*, *however*, that "Governmental Authority," as such term is used in this Agreement in connection with Seller's obligations to comply with Law or bear Taxes, shall not include Buyer to the extent

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that Buyer's acts or omissions would impose incremental burdens on Seller or Seller's performance under this Agreement or limit or deprive Seller of any of Seller's rights or benefits under this Agreement.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the Delivered Energy. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) investment or production tax credits associated with the construction or operation of the Facility and other financial incentives associated therewith, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. If the Facility is a biomass or landfill gas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility.

"**Green Tag**" means a certificate or other instrument recognized by a Governmental Authority, with one Green Tag representing the Green Attributes associated with one (1) MWh of Energy generated by the Facility.

"**Green Tag Reporting Rights**" means the right of a purchaser of renewable energy to report ownership of accumulated Green Tags in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"**Guaranteed Capacity**" has the meaning set forth on the Cover Sheet.

"**Guaranteed Commercial Operation Date**" has the meaning set forth in Exhibit B.

"**Guaranteed Construction Start Date**" has the meaning set forth in Exhibit B.

"**Guaranteed Energy Production**" has the meaning set forth in Section 4.7.

"**Guaranteed RA Amount**" means [redacted]

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[redacted]

"**Guarantor**" means (A) (i) Pattern Energy Group LP or (ii) any Person that (a) does not already have any material credit exposure to Buyer under any other agreements, guarantees, or other arrangements at the time its Guaranty is issued, (b) is an Affiliate of Seller, or other third party reasonably acceptable to Buyer, (c) has (1) a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody's or (2) a tangible net worth of at least [redacted] (d) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (B) in either the case of (i) or (ii), that executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit J, or as reasonably acceptable to Buyer.

"**Hourly Delivery Cap**" means [redacted]

"**Imbalance Energy**" means the amount of Energy, in any given Settlement Period or Settlement Interval, by which the amount of Delivered Energy deviates from the amount of Scheduled Energy.

"**Import Capability**" means that portion of the Maximum Import Capability at the Delivery Point or Alternative Delivery Point, if applicable, allocated by the CAISO that is necessary to support the importation of Resource Adequacy Benefits from the Facility into the CAISO market in an amount equal to the Guaranteed RA Amount.

"**Indemnified Party**" has the meaning set forth in Section 16.1(a).

"**Indemnifying Party**" has the meaning set forth in Section 16.1(a).

"**Installed Capacity**" means the nameplate capacity of the Facility at the Interconnection Point, as set forth in an Installed Capacity Certificate, as it may be updated by delivery of a subsequent Installed Capacity Certificate pursuant to Section 2(a) of Exhibit B.

"**Installed Capacity Certificate**" means a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto, which certifies the Installed Capacity.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller pursuant to which the Facility will be interconnected with the PTO's Transmission System, and pursuant to which any Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

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"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the PTO's Transmission System in order to meet the terms and conditions of this Agreement.

"**Interconnection Point**" means the SunZia East Converter Station.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Investment Grade Credit Rating**" means a Credit Rating of not less than [redacted]

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated March 31, 2016 as amended from time to time, under which Buyer is organized as a joint powers authority in accordance with the Joint Powers Act.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (i) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt, equity, public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent acting on their behalf, (ii) providing Interest Rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations, and/or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit (a) issued by a U.S. commercial bank, or U.S. branch of a foreign bank, with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, and (b) in a form substantially similar to the letter of credit set forth in Exhibit I or as otherwise reasonably acceptable to the Party that is the beneficiary of the Letter of Credit.

"**Licensed Professional Engineer**" means either (i) [redacted] (ii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in New Mexico, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the

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Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering discipline for the required certification being made, or (iii) a person acceptable to Buyer in its reasonable judgment.

"**Limited Assignee**" has the meaning set forth in Section 14.4.

"**LMP**" means "Locational Marginal Price," which has the meaning set forth in CAISO Tariff.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

"**Lost Output**" has the meaning set forth in Exhibit E.

[redacted]

"**Market Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces Delivered Energy during a Settlement Period or Settlement Interval [redacted] *provided* that the Market Curtailment Period shall also include the time required for the Facility to ramp down to implement such curtailment and ramp up following such curtailment in accordance with the Operating Restrictions.

"**Master File**" has the meaning set forth in the CAISO Tariff.

"**Maximum Import Capability**" has the meaning set forth in the CAISO Tariff, and includes any replacement or successor metric used by the CAISO with respect to the ability of electricity off-takers to import Resource Adequacy Benefits produced by generating units that are external to the CAISO balancing authority into the CAISO balancing authority.

"**Milestones**" means the development activities and dates associated therewith set forth on the Cover Sheet.

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

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"**MW**" means megawatts measured in alternating current.

"**MWh**" means megawatt-hour measured in alternating current.

"**Negative PTC Value**" means the amount, on a dollar per MWh basis, equal to the PTC value that Seller is eligible to earn in respect of Delivered Energy from the Facility at the time of calculation, *multiplied by* negative one (-1).

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

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service or electronic communication (including email or other electronic means).

"**Operating Restrictions**" means the operational characteristics of the Facility set forth in Exhibit L.

"**Owner**" has the meaning set forth in Section 2.2.

"**Participating Transmission Owner**" or "**PTO**" means an entity that owns, operates and maintains the Transmission System or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected. For purposes of this Agreement, the Participating Transmission Owner is set forth in Exhibit A.

"**Parties**" has the meaning set forth in the Preamble.

"**Party**" has the meaning set forth in the Preamble.

"**Performance Measurement Period**" has the meaning set forth in Section 4.7.

"**Performance Security**" means, at Seller's option (i) cash (ii) a Letter of Credit, and/or (iii) a Guaranty, in the amount set forth on the Cover Sheet.

"**Permitted Transferee**" means (i) any Affiliate of Seller, or (ii) an entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

[redacted]

[redacted]

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust,

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incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Portfolio Content Category 1**" means the Renewable Energy Credit classification associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind or other renewable energy resources for which Seller, as the owner of the Facility, is eligible.

"**Progress Report**" means a progress report including the items set forth in Exhibit C.

"**Project**" has the same meaning as "Facility".

"**Prudent Operating Practice**" means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the utility-scale wind energy industry for facilities of similar size, type and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition. Prudent Operating Practice is not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of actions reasonable under the circumstances.

"**Pseudo-Tie**" has the meaning set forth in the CAISO Tariff.

"**PTC Amount**" means the amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned in respect of energy from the Facility at the time, grossed up on an after tax basis at the then-highest marginal combined federal and state corporate tax rate, but failed to earn as a result of Market Curtailment Period [redacted]

"**QRE**" has the meaning set forth for "Qualified Reporting Entity" in the WREGIS Operating Rules.

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Deficiency Amount**" has the meaning set forth in Section 3.8(e).

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"**RA Deficiency Amount Cap**" means the maximum RA Deficiency Amount that Seller shall pay to Buyer [redacted]

"**RA Guarantee Date**" means [redacted]

"**RA Market Price**" means [redacted]

"**RA Shortfall Amount**", expressed in kW, means [redacted]

"**RA Shortfall Month**" means any Showing Month in which the RA Shortfall Amount is greater than [redacted]

"**Real-Time Forecast**" has the meaning set forth in Section 4.3(e).

"**Real-Time Market**" has the meaning set forth in the CAISO Tariff.

"**REC Price**" means the [redacted]

"**Receiving Party**" has the meaning set forth in Section 18.2

"**Recurring Certificate Transfers**" has the meaning set forth in the WREGIS Operating Rules.

"**Remedial Action Plan**" has the meaning in Section 2.5(a).

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"**Renewable Energy Credit**" or **"REC"** has the meaning set forth in California Public Utilities Code Section 399.12(h), as may be amended from time to time or as further defined or supplemented by Law.

"**Renewable Energy Incentives**" means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute or a Future Environmental Attribute.

"**Replacement Energy**" means energy that is provided by Seller to Buyer as a component of Replacement Product, in an amount corresponding to the amount of Replacement Green Attributes provided by Seller as Replacement Product.

"**Replacement Green Attributes**" means Renewable Energy Credits meeting the RPS requirements for Portfolio Content Category 1.

"**Replacement PPA**" means each power purchase agreement entered into by Buyer, as purchaser thereunder, and the applicable Owner, as seller thereunder, pursuant to the terms of Section 2.7.

"**Replacement Product**" means (a) Replacement Energy and (b) Replacement Green Attributes provided in accordance with Section 4.7.

"**Resource Adequacy Benefits**" means the rights and privileges attached to Buyer's Share of the Capacity Attributes available from the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in the CPUC Decisions and any subsequent CPUC ruling or decision and shall include any local, zonal or otherwise locational attributes associated with the Facility.

"**Resource Adequacy Plan**" has the meaning set forth in the CAISO Tariff.

"**Resource Data Template**" has the meaning set forth in the CAISO Tariff.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.) or its successor.

"**Schedule**" means the actions of Seller, Buyer and/or their designated representatives, or Scheduling Coordinators, including each Party's Transmission Providers, if applicable, of notifying, requesting and confirming to each other and the CAISO the quantity and type of Product to be delivered in any given hour on any given day or days at a specified Delivery Point.

"**Scheduled Energy**" means the Energy from Buyer's Share of the Facility that clears under the applicable CAISO market based on the final Schedule developed in accordance with

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this Agreement, the operating procedures developed by the Parties pursuant to this Agreement, and the applicable CAISO Tariff, protocols and Scheduling practices.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller's WREGIS Account**" has the meaning set forth in Section 0(a).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

"**Settlement Interval**" has the meaning set forth in the CAISO Tariff.

"**Settlement Period**" has the meaning set forth in the CAISO Tariff, which as of the Effective Date is the period beginning at the start of the hour and ending at the end of the hour.

"**Shared Facilities Agreement**" has the meaning set forth in Section 6.3.

"**Showing Month**" has the meaning set forth in the CAISO Tariff.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date Certificate, in the form of Exhibit H, to Buyer.

"**Site Control**" means that, for the Contract Term, Seller (or, prior to the Delivery Term, its Affiliate): (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**Station Use**" means:

(a) The Energy produced by the Facility that is used within the Facility to power the lights, motors, control systems and other electrical loads that are necessary for operation of the Facility; and

(b) The Energy produced by the Facility that is consumed within the Facility's electric energy distribution system as losses.

"SunZia Transmission Line" means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Interconnection Point in New Mexico and terminating near

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Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

"**Supply Plan**" has the meaning set forth in the CAISO Tariff.

"**System Emergency**" means any condition that: (a) requires, as determined and declared by CAISO, the PTO or a Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability, and (b) directly affects the ability of any Party to perform under any term or condition in this Agreement, in whole or in part.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3.

"**Test Energy**" means Buyer's Share of (1) Energy delivered from the Facility (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy from the Facility to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date; and (2) associated Green Attributes including RECs that meet the RPS requirements for Portfolio Content Category 1.

"**Third-Party Forecast Vendor**" means (a) [redacted] or (b) any other reputable third-party vendor that is registered to do business in California, experienced in providing and verifying wind energy generation forecasts, not an Affiliate of Seller.

"**Transmission Provider**" means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point, including the Participating Transmission Owner.

"**Transmission System**" means the transmission facilities operated by the Transmission Provider(s), now or hereafter in existence, which provide energy transmission service upstream to or downstream from the Delivery Point.

"**Ultimate Parent**" means Pattern Energy Group LP.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

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[redacted].

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.8(e).

"**WREGIS Certificates**" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

"**WREGIS Operating Rules**" means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

1.2 **Rules of Interpretation.**

In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the term "including" means "including without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

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(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term.**

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions and any contract term extension provisions set forth herein ("**Contract Term**").

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for [redacted] following the termination of this Agreement, all indemnity and audit rights shall remain in full force and effect [redacted] following, and Buyer's obligation to return to Seller the Development Security and/or Performance Security less any amounts drawn in accordance with this Agreement shall remain in full force and effect following the termination of this Agreement.

2.2 **Facility Ownership**. Buyer acknowledges that, as of the Commercial Operation Date, the Facility will be owned by one or more of Seller's Affiliates (each an "**Owner**") that will be, in turn, owned by Seller, and the Facility will not be owned directly by Seller. As of the Commercial Operation Date, Seller will have, and throughout the Term Seller shall maintain, such agreements with Seller's Affiliates and other instruments as are necessary for Seller to perform its obligations under this Agreement. References to Seller in this Agreement will include, as the context requires, Owners (including in respect of Seller performing the obligation

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or causing Owners to perform the obligation). Seller will maintain its ownership of the Owners throughout the Delivery Term and will not sell or transfer Owners without Buyer's consent, which consent shall not be withheld or delayed unreasonably.

2.3 **Obligations Prior to Delivery Term**. Prior to commencement of the Delivery Term, Seller shall complete each of the following conditions:

(a) Seller shall have delivered to Buyer certificates from a Licensed Professional Engineer substantially in the form of Exhibit F and Exhibit G;

(b) A Pseudo-Tie Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO, an agreement governing the terms of Dynamic Transfers between CAISO and the host Balancing Authority for the Facility, and a Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller, if, with respect to each such agreement, it is required under the CAISO Tariff or for Seller to meet its obligations under this Agreement, shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(c) An Interconnection Agreement between Seller and the PTO shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

(d) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained (or if not obtained, applied for and reasonably expected to be received within ninety (90) days) and all conditions thereof have been satisfied and shall be in full force and effect;

(e) Seller has received the requisite pre-certification of the CEC Certification and Verification (and reasonably expects to receive final CEC Certification and Verification for the Facility in no more than one hundred eighty (180) days from the Commercial Operation Date);

(f) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements pursuant to the WREGIS Operating Rules (that are reasonably capable of being completed prior to the Commercial Operation Date under the WREGIS Operating Rules), including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(g) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(h) Seller has paid Buyer for all Delay Damages due and owing under this Agreement, if any; and

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(i) Seller has delivered to Buyer a certificate from an authorized representative of Seller in the form of Exhibit M.

Upon request from Seller from time to time, Buyer shall confirm in writing the completion of those of the foregoing conditions that have been completed by Seller as of such request.

2.4 **Progress Reports**. The Parties agree time is of the essence in regard to the Agreement. Within fifteen (15) Business Days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the earlier of the Construction Start Date or the Guaranteed Construction Start Date, and (ii) each calendar month from the first calendar month following the earlier of the Construction Start Date or the Guaranteed Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report that describes the progress towards meeting the Milestones and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such monthly reports and discuss Seller's construction progress. The content of the Progress Report is set forth in Exhibit C. Seller shall also provide Buyer with any reasonably requested documentation (subject to availability and confidentiality restrictions) directly related to the achievement of Milestones within [redacted] Business Days of receipt of such request.

2.5 **Remedial Action Plan**.

(a) If Seller misses [redacted], Seller shall submit to Buyer, within ten (10) Business Days of such missed Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), [redacted]

(b) Delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date (as it may be extended) in accordance with the terms of this Agreement.

(c) So long as Seller is in compliance with its obligations under this Section 2.5, its failure to meet any Milestone shall not be a default under this Agreement.

2.6 **Reserved**.

2.7 **Project Bifurcation or Transition**. Notwithstanding the provisions of Section 2.2, Seller may, at any time during the Term, elect by Notice to Buyer to both terminate this Agreement and either (x) cause each Owner to simultaneously enter into a Replacement PPA with Buyer in respect of the portion of the Facility (i.e., SunZia Wind North or SunZia Wind South) owned by such Owner (a "Project Bifurcation"), or (y) cause the Owner of either (i) SunZia Wind South, or (ii) SunZia Wind North, to enter into a Replacement PPA with Buyer solely in respect of its portion of the Facility (a "Project Transition"). Each Replacement PPA

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will be on the same terms and conditions as those set forth in this PPA, except for the following administrative changes that are necessary to effectuate the separation or transition of this Agreement into Replacement PPA(s) with the Owner or Owners (and such other administrative changes as may be necessary and would not require an additional approval from Buyer's board), as applicable:

(a) the identity of Seller throughout shall be changed to reflect the identity of the applicable Owner;

(b) subject to the potential adjustment of the Installed Capacity pursuant to the terms of this Agreement or any Replacement PPA, the nameplate capacity of (i) each Owner's portion of the Facility, in the case of a Project Bifurcation, or (ii) SunZia Wind South or SunZia Wind North, as applicable, in the case of a Project Transition (either the actual Installed Capacity, if the transition to the Replacement PPA(s) occurs after the final Installed Capacities have been determined under this Agreement, or the anticipated installed capacity at the time of the Project Bifurcation or Project Transition, as applicable, if otherwise) shall be inserted in "Description of Facility" in the Cover Sheet;

(c) Exhibit A (Facility Description) shall be revised to reflect (i) each Owner's portion of the Facility in the case of a Project Bifurcation, or (ii) a description of SunZia Wind South or SunZia Wind North, as applicable, in the case of a Project Transition;

(d) Exhibit K (Notices) shall be revised to reflect the appropriate information for each Owner signatory to the relevant Replacement PPA, as applicable; and

(e) All instances of [redacted] in this Agreement shall be changed in each Replacement PPA, on a pro rata basis, to reflect the installed capacity of each Owner's portion of the Facility relative to, as applicable, either the actual Installed Capacity, if the Project Bifurcation or Project Transition, as applicable, occurs after the final Installed Capacity has been determined, or the anticipated installed capacity at the time of the Project Bifurcation or Project Transition, as applicable, if otherwise.

(f) In the case of a Project Bifurcation:

(i) subject to the potential adjustment of the Guaranteed Capacity pursuant to the terms of this Agreement or any Replacement PPA, the amount of the Guaranteed Capacity in the Cover Sheet of each Replacement PPA shall be changed, on a pro rata basis, to reflect the installed capacity of each Owner's portion of the Facility, as applicable (either the actual Installed Capacity, if the transition to the Replacement PPAs occurs after the final Installed Capacities have been determined, or the anticipated installed capacity at the time of the transition, if otherwise); *provided* that, for the avoidance of doubt, the sum of the Guaranteed Capacities in the Cover Sheet in each Replacement PPA shall equal the Guaranteed Capacity in the Cover Sheet in this Agreement;

(ii) subject to the potential adjustment of the Expected Energy pursuant to the terms of this Agreement or any Replacement PPA, the amount of the Expected Energy in the Cover Sheet shall be reduced on a pro rata basis to reflect the nameplate capacity

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and net capacity factor of each Owner's portion of the Facility (either the actual Installed Capacity and net capacity factor when the final Installed Capacities have been determined or, if the final Installed Capacities have not yet been determined, the anticipated nameplate capacity and net capacity factor), as determined by Seller in its reasonable discretion; *provided* that, for the avoidance of doubt, the sum of the Expected Energy amounts in the Cover Sheet in each Replacement PPA shall equal the Expected Energy amount in the Cover Sheet in this Agreement;

(g) In the case of a Project Transition:

(i) subject to the potential adjustment of the Guaranteed Capacity pursuant to the terms of this Agreement or any Replacement PPA, the amount of the Guaranteed Capacity in the Cover Sheet of the Replacement PPA shall equal the amount of the Guaranteed Capacity in the Cover Sheet in this Agreement;

(ii) subject to the potential adjustment of the Expected Energy pursuant to the terms of this Agreement or any Replacement PPA, the amount of the Expected Energy in the Cover Sheet of the Replacement PPA shall equal the amount of the Expected Energy in the Cover Sheet in this Agreement.

In addition: (1) subject to the potential adjustment of the Installed Capacity pursuant to the terms of this Agreement or any Replacement PPA, if the Installed Capacity has been determined in accordance with this Agreement as of the effective date of the Replacement PPA(s), the Installed Capacity shall be revised to reflect the corresponding amount of installed nameplate capacity associated with (i) each Owner's portion of the Facility in the case of a Project Bifurcation, or (ii) the installed nameplate capacity of SunZia Wind South or SunZia Wind North, as applicable, in the case of a Project Transition, (2) in the case of Project Bifurcation, contract values or requirements that are based on determinants that are changing as a result of such Project Bifurcation shall be adjusted on a pro rata basis under the Replacement PPAs to correspond to the changed determinants, including the amount of the Guaranteed Energy Production (which is set based on the Expected Energy) and the amount of required Development Security and Performance Security (which are each set based on the Guaranteed Capacity), and (3) Section 2.2 and Section 2.7 shall no longer apply and shall not be included in the Replacement PPA(s).

If Seller elects to consummate a Project Bifurcation or a Project Transition, Seller shall include in its Notice to Buyer drafts of each Replacement PPA, as applicable, and a draft agreement providing for the termination of this Agreement. [redacted]

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[redacted]

Upon execution of the Replacement PPA(s) and termination of this Agreement: (A) each Owner shall deliver to Buyer substitute Development Security or Performance Security, as applicable, and as may be necessary or convenient; (B) upon receipt of the substitute Development Security or Performance Security referenced in item (A) of this sentence (if any), Buyer shall return to Seller the Development Security or Performance Security, as applicable, less any amounts drawn in accordance with this Agreement; (C) Buyer and the Owners shall, and the Owners shall cause Seller to, reasonably cooperate to implement any additional administrative actions that may be necessary to effectuate the Project Bifurcation or Project Transition (including, for example, in connection with WREGIS or CAISO); and (D) Seller shall have no further obligations to Buyer and Buyer shall have no further obligations to Seller, except for those obligations associated with the period of time prior to the termination of this Agreement.

ARTICLE 3
PURCHASE AND SALE

3.1 **Sale of Product** Subject to the terms and conditions of this Agreement, during the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all the Product produced by or associated with the Installed Capacity of the Facility, subject to the Hourly Delivery Cap. The sale by Seller and purchase by Buyer of Delivered Energy hereunder shall be for resale. During the Delivery Term, Buyer will have exclusive rights to offer, bid, or otherwise submit the Product, or any component thereof, from the Facility after the Delivery Point for resale into the market or to any third party, and retain and receive any and all related revenues. Subject to Buyer's obligations to pay for Deemed Delivered Energy, Buyer has no obligation to purchase from Seller any Product that is not or cannot be delivered to the Delivery Point or Alternative Delivery Point as a result of any circumstance, including, an outage of the Facility, a Force Majeure Event, or a Curtailment Order.

3.2 **Sale of Green Attributes**. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all of the Green Attributes attributable to the Delivered Energy.

3.3 **Compensation.**

(a) Delivered Energy. For each MWh of Delivered Energy and Replacement Energy in each Settlement Period or Settlement Interval, as applicable, Buyer shall pay [redacted]

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[redacted]

(b) Deemed Delivered Energy. For each Settlement Period or Settlement Interval, as applicable, during the Delivery Term, Buyer shall pay [redacted]

(c) Excess Deliveries. If, at any point in a Contract Year, the amount of Delivered Energy plus Deemed Delivered Energy [redacted]

(d) Excess Settlement Interval Deliveries. [redacted]

3.4 **Imbalance Energy**. Buyer and Seller recognize that from time to time the amount of Delivered Energy will deviate from the amount of Scheduled Energy. Seller shall be responsible for all CAISO costs, and shall be entitled to all CAISO revenues, associated with Imbalance Energy.

3.5 **Ownership of Renewable Energy Incentives**. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet

the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.6 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.6(a), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for Buyer's Share of such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim Buyer's Share of such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or its operations unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.6(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs, as set forth above; *provided*, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.7 **Test Energy**. [redacted]

3.8 **Capacity Attributes.**

(a) Throughout the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all of the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term, Seller shall perform all commercially reasonable actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits at the Delivery Point. Throughout the Delivery Term, subject to Section 3.8(d), Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute any and all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement, including, if requested by Buyer, submitting Supply Plans in accordance with CAISO and CPUC requirements. For illustrative purposes only, as of the Effective Date, the applicable compliance deadlines are as follows: (A) forty-five (45) days prior to the Showing Month covered by the monthly Supply Plan; and (B) the last Business Day of October that is prior to commencement of

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the year for the annual Supply Plan. The Parties acknowledge and agree that such dates may be modified by the CAISO from time to time throughout the Delivery Term. [redacted]

(d) Buyer acknowledges that it will be required to take certain actions and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes associated with the Product (including obtaining and maintaining Import Capability necessary to import the Guaranteed RA Amount from the Facility into the CAISO), in each case as may be required under applicable Law and as may change from time to time. Upon Buyer's request, Seller shall use commercially reasonable efforts to support Buyer in obtaining such Import Capability. To the extent Buyer does not or cannot maintain Import Capability or any other rights or capacities necessary to support the importation of the Guaranteed RA Amount into the CAISO or otherwise receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement or the inability of Seller to maintain the Facility as a Pseudo-Tie Resource, the Resource Adequacy Benefits that are not imported or that cannot be imported shall constitute Deemed Delivered RA.

(e) From and after the RA Guarantee Date, for any RA Shortfall Month, Seller shall be liable for liquidated damages ("**RA Deficiency Amount**") in the amount of [redacted].

3.9 **CEC Certification and Verification**. Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

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3.10 **CPUC Non-Modifiable Standard Terms and Conditions.**

(a) Eligibility. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC 6]

(b) Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC REC-1]

(c) Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. [STC REC-2]

3.11 **California Renewables Portfolio Standard**. Upon request of Buyer, Seller shall provide records or other information reasonably required to demonstrate that the Product has been conveyed and delivered in accordance with the terms and conditions of this Agreement, including, subject to Section 3.12, scheduling or delivery information necessary to meet the requirements of the California Renewables Portfolio Standard for the Product. Subject to Section 3.12, Seller represents and warrants the Product meets the requirements set forth in PUC Code 399.16(b)(1) and the RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052.

3.12 **Compliance Expenditure Cap**. Notwithstanding anything herein to the contrary, if Seller establishes to Buyer's reasonable satisfaction that a change in Law occurring after the Effective Date has increased Seller's cost above the cost that could reasonably have been contemplated as of the Effective Date to take all actions to comply with Seller's obligations under the Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable), the items listed below, then the Parties agree that the maximum amount of costs and expenses Seller shall be required to bear during the Delivery Term shall be capped at [redacted] ("**Compliance Expenditure Cap**"):

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(a) CEC Certification and Verification;

(b) Green Attributes;

(c) WREGIS; and

(d) Capacity Attributes.

Any actions required for Seller to comply with its obligations set forth in the first paragraph above, the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "**Compliance Actions**."

If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action, Seller shall provide Notice to Buyer of such anticipated out-of-pocket expenses.

Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or [redacted]

If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by Buyer and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller. If Buyer agrees to reimburse Seller for the Accepted Compliance Costs in an amount that is less than all of the costs

that exceed the Compliance Expenditure Cap, Seller shall only be obligated to take the Compliance Actions covered by the Accepted Compliance Costs.

The term "commercially reasonable efforts" as used in Section 3.10 means efforts consistent with and subject to this Section 3.12.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery.**

(a) Energy. Subject to the terms and conditions of this Agreement, Seller shall make available and Buyer shall accept all Delivered Energy on an as-generated, instantaneous basis. Seller shall effectuate the delivery of Delivered Energy through Dynamic Transfers, and shall be responsible for securing such arrangements with CAISO, the PTO and any other Transmission Provider as are necessary in connection therewith.

(b) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with the Delivered Energy as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

4.2 **Title and Risk of Loss.**

(a) Energy. Title to and risk of loss related to the Delivered Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 **Scheduling Coordinator Responsibilities.**

(a) Seller as Scheduling Coordinator for the Facility. Seller shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for the delivery of the Product at the Delivery Point. [redacted]

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(b) Floor Price. [redacted]

(c) CAISO Costs and Revenues. Seller shall be responsible for all CAISO costs (including penalties, Imbalance Energy charges, and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy payments, and other payments), including costs and revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Facility.

(d) Master File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master File and Resource Data Template (or successor data systems) for this Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent. At least once per Contract Year, Seller shall review and confirm that the data provided for the CAISO's Master File and Resource Data Template (or successor data systems) for this Facility remains consistent with the actual operating characteristics of the Facility and update such data as appropriate.

4.4 **Forecasting**. Seller shall provide the forecasts described below at its sole expense and in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are consistent with the information actually known by Seller at the time the forecasts are submitted and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practice.

(a) Annual Forecast of Available Capacity. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual Supply Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual Supply Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of each

month's Available Capacity, by hour, and Seller's projection of scheduled maintenance for the following calendar year in a form reasonably requested by Buyer.

(b) Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual Supply Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual Supply Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of Buyer's Share of each month's average-day Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit D, or as reasonably requested by Buyer.

(c) Monthly Forecast of Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the compliance deadline for the monthly Supply Plan for each Showing Month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of Buyer's Share of the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, and Available Capacity for each day of the following month in a form reasonably requested by Buyer ("**Monthly Delivery Forecast**").

(d) Daily Forecast of Available Capacity. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, Seller shall provide Buyer with (i) a non-binding forecast of its best estimate of Available Capacity and (ii) the Day-Ahead Forecast, in each case, for each hour of the immediately succeeding day.

(e) Real-Time Forecasts. During the Delivery Term, Seller shall notify Buyer of any changes to the Day-Ahead Forecast resulting from changes of [redacted] or more in available Installed Capacity, or when the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, differs by more than [redacted], as applicable, of the amount set forth in the Day-Ahead Forecast, in each case, due to Forced Facility Outage or Force Majeure Event (such update, the "**Real-Time Forecast**"), as soon as reasonably possible, but no later than sixty (60) minutes prior to the deadline for submitting Schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. If the available Installed Capacity or, if applicable, the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, changes by at least [redacted], as applicable, due to Forced Facility Outage or Force Majeure Event as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts [redacted] and shall contain information regarding the beginning date and time of the event resulting in the change in Installed Capacity or hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use reasonable efforts to notify Buyer of such outage within ten (10) minutes of becoming aware of the Forced Facility Outage. Seller shall inform Buyer as soon as reasonably practicable of any developments that will affect either the duration of such outage or the availability of the Facility during or after the end of such

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outage. These real-time forecasts shall be communicated by email to Buyer unless Buyer requests an alternative method of communications reasonably acceptable to Seller.

4.5 **Dispatch Down/Curtailment.**

(a) General. Subject to Section 4.5(b), Seller agrees to reduce deliveries of the Energy produced by the Facility by the amount and for the period set forth in any Curtailment Order; *provided* that Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set out in the Operating Restrictions.

(b) Third-Party Sales.

(i) During a Curtailment Period, if, and for so long as, [redacted]

(ii) During Market Curtailment Periods, [redacted]

4.6 **Reduction in Delivery Obligation**. For the avoidance of doubt, and in no way limiting Section 3.1 or Exhibit E:

(a) Facility Maintenance. Seller shall be permitted to reduce deliveries of Product during any period of scheduled maintenance on the Facility.

(b) Forced Facility Outage. Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer reasonably informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(c) System Emergencies and other Events. Seller shall be permitted to reduce deliveries of Product [redacted]

(d) Health and Safety. Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(e) Real-Time Curtailment. [redacted]

4.7 **Guaranteed Energy Production**.

(a) After the first Contract Year, Seller shall be required to deliver to Buyer no less than the Guaranteed Energy Production (as defined below) in each period of two (2) consecutive Contract Years during the Delivery Term (such that the first Performance Measurement Period comprises [redacted] ("**Performance Measurement Period**"). "**Guaranteed Energy Production**" means [redacted]

[redacted]

(b) [redacted]

4.8 **WREGIS**. Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall satisfy its obligations pursuant to Section 3.10(d) and Section 4.2(b) by fulfilling its obligations under Sections 4.8(a) through (f) below.

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate. WREGIS Certificates must

be matched with E-Tags associated with the Dynamic Transfers. WREGIS Certificates without matching E-Tags associated with Dynamic Transfers, will be rejected.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month as evidenced by the Facility's metered data.

(d) Due to the approximately fourteen (14) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Section 8.2, Buyer shall make an invoice payment for a given month in accordance with Section 8.2 notwithstanding that the WREGIS Certificates may not have been formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy for the same calendar month ("**Deficient Month**"). If any WREGIS Certificate Deficit is caused, or the result of any action or inaction, by Seller, then [redacted]

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

ARTICLE 5
TAXES

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and delivery of Product to Buyer, that are imposed on Product prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of the Product that are imposed on Product at and from the Delivery Point (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, the exempted Party shall provide the other Party with all necessary documentation within thirty (30) days after the Effective Date to evidence such exemption or exclusion. If the exempted Party does not provide such documentation, then such Party shall indemnify, defend, and hold harmless the other Party from any liability with respect to Taxes from which the exempted Party claims it is exempt.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, *however*, that neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Energy delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Energy.

ARTICLE 6
MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility**. Seller shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product. On or before December 1st each year, Seller shall provide Buyer with the scheduled maintenance for the Facility for the next calendar year; *provided,* Seller shall provide Buyer with any updates to such schedule during each year consistent with Law and Prudent Operating Practice as soon as practicable; provided further, (a) during each period from [redacted] during the Delivery Term, Seller shall not schedule any non-emergency maintenance of the Facility which reduces the energy generation capability of the Facility by more than [redacted], and (b) during each period from [redacted] during the Delivery Term, Seller shall not schedule any non-emergency maintenance of the Facility [redacted]

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[redacted]

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified on Exhibit K Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Energy to Buyer.

6.3 **Shared Facilities**. The Parties acknowledge and agree that certain of the Interconnection Facilities, Seller's rights and obligations under the Interconnection Agreement and Seller's rights and obligations under transmission service agreements with a Transmission Provider, may be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements.

ARTICLE 7
METERING

7.1 **Metering**. Seller shall measure the amount of Delivered Energy produced by the Facility using an Approved Meter. The Approved Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Approved Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO or PTO requirements, as applicable. Seller will be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Approved Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO or the PTO, as applicable, the meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor) or directly from the Approved Meter at the Facility.

7.2 **Meter Verification**. Annually, if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the meter inaccuracy commenced (if such evidence exists such date will be used to adjust prior invoices), then the invoices covering the

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period of time since the last meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during the second half of such period.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall make good faith efforts to deliver an invoice to Buyer fifteen (15) Business Days after the end of the prior monthly delivery period. Each invoice shall provide Buyer (a) records of metered data, including metering and CAISO transaction data sufficient to document and verify the amount of Delivered Energy for each Settlement Period during the preceding month, the applicable Contract Price, the LMPs in the Day-Ahead Market and Real-Time Market at the Delivery Point for each Settlement Period and Settlement Interval, respectively, and information supporting the amount of Deemed Delivered Energy and Adjusted Energy Production, [redacted] (b) a reconciliation of hourly meter data, E-Tag data and associated calculations, including the lesser of each by hour, [redacted]; (c) a statement of the quantity of WREGIS Certificates transferred during the prior month that have been matched with E-Tags associated with the Dynamic Transfers; (d) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (e) be in a reasonable format covering the services provided in the preceding month determined in accordance with the applicable provisions of this Agreement.

8.2 **Payment**. Buyer shall make payment to Seller by wire transfer or ACH payment to the bank account designated by Seller in Exhibit K, which may be updated by Seller by Notice hereunder; *provided*, *however*, that changes to the invoices, payment, and wire transfer information set forth in Exhibit K must be made in writing and delivered via certified mail or a secured online method mutually agreed upon by both Parties, and shall include contact information for an authorized person who is available by telephone to verify the authenticity of such requested changes. Buyer shall pay undisputed invoice amounts within thirty (30) days after receipt of the invoice. If such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on the prime rate published on the date of the invoice in The Wall Street Journal, or, if The Wall Street Journal is not published on that day, the next succeeding date of publication, plus two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to Seller, Buyer shall be granted reasonable access to the accounting books and records pertaining to all invoices generated pursuant to this Agreement.

8.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5, there is determined to have been a meter inaccuracy sufficient to require a payment adjustment, or if CAISO recalculates amounts due or owing in respect of prior periods. If the required adjustment is in favor of Buyer, Buyer's monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the non-erring Party received Notice thereof.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. 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. 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 ten (10) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original 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 but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and E, interest, and payments or credits, including pursuant to Section 4.3(c), shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

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8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver Development Security to Buyer within [redacted] after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (A) Seller's delivery of the Performance Security, or (B) [redacted] after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If and to the extent that any portion of the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the required Credit Rating, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iv) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Development Security. Seller shall have no obligation to replenish the Development Security following any draws thereon by Buyer. Seller's maximum liability for an Event of Default or failure to perform its obligations hereunder prior to the Commercial Operation Date shall be capped at the amount of the Development Security, less any amounts collected by Buyer prior to such Event of Default or failure to perform.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller arising under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. Within ten (10) Business Days following any draw by Buyer on the Performance Security, Seller shall replenish the amount drawn such that Performance Security is restored to the amount on Cover Sheet. If and to the extent that any portion of the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the Credit Rating, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the end of the Delivery Term, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iii) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Performance Security. If and to the extent that any portion of the Performance Security is a Guaranty, Seller shall (i) provide prompt Notice to Buyer if Guarantor becomes Bankrupt or otherwise fails to meet the criteria for an acceptable Guarantor as set forth in clauses (c) and (d) of the definition of Guarantor, but not later than ten (10) Business Days after Seller becomes aware of such development and (ii) post substitute collateral that meets the requirements set forth in the definition of Performance Security within ten (10) Business Days.

8.9 **Financial Statements.**

(a) If a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

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(b) Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles or International Financial Reporting Standards ("IFRS"); *provided*, *however*, that should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements.

8.10 **Buyer's First Priority Security Interest in Cash or Cash Equivalent Collateral**. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest in, and lien on (and right to net against), and assignment of the Development Security or Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 by Seller and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer's first-priority security interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.10, the final sentence of Section 11.2 and the provisions of Article 12):

(a) Exercise any of its rights and remedies with respect to the Development Security or Performance Security, as applicable, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security, as applicable; and

(c) Liquidate all Development Security or Performance Security, as applicable then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement (Seller remains liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after these obligations are satisfied in full.

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ARTICLE 9
NOTICES

9.1 **Addresses for the Delivery of Notices**. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the physical or electronic addresses set forth on Exhibit K or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice**. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including email or other electronic means), at the time indicated by the time stamp upon delivery; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission. In addition, for any Notice sent pursuant to (a), (b) or (d) above, the Party sending such Notice shall send a courtesy copy by email to the email address provided in Exhibit K.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition.**

(a) "**Force Majeure Event**" means any act or event occurring after the Effective Date (or if occurring on or before the Effective Date, expanding, deteriorating or otherwise materially changing after the Effective Date) that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic, or pandemic, including COVID-19 (but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; acts or failure to act by a Governmental Authority; war; blockade; civil insurrection; riot; civil

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disturbance; serial defect; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "Force Majeure Event" does not include (i) economic conditions that render a Party's performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer's ability to buy Energy at a lower price, or Seller's ability to sell Energy generated by the Facility at a higher price, than the Contract Price); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) except as the Guaranteed Commercial Operation Date may be extended as a result of a Development Cure Period, Seller's inability to achieve Commercial Operation following the Guaranteed Commercial Operation Date.

10.2 **No Liability If a Force Majeure Event Occurs**. Neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of a Party to make any payments due hereunder, (b) suspend or excuse the obligation of Seller to achieve the Guaranteed Construction Start Date, or Guaranteed Commercial Operation Date beyond the extensions provided in Exhibit B, (c) limit Buyer's right to declare an Event of Default pursuant to Section 11.1(b)(i) or Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer's default rights pursuant to Section 11.2.

10.3 **Notice**. In the event of any delay or nonperformance resulting from a Force Majeure Event, the Party suffering the Force Majeure Event shall (a) as soon as practicable, notify the other Party orally of the Force Majeure Event, followed by Notice in writing of the nature, cause, estimated date of commencement thereof, the anticipated extent of any delay or interruption in performance, and (b) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected

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Party; *provided*, *however*, that a Party's failure to give timely Notice as provided in this Section 10.3 shall not affect such Party's ability to assert that a Force Majeure Event has occurred unless the delay in giving Notice materially prejudices the other Party.

10.4 **Termination Following Force Majeure Event**. If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be unable to perform its material obligations hereunder, and has continued for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon written Notice to the other Party experiencing the Force Majeure Event; *provided* that if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional six (6) month period. Upon any such termination, the non-claiming Party shall have no liability to the Party claiming Force Majeure Event, save and except for those obligations specified in Section 2.1(b).

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within five (5) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and [redacted]

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) [redacted]

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(iv) failure by such Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 as applicable;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Sections 14.1, 14.2 or 14.3, as appropriate; or

(v) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) The failure of Seller to achieve Construction Start within [redacted]

(ii) The failure of Seller to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date (as extended by any Development Cure Period);

(iii) except as otherwise provided herein, if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated by the Facility;

(iv) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

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(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty;

(vi) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a replacement Guaranty from a Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

(vii) in any Performance Measurement Period, the Adjusted Energy Production Amount is not at least [redacted] of the Expected Energy amount for such period; [redacted]

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[redacted]

11.2 **Remedies; Declaration of Early Termination Date**. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Contract Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment (in the case of an Event of Default by Seller occurring before the Commercial Operation Date) or (ii) the Termination Payment calculated in accordance with Section 11.3 below (in the case of any other Event of Default by Seller after the Commercial Operation Date or by Buyer throughout the Contract Term);

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at Law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, that payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for the Terminated Transaction and the Event of Default related thereto.

11.3 **Termination Payment**. The termination payment ("**Termination Payment**") for the Terminated Transaction shall be the aggregate of all Settlement Amounts plus any or all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the net Settlement Amount shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties (which shall not include Affiliates of the Non-Defaulting Party) supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; *provided*, *however*, that any lost Delivered Energy, Capacity Attributes and Green Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the

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Non-Defaulting Party would incur in connection with the Terminated Transaction would be difficult or impossible to predict with certainty, (b) the Damage Payment or Termination Payment described in Section **Error! Reference source not found.** or this Section **Error! Reference source not found.** (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or Termination Payment described in Section **Error! Reference source not found.** or this Section **Error! Reference source not found.** (as applicable) is the exclusive remedy of the Non-Defaulting Party in connection with the Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment**. As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with Article 15.

11.6 **Rights And Remedies Are Cumulative**. Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.7 **Mitigation**. Any Non-Defaulting Party shall use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

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12.2 **Waiver and Exclusion of Other Damages**. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO THE PARTIES' LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, PRIOR TO THE COMMERCIAL OPERATION DATE, SELLER'S AGGREGATE LIABILITY ARISING UNDER THIS AGREEMENT FOR ANY AND ALL REASONS [redacted]

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX BENEFITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT E, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

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THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary corporate action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by Laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

13.2 **Buyer's Representations and Warranties.** As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of , and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All persons making up the governing body

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of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by Laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

13.3 **General Covenants**.

(a) Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(i) It shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(ii) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

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(iii) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and any contracts to which it is a party and in material compliance with any Law.

(b) Seller covenants that:

(i) Seller shall maintain Site Control throughout the Delivery Term;

(ii) Seller shall obtain any and all permits and approvals, including without limitation, required environmental clearance under applicable environmental Law, from the local jurisdiction where the Facility is or will be constructed, as applicable. Seller agrees and acknowledges that Buyer is simply purchasing energy services under the PPA and does not intend to be the lead agency for the Facility.

(iii) Seller shall not knowingly utilize equipment or resources built with forced labor in connection with the construction, operation or maintenance of the Facility, including equipment or resources sourced from the Xinjiang region of China pursuant to the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020 (as such guidance may be updated or modified by Governmental Authorities from time to time).

(iv) Commencing upon the production of Delivered Energy by the Facility and throughout the Delivery Term, Seller shall ensure that the Facility will have an interconnection agreement providing for interconnection capacity available or allocable to the Facility that is no less than the Guaranteed Capacity. Seller shall hold Buyer harmless from any penalties, imbalance energy charges, or other costs from CAISO or under the PPA resulting from Seller's inability to provide, or any third party use of, such interconnection capacity.

13.4 **Prevailing Wage**. Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation employment discrimination laws and prevailing wage laws. Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or provide services at the Site related to the construction of the Facility are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable New Mexico law, if any ("**Prevailing Wage Requirement**"). Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by other inapplicable provisions of any New Mexico labor laws. Buyer agrees that Seller's obligations for the Prevailing Wage Requirement may be satisfied upon the execution of a project labor agreement related to construction of the Facility.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the written consent of the other Party, which consent shall not be unreasonably withheld. Any direct or indirect Change of Control of a Party (whether voluntary or by operation of Law) will

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be deemed an assignment and will require the prior written consent of the other Party, except as provided in Section 14.3. Any assignment made without required written consent, or in violation of the conditions to assignment set out below, shall be null and void. The assigning Party shall be responsible for the other Party's costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("**Collateral Assignment Agreement**") in a form mutually agreeable to Buyer, Seller and the applicable Lenders, and must include, among others, the following provisions; *provided* that Buyer shall not be required to consent to any additional terms or conditions that materially and adversely affect any of Buyer's rights, benefits, risks or obligations under this Agreement:

(a) [redacted]

14.3 **Permitted Assignment**. Notwithstanding Section 14.1, and in addition to its rights set forth in Section 14.2, Seller may at any time, without the prior written consent of Buyer, transfer or assign this Agreement (including by a Change of Control) (i) to an Affiliate of Seller, (ii) in connection with a tax equity financing (regardless of whether a Change of Control results from such tax equity financing), (iii) in connection with any other direct or indirect Change of Control to any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of Law), or (iv) as part of the sale or transfer of all or substantially all of the membership interests, equity, or assets of an Affiliate of Seller; *provided*,

with respect to clauses (iii) and (iv), such assignment or transfer shall not be effective unless (x) the assignee is a Permitted Transferee, and (y) Seller has given Buyer Notice at least [redacted] prior to the date of such proposed assignment or transfer, and certifies that the assignee meets the definition of a Permitted Transferee.

14.4 **Limited Assignment by Buyer**. Buyer shall have the right to make a limited assignment in connection with a municipal prepayment transaction to an entity ("**Limited Assignee**") that [redacted]

ARTICLE 15
GOVERNING LAW; DISPUTE RESOLUTION

15.1 **Governing Law**. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. [STC 17]

15.2 **Venue**. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement

shall be brought in the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in County of Santa Clara, California.

15.3 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a 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 the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, either Party may seek any and all remedies available to it at Law or in equity, subject to the limitations set forth in this Agreement.

15.4 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification.**

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees, attorneys, representatives and agents (collectively, the "**Indemnified Party**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses and expert witness fees (collectively "**Indemnifiable Event**"), to the extent such Indemnifiable Event arises out of, results from, or is caused by any of the following: (a) the negligent act or omission, recklessness or willful misconduct of the Indemnifying Party, its Affiliates, its or their directors, officers, employees, agents, subcontractors, and anyone directly or indirectly employed by the Indemnifying Party or any of its subcontractors or anyone that they control; or (b) any violation of applicable Law by the Indemnifying Party, in each case in connection with this Agreement. Upon the Indemnified Party's written request, the Indemnifying Party, at its own expense, must defend any suit or action that is subject to the Indemnifying Party's indemnity obligations. The Parties' indemnification obligations survive the expiration or termination of this Agreement until the relevant statute of limitations.

(b) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting to the extent of its own negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims**. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense

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thereof with counsel designated by such Party and reasonably satisfactory to the Indemnified Party, *provided*, *however*, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, *provided* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Notwithstanding the preceding sentence if the settlement consists solely of a monetary payment by the Indemnifying Party, such settlement shall not require the consent of the Indemnifying Party. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

17.1 **Insurance.**

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance against claims for personal injury (including bodily injury and death) and property damage with a limit of liability of [redacted] The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b) Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

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(c) Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of [redacted] combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) Property Insurance. Seller shall maintain or cause to be maintained property insurance covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm and wildfire, all with limits in accordance with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an "all-risk" basis including mechanical and electrical breakdown.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) pricing and other commercially-sensitive or proprietary information provided to or from Buyer in connection with the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality**. Except as permitted in this Article 18, neither Party shall disclose Confidential Information to a third party, except upon the written consent of the Disclosing Party. Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the "**Receiving Party**") if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce or implement this Agreement. If the Receiving Party 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) to disclose any Confidential Information of the disclosing Party (the "**Disclosing Party**"), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy. Each party hereto acknowledges and agrees that information and documentation provided may be subject to the California Records Act (Government Code Section 7920 et seq.).

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18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages may be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach may cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in Law, in equity or otherwise, Disclosing Party will be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Permitted Disclosures**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by either Party to such Party's counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, Affiliates or actual or prospective owners, investors, lenders, directors, underwriters, contractors, suppliers or others involved in the construction, operation and financing transactions and arrangements for a Party or its affiliates, or any of its or their agents, consultants or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Article 18 to the same extent as if it were a Party, or is bound by substantially similar confidentiality requirements.

18.5 **Press Releases**. Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto, constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, that, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

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19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy service provider and energy service recipient, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support, any third party seeking to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party 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). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, including electronic signatures, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by execution and electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is 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.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights

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and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

19.11 **Change in Electric Market Design**.

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, [redacted] after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. [redacted]

(b) If any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement are integrated into a new or existing regional transmission organization or independent system operator and such integration has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; *provided*, that neither Party shall be obligated to amend this Agreement if such amendment(s) would materially adversely affect, or could reasonably be expected to have or result in a material adverse effect on, any of such Party's rights, benefits, risks and/or obligations under this Agreement.

[Signatures on following page]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SunZia Wind PowerCo LLC

By:_____
Name:
Title:

Silicon Valley Clean Energy

By:_____
Name:
Title:

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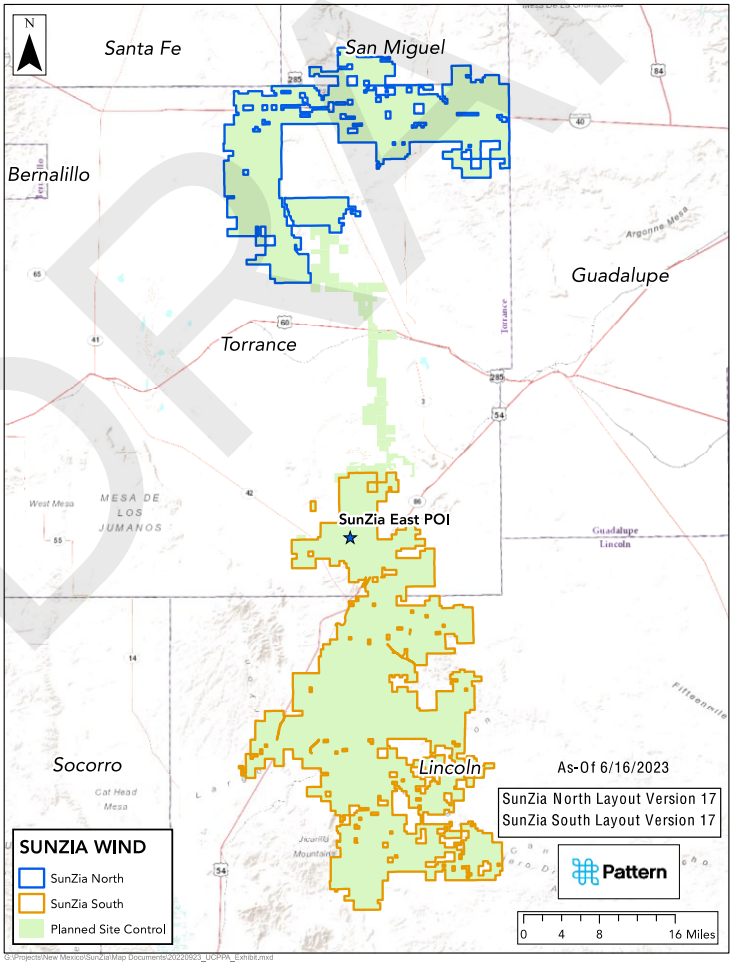
EXHIBIT A

FACILITY DESCRIPTION

The Facility Description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Seller may, by Notice to Buyer prior to the Construction Start Date, modify the Site Name and Site Location within the counties set forth below. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity or the anticipated output of the Facility without Buyer's prior written consent; *provided* that Seller shall be permitted to repower the Facility [redacted] so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Capacity Attributes associated with the Guaranteed Capacity during such repower. [redacted] Upon any such repower that changes the Installed Capacity, Seller shall deliver an updated Installed Capacity Certificate in the form of Exhibit G.

Site Name: SunZia Wind North and SunZia Wind South

Site Map:



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as of the Effective Date and Site Location: Lincoln, Torrance and San Miguel Counties, New Mexico

Technology: Utility Scale Wind Technology

Guaranteed Capacity: 100 MW_{AC}

Delivery Point: CAISO scheduling point-intertie combination at PALOVRDE_ASR-APND and PVWEST, or an Alternative Delivery Point as mutually agreed by the Parties

Participating Transmission Owner: SunZia Transmission, LLC

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EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility**. "**Construction Start**" will occur upon Seller's issuance of a full notice to proceed with the construction of the Facility following Seller's execution of an EPC Contract related to the Facility. The date of Construction Start will be evidenced by Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit H hereto, and the date certified therein shall be the "**Construction Start Date**." The Seller shall use commercially reasonable efforts to cause Construction Start to occur no later than the Guaranteed Construction Start Date. The "**Guaranteed Construction Start Date**" means the Expected Construction Start Date, subject to extensions on a day-for-day basis for the Development Cure Period.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when (i) Seller has fulfilled all of the conditions in Section 2.3 of the Agreement and (ii) Seller has confirmed to Buyer in writing that Commercial Operation has been achieved.

   The "**Commercial Operation Date**" shall be the later of [redacted], and (y) the date on which Commercial Operation is achieved.

   (a) Seller shall cause Commercial Operation for the Facility to occur by the Expected Commercial Operation Date (as such date may be extended by the Development Cure Period (defined below), the "**Guaranteed Commercial Operation Date**"). Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date. For the avoidance of doubt, Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.

   (b) If Seller does not anticipate achieving Commercial Operation by the Guaranteed Commercial Operation Date, Seller may elect to extend the Guaranteed Commercial Operation Date by paying Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, [redacted]

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[redacted]

3. **Extension of the Guaranteed Dates**. "**Development Cure Period**" means, [redacted]

[redacted]

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[redacted]

4. **Failure to Reach Guaranteed Capacity**. If, at Commercial Operation, [redacted] of the Guaranteed Capacity has not been completed and is not ready to produce and deliver Product to Buyer, Seller shall have [redacted].

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EXHIBIT C

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any planned changes to the Facility or the site.

5. Schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar month/quarter.

7. Forecast of activities scheduled for the current calendar month/quarter.

8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones, and evidence of completion of Milestones, upon reasonable request from Buyer.

9. List of issues that could reasonably foreseeably affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.

13. Any other documentation, including copies of the Interconnection Agreement, transmission agreements and permits, as reasonably requested by Buyer, as such documentation may be redacted by Seller as necessary.

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EXHIBIT D

FORM OF AVERAGE FORECAST OF ENERGY (MWh)

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
FEB																								
MAR																								
APR																								
MAY																								
JUN																								
JUL																								
AUG																								
SEP																								
OCT																								
NOV																								
DEC																								

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The foregoing table (i) is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement, and (ii) reflects expected P50 delivered volumes taking into account estimated X% physical losses from the Facility to the Delivery Point.

EXHIBIT E

ENERGY REPLACEMENT DAMAGES CALCULATION

If Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages ("**Energy Replacement Damages**") payment shall be due from Seller to Buyer, calculated as follows:

[(A – B) * (C – D)] – E

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = [redacted]

D = the Contract Price, in $/MWh

E = the amount of Energy Replacement Damages paid by Seller *plus* the value of any Replacement Product provided retrospectively by Seller, each with respect to the immediately preceding Performance Measurement Period

[redacted]

"**Adjusted Energy Production**" shall mean the sum of the following: the Delivered Energy *plus* Lost Output *plus* Deemed Delivered Energy in the Performance Measurement Period.

"**Energy Shortfall Amount**" means the amount of MWh resulting from the calculation of A – B.

"**Lost Output**" means the sum of electric energy in MWh that would have been generated and delivered, but was not, on account of Force Majeure Event, Buyer's failure to perform, System Emergency and Curtailment Order. The additional MWh comprising Lost Output shall be calculated in the same manner as Deemed Delivered Energy.

No payment shall be due if the calculation of (A - B) or (C - D) yields a negative number.

After each Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer within thirty (30) days of such Notice; *provided*,

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however, that (a) if, in accordance with Section 4.7(a), the Parties agreed that Seller would retrospectively deliver Replacement Product for a given Performance Measurement Period in lieu of Seller paying some or all of the Energy Replacement Damages, and (b) Seller does not deliver all such Replacement Product in the Contract Year immediately following such Performance Measurement Period, then Seller shall pay to Buyer the portion of the Energy Replacement Damages that correspond to the amount of MWh by which the Energy Shortfall Amount for such Performance Measurement Period exceeds the sum of (A) retrospectively delivered Replacement Product *plus* (B) that amount of MWh for which Seller paid Energy Replacement Damages pursuant to Section 4.7(a).

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EXHIBIT F

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to [____] **(**"**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

(1) Wind turbines with a nameplate capacity of no less than [redacted] of the Guaranteed Capacity have been installed at the Facility.

(2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with its respective manufacturer's specifications and each such wind turbine has delivered electricity to the Interconnection Point.

(3) Authorization to parallel the Facility was obtained by the Participating Transmission Owner on [DATE].

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]

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EXHIBIT G

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to [____] ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between [Pattern Entity] ("Seller") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [___] wind turbines with an aggregate nameplate capacity of [__], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Interconnection Point.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]
Exp. [DATE]

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EXHIBIT H

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [Pattern Entity] ("**Seller**") to [____] ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) the EPC Contract related to the Facility was executed on _____;

(2) the full notice to proceed with the construction of the Facility was issued on _____ (attached) (the "**Construction Start Date**");

(3) the Construction Start Date has occurred;

(4) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site: _____ (such description shall amend the description of the Site in Exhibit A).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

By: _____

Printed Name: _____

Title: _____

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EXHIBIT I

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [●]

DATE: [●]

BENEFICIARY:

APPLICANT:

[NAME, ADDRESS, CONTACT]

EXPIRATION DATE: [●]

AMOUNT/CURRENCY: [●]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ("LETTER OF CREDIT") IN FAVOR OF [____] ("BENEFICIARY"), [BENEFICIARY ADDRESS], WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, BY ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [●] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF _____, 2023 BETWEEN APPLICANT AND BENEFICIARY (THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [●], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [●], UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

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ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE. [THE ORIGINAL OF THIS LETTER OF CREDIT (AND ALL AMENDMENTS, IF ANY) IS NOT REQUIRED TO BE PRESENTED IN CONNECTION WITH ANY PRESENTMENT OF A DRAWING CERTIFICATE BY BENEFICIARY HEREUNDER IN ORDER TO RECEIVE PAYMENT.]

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS], (B) [AS A PDF ATTACHMENT TO AN EMAIL TO [*BANK EMAIL ADDRESS*]], OR (C) BY FACSIMILE TO [FAX NUMBER]. [TRANSMITTAL BY FACSIMILE [OR EMAIL] SHALL BE DEEMED DELIVERED WHEN RECEIVED.]

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF _____ ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-CONFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF

COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF STATE OF _____.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [●], AND SHALL BE ADDRESSED TO: [●]

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

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EXHIBIT "A"

DRAWING CERTIFICATE

TO: [ISSUING BANK]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I,_____, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF _____, 2023 (THE "AGREEMENT").

[CHOOSE ONLY ONE OF THE FOLLOWING]

(1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____ BECAUSE [A SELLER EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED][OR][A COD DELAY DAMAGES PAYMENT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) IS DUE UNDER THE AGREEMENT].

(2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN SIXTY (60) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT , [BENEFICIARY] IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD _____, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY

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AVAILABLE FUNDS TO: (INSERT WIRE INSTRUCTIONS),WHICH, [____] CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: _____; _____.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF , 20 _.

[____]

BY:_____

NAME:_____

TITLE:_____.

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EXHIBIT J

FORM OF GUARANTY

This Guaranty (this "Guaranty") is entered into as of [_____] (the "Effective Date") by and between [_____], a [_____] ("Guarantor"), and [____] (together with its successors and permitted assigns, "Buyer").

Recitals

A. Buyer and _____, a _____ ("Seller"), entered into that certain Renewable Power Purchase Agreement (as amended, restated or otherwise modified from time to time, the "PPA") dated as of [____], 20___.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section 8.8 of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA, provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed the sum of _____ Dollars ($_____), plus reasonable costs incurred by Buyer in enforcing this Guaranty, if successful, not to exceed [_____ Dollars ($_____)] (the "Guaranteed Amount"). The Parties understand and agree that any payment by Guarantor shall thereafter reduce the Guaranteed Amount hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

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2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "Demand Notice"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "Payment Demand") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

(i) the extension of time for the payment of any Guaranteed Amount, or

(ii) any amendment, modification or other alteration of the PPA, or

(iii) any indemnity agreement Seller may have from any party, or

(iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

(v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

(vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

(vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

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(viii) those defenses based upon (A) the legal incapacity or lack of power or authority of any person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or

(ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the

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legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 7.

If delivered to Buyer, to it at [____]
Attn: [____]
Fax: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]
Fax: [____]

8. Governing Law and Forum Selection. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States sitting in the County of Santa Clara, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter

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hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN

TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By:_____
Printed Name:
Title:

BUYER:

[_____]

By:_____
Printed Name:
Title:

By:_____
Printed Name:
Title:

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EXHIBIT K

NOTICES

SUNZIA WIND POWERCO LLC	SILICON VALLEY CLEAN ENERGY AUTHORITY
All Notices: Street: 1088 Sansome St. City: San Francisco, CA Attn: General Counsel Phone: [redacted] Email: [redacted]	**All Notices:** Street: City: Attn: Phone: Email: With a copy to:
Reference Numbers: [redacted]	**Reference Numbers:** [redacted]
Invoices: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Invoices:** Phone: Email:
Scheduling: Attn: Manager 24/7 Operations Control Center 888 Westheimer Road, Suite 213 Houston, TX 77006 Email: [redacted] Phone: [redacted] Facsimile: [redacted]	**Scheduling:** Attn: Phone: Email:
Confirmations: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Confirmations:** Attn: Phone: Email:
Payments: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Payments:** Attn: Phone: Email:
Wire Transfer: [redacted]	**Wire Transfer:** [redacted]

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SUNZIA WIND POWERCO LLC	SILICON VALLEY CLEAN ENERGY AUTHORITY
Emergency Contact: Attn: 24/7 Operations Control Center Phone: [redacted] Email: [redacted]	**With additional Notices of an Event of Default to:** Attn: Phone: Email:
	Emergency Contact: Attn: Phone: Email:

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EXHIBIT L

OPERATING RESTRICTIONS

Operating restrictions of the Facility for Market Curtailment Periods are as follows:

- Interconnection Capacity (Maximum Injection Amount): [redacted]
- Minimum operating capacity: [redacted]
- Maximum number of start-ups per calendar day (if any such operational limitations exist): [redacted]
- Ramp Rate: [redacted]
- Minimum Down Time: [redacted]

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EXHIBIT M

FORM OF SELLER COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") is delivered by the undersigned ("Authorized Representative"), a duly authorized representative of [SunZia Wind PowerCo LLC] in connection with that certain Renewable Power Purchase Agreement dated [*DATE*] ("**Agreement**") by and between SunZia Wind PowerCo LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [*DATE*], Authorized Representative hereby certifies and represents to Buyer the following:

(1) The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

(2) The Facility's testing included a performance test demonstrating peak electrical output of no less than [redacted] of the Guaranteed Capacity for the Facility at the Interconnection Point, as adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was [____ MW].

(3) The Participating Transmission Owner has provided documentation supporting full unrestricted release for Commercial Operation on [DATE].

(4) The CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

EXECUTED by [AUTHORIZED REPRESENTATIVE]

this _____ day of _____, 20__.

By: _____

Printed Name: _____

Title: _____

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EXHIBIT N
FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this "**Agreement**") is entered into as of [____] (the "**Assignment Agreement Effective Date**") by and among [*PPA SELLER*], a Delaware limited liability company ("**PPA Seller**"), Silicon Valley Clean Energy Authority, a joint powers authority and a community choice aggregator organized under the laws of the State of California ("**PPA Buyer**"), and Morgan Stanley Capital Group Inc., a Delaware corporation ("**MSCG**").

RECITALS

WHEREAS, PPA Buyer and PPA Seller are parties to that certain PPA identified on Appendix 1 hereto;

WHEREAS, in connection with a prepaid electricity transaction between [_____] ("**Issuer**") and Morgan Stanley Energy Structuring, L.L.C. ("**MSES**"), and with effect from and including the Assignment Period Start Date (as defined below), PPA Buyer wishes to transfer by limited assignment to MSCG, and MSCG wishes to accept the transfer by limited assignment of, the Assigned Rights and Obligations (as defined below) for the duration of the Assignment Period (as defined below);

WHEREAS, pursuant to this Agreement, during the Assignment Period, MSCG will receive the Assigned Product in the Assigned Monthly Quantity and MSCG will deliver such Assigned Product to MSES, which will redeliver such Assigned Product to Issuer for ultimate redelivery to PPA Buyer; and

WHEREAS, pursuant to this Agreement, during the Assignment Period, MSCG will assume responsibility for the Delivered Product Payment Obligation.

THEREFORE, in consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and MSCG (the "**Parties**" hereto; each is a "**Party**") agree as follows:

AGREEMENT

1. Definitions.

Unless the context otherwise specifies or requires, or defined below, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA. The following terms, when used in this Agreement and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:

"**Agreement**" has the meaning specified in the first paragraph above.

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"**Assigned Monthly Quantity**" means the first [___] MWhs of Assigned Product delivered in accordance with the PPA by PPA Seller in each Month during the Assignment Period.

"**Assigned Product**" means (i) PV Energy and (ii) Green Attributes (PCC1).

"**Assigned Rights and Obligations**" means (i) the rights of PPA Buyer under the PPA to receive the Assigned Monthly Quantity of Assigned Product in each Month during the Assignment Period, as such rights may be limited or further described in the "Further Information" section on Appendix 1, and (ii) the Delivered Product Payment Obligation, which right and obligation are transferred and conveyed to MSCG hereunder, but which shall not relieve PPA Buyer of its obligations under the PPA in any respects.

"**Assignment Early Termination Date**" has the meaning specified in Section 4(b).

"**Assignment Period**" has the meaning specified in Section 4(a).

"**Assignment Period End Date**" means 11:59:59 p.m. pacific prevailing time on [____].

"**Assignment Period Start Date**" means [_____].

"**Custodian**" means The Bank of New York Mellon Trust Company, N.A., a national banking association.

"**Delivered Product Payment Obligation**" has the meaning specified in Section 3(a).

"**Issuer**" means [____], a [____] **[NOTE: This will be the JPA or other entity formed for purposes of issuing municipal bonds for the prepaid transaction.]**.

"**Month**" means a calendar month.

"**Monthly Gross Amount**" has the meaning specified in Section 3(c).

"**MSCG**" has the meaning specified in the first paragraph of this Agreement.

"**MSES**" means Morgan Stanley Energy Structuring, L.L.C., a Delaware limited liability company.

"**PPA Buyer**" has the meaning specified in the first paragraph of this Agreement.

"**PPA Seller**" has the meaning specified in the first paragraph of this Agreement.

"**Prepaid Agreement**" means that certain Prepaid Energy Sales Agreement dated as of [____] by and between MSES and Issuer.

"**Prepay Power Supply Contract**" means that certain Prepay Power Supply Contract dated [____] by and between PPA Buyer and Issuer.

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"**Receivables**" has the meaning given to such term in Section 3(g).

"**Retained Rights and Obligations**" has the meaning specified in Section 3.

2. Transfer and Undertakings.

(a) PPA Buyer hereby assigns, transfers and conveys to MSCG all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the Assigned Product in the Assigned Monthly Quantity during the Assignment Period. In connection with this assignment, PPA Buyer hereby delegates to MSCG the Assigned Rights and Obligations during the Assignment Period.

(b) PPA Seller hereby consents to PPA Buyer's assignment, transfer and conveyance of all right, title and interest in and to the Assigned Product and Assigned Rights and Obligations to MSCG and the exercise and performance by MSCG of the Assigned Rights and Obligations during the Assignment Period.

(c) MSCG hereby accepts such assignment, transfer and conveyance of the Assigned Rights and Obligations during the Assignment Period and agrees to perform any such Assigned Rights and Obligations due from it during the Assignment Period.

3. Limited Assignment.

The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a portion of PPA Buyer's rights and obligations under the PPA, and that all rights and obligations (including without limitation obligations with respect to payment for any Product not included in the Assigned Product, any Assigned Product not included in the Assigned Monthly Quantity of Assigned Product, and any other amounts owed under the PPA) arising under the PPA that are not expressly included in the Assigned Rights and Obligations shall be "**Retained Rights and Obligations**" that are retained solely by PPA Buyer, and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. In this regard:

(a) **Limited to Delivered Product Payment Obligation**. MSCG's sole obligation hereunder will be to pay the Floating Price Payments into the Custodial Account as such terms are defined in and described on Appendix 1 (the "**Delivered Product Payment Obligation**"). MSCG and PPA Buyer each agree to instruct the Custodian in accordance with Section 3(c) hereof to pay PPA Seller for the Assigned Product delivered during each Month of the Assignment Period on each applicable payment date under Section 8.2 of the PPA for a quantity up to, but not exceeding, the Assigned Monthly Quantity, at the Renewable Rate as set forth in the PPA. PPA Buyer shall remain responsible for any payment obligations under the PPA during the Assignment Period, and shall remain so responsible to make such payments by the times and on the terms set out in the PPA in the event that either (i) MSCG does not make the payments into the Custodial Account as described above or (ii) the Custodian does not make the payments to the PPA Seller from the Custodial Account as described above.

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(b) **Retained Rights and Obligations**. Any claims arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or MSCG, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Product Payment Obligation, will be included in the Retained Rights and Obligations, and any such claim will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) **Invoicing**. During the Assignment Period, PPA Seller shall continue to provide PPA Buyer a monthly invoice of amounts owing under the PPA, which invoice shall show the total amount due to PPA Seller under the PPA for such Month (the "**Monthly Gross Amount**"). Promptly following PPA Buyer's receipt of each monthly invoice from PPA Seller during the Assignment Period and, in any event, no later than seven days thereafter, PPA Buyer shall deliver (i) a copy of such monthly invoice and the related supporting data to MSCG (ii) a statement to each of MSCG and the Custodian indicating (A) the Monthly Gross Amount; (B) the Delivered Product Payment Obligation; and (C) the Retained Payment Obligation. PPA Buyer and MSCG covenant and agree to instruct the Custodian to pay the Monthly Gross Amount to PPA Seller on or before the applicable payment date in the PPA, *provided,* that the liability of MSCG hereunder to PPA Seller is limited as described on Appendix 1. PPA Buyer and MSCG may agree in a separate writing as to the allocation of the Monthly Gross Amount between PPA Buyer and MSCG of amounts paid by the Custodian to PPA Seller hereunder. At all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA.

(d) **Scheduling**. All scheduling of Assigned Product and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass to MSCG upon delivery by PPA Seller at the Delivery Point in accordance with the PPA; (ii) immediately thereafter, title to such Assigned Product will pass to MSES, Issuer and then to PPA Buyer upon delivery by MSCG at the same point where title is passed to MSCG pursuant to clause (i) above; (iii) PPA Buyer will be deemed to be acting as MSCG's agent with regard to scheduling Assigned Product; and (iv) PPA Buyer will provide copies to MSCG of (A) any notice of a Force Majeure Event delivered under the PPA, (B) any notice of a default or of a breach or other event that, if not cured within an applicable grace period, could result in an Event of Default, (C) annual forecasts and monthly forecasts with respect to the Assigned Product delivered by PPA Seller under Sections 4.3(a) and 4.3(b) of the PPA, (D) invoices delivered by PPA Seller under Section 8.1 of the PPA (with a copy to the Custodian if and to the extent retained by PPA Buyer and MSCG), and (E) any other information reasonably requested by MSCG relating to Assigned Product.

(e) **Amendments**. PPA Buyer will provide written notice (including copies thereof) of any amendment, waiver, supplement, modification, or other changes to the PPA to MSCG relating to the Assigned Rights and Obligations, and the Parties hereby acknowledge and agree that an amendment, waiver, supplement, modification or other change will not have any effect on MSCG's rights or obligations under this Agreement until and unless MSCG receives written notice thereof.

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(f) **Reserved**.

(g) **Setoff of Receivables**. Pursuant to the Prepaid Agreement, MSES has agreed to purchase the rights to payment of the net amounts owed by PPA Buyer under the Prepay Power Supply Contract ("**Receivables**") in the case of non-payment by PPA Buyer. To the extent any such Receivables relate to Assigned Product purchased by MSCG pursuant to the Assigned Rights and Obligations, MSES may sell such Receivables to MSCG and MSCG may transfer such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) to PPA Seller and apply the face amount of such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) as a reduction to any Delivered Product Payment Obligations; provided, however, that (1) at no time shall PPA Seller be required to pay MSCG for any amounts by which such Receivables exceed any Delivered Product Payment Obligations, and (2) at all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA including the Monthly Gross Amount under each invoice.

4. Assignment Period; Assignment Early Termination.

(a) **Assignment Period**. The "**Assignment Period**" shall begin on the Assignment Period Start Date and extend until the Assignment Period End Date; provided that in no event shall the Assignment Period extend past an Assignment Early Termination Date; and further provided that the Assignment Period will automatically terminate upon the expiration or early termination of either the Delivery Term or the PPA.

(b) **Early Termination**. An "**Assignment Early Termination Date**" will occur under the following circumstances and as of the dates specified below:

i. delivery of a written notice of termination by either MSCG or PPA Buyer to each of the other Parties hereto;

ii. delivery of a written notice of termination by PPA Seller to each of MSCG and PPA Buyer following MSCG's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such failure continues for three (3) Business Days following receipt by MSCG of written notice thereof;

iii. delivery of a written notice by PPA Seller if any of the events described in Section 1.1, definition of "Bankrupt" of the PPA, occurs with respect to MSCG; or

iv. delivery of a written notice by MSCG if any of the events described in Section 1.1, definition of "Bankrupt" of the PPA, occurs with respect to PPA Seller.

(c) **Reversion of Assigned Rights and Obligations**. The Assignment Period will end at the end of the last delivery hour on the date specified in the termination notice provided pursuant to Section 4(b), which date shall not be earlier than the end of the last day of the Month in which such notice is delivered if termination is pursuant to clause (b)(i) or (b)(ii) above. The

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Parties acknowledge and agree that upon the occurrence of an Assignment Early Termination Date and at the expiration of the Assignment Period the Assigned Rights and Obligations will revert from MSCG to PPA Buyer. Any Assigned Rights and Obligations that would become due for payment or performance on or after such Assignment Early Termination Date shall immediately and automatically revert from MSCG to PPA Buyer, provided that (i) MSCG shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to MSCG prior to the Assignment Early Termination Date or prior to the expiration of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the occurrence of the Assignment Early Termination Date or the expiration of the Assignment Period.

5. Representations and Warranties.

(a) **Copy of PPA**. As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to MSCG that a true, complete, and correct copy of the PPA as of such date is attached hereto as Appendix 3.

(b) **No Default**. As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to MSCG that no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

(c) **Representations**. Each Party represents to each of the other Parties as of the Assignment Agreement Effective Date:

i. **Status**. It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.

ii. **Powers**. It has the power to execute, deliver and to perform its obligations under this Agreement and has taken all necessary action to authorize such execution, delivery and performance.

iii. **No Violation or Conflict**. Such execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its obligations under this Agreement, will not result in any violation of, or conflict with: (i) any term of any material contract or agreement applicable to it; (ii) any of its charter, bylaws, or other constitutional documents; (iii) any determination or award of any arbitrator applicable to it; or (iv) any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, law, ordinance, rule or regulation of any Government Agency presently in effect, applicable to it or any of its assets or properties or to any obligations incurred by it or by which it or any of its assets or properties or obligations are bound or affected, and shall not cause a breach of, or default under, any such term or result in the creation of any lien upon any of its properties or assets.

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iv. **Consents**. All consents, approvals, orders or authorizations of, registrations, declarations, filings or giving of notice to, obtaining of any licenses or permits from, or taking of any other action with respect to, any Person or Government Agency that are required to have been obtained by such Party with respect to this Agreement and the transactions contemplated hereby, including the due authorization of such Party and its governing body and any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party, have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

v. **Obligations Binding**. Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

vi. **Non-Reliance**. It is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other Parties as investment advice or as a recommendation to enter into this Agreement; it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this Agreement. It is entering into this Agreement as a bona-fide, arm's-length transaction involving the mutual exchange of consideration and, once executed by all Parties, considers this Agreement a legally enforceable contract. No communication (written or oral) received from any of the other Parties shall be deemed to be an assurance or guarantee as to the expected results of this Agreement.

vii. **Assessment and Understanding**. It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Agreement. It is also capable of assuming, and assumes, the risks of this Agreement.

viii. **Status of Parties**. None of the other Parties is acting as a fiduciary for or an adviser to it in respect of this Agreement.

6. Miscellaneous.

Article 18 (Confidential Information), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), Sections 19.5 (Severability), 19.8 (Electronic Delivery), 19.7 (Counterparts), Section 19.9 (Binding Effect) and 19.11 (Forward Contract) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein. For avoidance of doubt, and notwithstanding anything to the contrary in this Agreement: (i) nothing in this Agreement shall modify any provision of the PPA; (ii) PPA Buyer remains obligated to perform

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all its obligations under the PPA notwithstanding the limited assignment under this Agreement (including without limitation any such obligations not timely performed by MSCG under this Agreement) and any failure by MSCG to make payments to PPA Seller when due under the PPA shall be a Buyer Event of Default under the PPA if not cured within the applicable cure period specified in Section 11(a)(i) of the PPA; (iii) this Agreement shall not purport to convey or otherwise allege any right of PPA Buyer or MSCG to make any prepayment to PPA Seller under the PPA or to file or impose any lien on the Facility; and (iv) neither MSCG nor PPA Buyer shall make any assignment of its rights or delegation of its obligations under this Agreement without the prior written consent of PPA Seller, which it may withhold in its sole discretion.

7. Costs and Expenses.

The Parties shall each pay their own costs and expenses (including legal fees) incurred in connection with this Agreement and as a result of the negotiation, preparation, and execution of this Agreement.

8. Notices.

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be delivered in accordance with PPA Section 9.2 and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify MSCG of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to MSCG shall be provided to the address set forth in Appendix 2. Each Party may update its address from time to time by notice to the other Parties.

9. Governing Law, Arbitration, Judicial Reference.

(a) **Governing Law**. This Agreement and the rights and duties of the Parties under this Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction's laws; *provided*, however, that the authority of PPA Buyer to enter into and perform its obligations under this agreement shall be determined in accordance with the laws of the State of California.

(b) **Arbitration**. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope of this agreement to arbitrate, shall be determined by final, non-appealable binding arbitration in San Francisco, California before three (3) arbitrators. The arbitration shall be administered by Judicial Arbitration and Mediation Services, Inc. ("**JAMS**") pursuant to its Comprehensive Arbitration Rules and Procedures. Within fifteen (15) days after the commencement of arbitration, each of MSCG and PPA Buyer shall select one person to act as arbitrator, and the two so-selected arbitrators shall select a third arbitrator (the "**chairperson**") within thirty (30) days of the commencement of the arbitration. If either MSCG or PPA Buyer is unable or fails to select one person to act as arbitrator, such arbitrator shall be appointed by JAMS. If the MSCG and PPA Buyer-selected arbitrators are unable or fail to agree upon a chairperson, the chairperson shall be appointed by JAMS. The chairperson shall be a person

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who has experience in renewable energy-related transactions, and none of the arbitrators shall have been previously employed by any Party or have any direct pecuniary interest in any Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by all of the Parties. The Parties shall maintain the confidential nature of the arbitration proceeding and any award, including any hearing(s), except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right, with the Parties hereby affirmatively waiving their rights, if any, to recover or claim such damages. The responsibility for compensation and expenses of the three arbitrators and all other expenses charged by JAMS shall be equally split in one-third (1/3) shares by each of MSCG, PPA Buyer, and PPA Seller. In any arbitration arising out of or related to this Agreement, the arbitrators shall award to the prevailing Party or Parties, if any, the costs and attorney's fees reasonably incurred in seeking to enforce the application of this Section 9(b) and by the prevailing party in connection with the arbitration. Notwithstanding the foregoing provisions of this Section 9(b), any costs incurred by a Party in seeking judicial enforcement of any written decision of the arbitrators shall be chargeable to and borne exclusively by the Party against whom such court order is obtained. The award shall be final and binding on the Parties and judgment upon any award may be entered in any court of competent jurisdiction.

(c) **Judicial Reference.** Without limiting the provisions in Section 9(b), if Section 9(b) is deemed ineffective or unenforceable in any respect, any dispute between the Parties arising out of or in connection with this Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Agreement and the applicability of any statute of limitation period) (each, a "**Dispute**") shall be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure ("**CCP**"), or their successor sections (a "**Reference Proceeding**"), which shall constitute the exclusive remedy for the resolution of any Dispute. As a condition precedent to initiating a Reference Proceeding with respect to any Dispute, the Parties shall comply with the provisions of Section 9(c)(i).

i. Notice of Dispute. Prior to initiating the Reference Proceeding, a Party (the "**Disputing Party**") shall provide the other Parties (the "**Responding Parties**") with a written notice of each issue in dispute, a proposed means for resolving each such issue, and support for such position (the "**Notice of Dispute**"). Within 10 days after receiving the Notice of Dispute, the Responding Parties shall provide the Disputing Party with a written Notice of each additional issue (if any) with respect to the dispute raised by the Notice of Dispute, a proposed means for resolving every issue in dispute, and support for such position (the "**Dispute Response**"). Thereafter, the Parties shall meet to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the Parties do not resolve the dispute by unanimous agreement within sixty 60 days after receipt of the Dispute Response, (the "**Negotiation Period**"), then any Party may provide

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to the other Parties written notice of intent for judicial reference (the "**Impasse Notice**") in accordance with the further provisions of this Section 9.

ii. Applicability; Selection of Referees. Within 10 days of the delivery of an Impasse Notice, each of MSCG and PPA Buyer shall nominate one (1) referee. The two (2) referees (the "**Party-Appointed Referees**") shall appoint a third referee (the "**Third Referee**", together with the Party-Appointed Referees, the "**Referees**"). The Party-Appointed Referees shall be competent and experienced in matters involving the electric energy business in the United States, with at least ten (10) years of electric industry experience as a practicing attorney. The Third Referee shall be an active or retired California state or federal judge. Each of the Party-Appointed Referees and the Third Referee shall be impartial and independent of each of the Parties and of the other referees and not employed by any of the Parties in any prior matter.

iii. Inability to Agree upon Third Referee. If the Party-Appointed Referees are unable to agree on the Third Referee within 45 days from delivery of the Impasse Notice, then the Third Referee shall be appointed pursuant to CCP Section 640(b) in an action filed in the Superior Court of California, County of San Francisco (the "**Court**"), and with due regard given to the selection criteria above. A request for appointment of a referee may be heard on an ex parte or expedited basis, and the Parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP Section 170.6, each of PPA Buyer and MSCG shall have one (1) peremptory challenge to the referee selected by the Court.

iv. Discovery; Proceedings.

(A) The Parties agree that time is of the essence in conducting the Reference Proceeding. Accordingly, the Referees shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within 20 days after the date of selection of the Third Referee, (ii) if practicable, try all issues of law or fact within 180 days after the date of the conference, and (iii) report a statement of decision within 20 days after the matter has been submitted for decision.

(B) Discovery and other pre-hearing procedures shall be conducted as agreed to by the Parties, or if they cannot agree, as determined by the Third Referee after discussion with the Parties regarding the need for discovery and other pre-hearing procedures.

(C) Except as expressly set forth herein, the Third Referee shall determine the manner in which the Reference Proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the Reference Proceeding. The Reference Proceeding, including the trial, shall be conducted at a neutral location selected by the Parties, or if not agreed by the Parties, by the Third Referee, in San Francisco, California.

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(D) All proceedings and hearings conducted before the Referees, except for trial, shall be conducted without a court reporter, except that when any Party so requests, a court reporter will be used at any hearing conducted before the Referees, and the Referees will be provided a courtesy copy of the transcript. The Party making such a request shall have the obligation to arrange for and pay the court reporter.

v. Decision. The Referees shall render a written statement of decision setting forth findings of fact and conclusions of law. The decision shall be entered as a judgment in the court in accordance with the provisions of CCP Sections 644 and 645. The decision shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the Court. The Parties intend this general reference agreement to be specifically enforceable in accordance with the CCP.

vi. Expenses. Each of MSCG, PPA Seller and PPA Buyer shall bear the compensation and expenses of its respective own counsel, witnesses, consultants and employees. The responsibility for compensation and expenses of the Referees and all other expenses of judicial reference shall be equally split in one-third (1/3) shares by each of MSCG, PPA Buyer, and PPA Seller.

10. **U.S. Resolution Stay.** The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol ("**ISDA U.S. Stay Protocol**"), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Agreement, and this Agreement shall be deemed a Protocol Covered Agreement for purposes thereof. For purposes of incorporating the ISDA U.S. Stay Protocol, MSCG shall be deemed to be a Regulated Entity, and PPA Buyer and PPA Seller each shall be deemed to be an Adhering Party. In the event of any inconsistences between this Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.

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IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____
Name:_____
Title:_____

SILICON VALLEY CLEAN ENERGY AUTHORITY

By: _____
Name:_____
Title:_____

MORGAN STANLEY CAPITAL GROUP INC.

By: _____
Name:_____
Title:_____

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Appendix 1
Assigned Rights and Obligations

PPA: Renewable Power Purchase Agreement dated as of [____], by and between PPA Buyer and PPA Seller, as may be amended from time to time.

Delivery Point: Facility PNode (as defined in Exhibit A of the PPA)

Further Information: PPA Seller shall transfer or, to the extent applicable, continue to transfer, to PPA Buyer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all PV Energy under the PPA pursuant to Section 4.10 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both MSCG and PPA Buyer upon fifteen (15) Business Days' notice, which change shall be effective as of the first day of the next calendar month after such notice period has expired, unless otherwise agreed. Terms with initial capitalization used in this paragraph but not otherwise defined in this Agreement have the meaning set forth in the PPA. All Assigned Product delivered by PPA Seller to MSCG shall be a sale made at wholesale, with MSCG reselling all such Assigned Product.

Limitation of MSCG Liability. MSCG has separately agreed with the PPA Buyer and the Custodian (pursuant to the Custodial Agreement dated [---], among PPA Buyer, MSCG and the Custodian (the "**Custody Agreement**")) to pay into the custodial account specified in the Custody Agreement (the "**Custodial Account**") for the portion of the Assigned Monthly Quantity actually delivered in each Month of the Assignment Period at the "Day-Ahead Average Price" as defined below ("**Floating Price Payments**"). MSCG agrees for the benefit of the PPA Seller to pay the Floating Price Payments into the Custodial Account, and MSCG's payment obligations under this Agreement are limited to making such payments into the Custodial Account, for application as provided in the Custody Agreement. PPA Buyer and PPA Seller each acknowledge and agree that the making of Floating Price Payments into the Custodial Account by MSCG shall not entitle (i) PPA Seller for payments in excess of the Renewable Rate for Assigned Product delivered hereunder or (ii) PPA Buyer to pay less than the Renewable Rate for Assigned Product delivered hereunder. PPA Buyer and MSCG each acknowledge and agree that the making of Floating Price Payments into the Custodial Account by MSCG shall not entitle (i) MSCG to any payments from PPA Seller or (ii) affect the Custodian's obligation to pay the Monthly Gross Amount to PPA Seller on or before the applicable payment date in the PPA. At all times the PPA Buyer shall remain obligated for the payment of all amounts owing under the terms of the PPA including the Monthly Gross Amount under each invoice.

"Day-Ahead Average Price" means (x) the sum of the Day-Ahead Market Prices for each Pricing Interval in a Month divided by (y) the number of Pricing Intervals in such Month; provided that in no case shall the Day-Ahead Average Price hereunder be less than $0.00/MWh. As used in this definition, "Pricing Interval" means the unit of time for which CAISO establishes a separate price. As used in this definition "Day-Ahead Market Price" means the Day Ahead Market or Locational Marginal Price for NP15 EZ GEN HUB for each applicable hour as published by CAISO, or as such price may be corrected or revised from time to time by CAISO in accordance

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with its rules. For the avoidance of doubt, the Day-Ahead Average Price can be a negative number.

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Appendix 2

MSCG Notice Information

[To be completed before signing.]

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Appendix 3

Copy of PPA

[To be attached.]

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FORM OF ASSIGNMENT SCHEDULE
[PROJECT NAME]

Assigned Product: [____]
Assigned Delivery Point: [____]
Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and J. Aron and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.
APC Contract Price: $[____]/MWh
Assignment Period: [____]
Other Provisions: [____]

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SILICON VALLEY CLEAN ENERGY

Staff Report – Item 6

Item 6:	**Update on Permit Modernization and Policy Experimentation Program Rollout**
From:	Girish Balachandran, CEO
Prepared by:	Zoe Elizabeth, Deputy Director of Decarbonization Programs and Policy
Date:	11/8/2023

RECOMMENDATION

Staff requests that the Board of Directors receive an update from the Decarbonization Programs and Policy team on SVCE's Permit Modernization and Policy Experimentation programs.

EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee received a report on these programs at its October meeting and provided initial input to staff at that time.

BACKGROUND

After completing background research and program design, SVCE is poised to roll out two key programs with member agencies over the coming months. The Permit Modernization and Policy Experimentation programs build off the new construction reach code initiative to provide resources to member agencies to reduce local friction and support wider adoption of building electrification. Both of these programs were included in the "Double Down" budget allocations approved by the Board in 2022.

Permit Modernization refers to initiatives taken by agency permitting staff to remove friction, i.e, generally making it easier to apply for and successfully complete a permitted project. Examples are improving agency application forms, removing permitting requirements for some appliances, and conducting inspections virtually.

Policy Experimentation relates to activities taken by member agencies to advance building decarbonization in existing buildings. Ordinances that require air conditioners to be replaced by heat pumps upon burnout and programs promoting neighborhood electrification are two examples of policy experimentation initiatives that could be supported by this SVCE program.

ANALYSIS & DISCUSSION

In an effort to initiate communications with the Board of Directors on permit modernization and policy experimentation programs, staff will provide a presentation on the program's design and will provide the Board with periodic status updates, highlights and high-impact opportunities for action.

In the first phase, SVCE staff will be reaching out to both SVCE Boardmembers and key agency staff to collaborate on developing a specific plan for each agency. Once these plans are developed over the coming months, SVCE will be actively deploying resources in close collaboration with each agency to achieve the programs' goals.

Agenda Item: 6 **Agenda Date: 11/8/2023**

STRATEGIC PLAN

These programs contribute directly to the SVCE Strategic Plan's measures to support member agencies in their community decarbonization efforts and to lead local policy development as a key lever for achieving large-scale decarbonization impacts.

FISCAL IMPACT

Funding for these programs has been previously appropriated, therefore, there is no fiscal impact from this item.

ATTACHMENTS

The PowerPoint presentation for this item will be posted to SVCE's website.

SILICON VALLEY CLEAN ENERGY

Silicon Valley Clean Energy
Board of Directors Meeting

November 8, 2023

Appendix A

Power Resource Contracts Executed by CEO

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WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between **East Bay Community Energy Authority**, a California joint powers authority, ("Seller") and **Silicon Valley Clean Energy Authority**, a California joint powers authority ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of the last dated signature on the signature page hereto (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 from 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 all or a portion of the affected 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 all or a portion of the affected Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit during any Showing Month 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

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. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Buyer with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

Seller shall deliver the Expected Contract Quantity by submitting or causing to be submitted to CAISO Seller's Supply Plans, identifying in each case the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for the relevant period, as further specified in Appendix B, all in compliance with this Confirmation.

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.

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.

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.

The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with this Confirmation, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan pursuant to Section 2.7, 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

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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.

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

2.2 Reductions in Contract Quantity

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

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

(c) If 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).

(d) Seller's obligation to deliver the applicable Contract Quantity for each Showing Month may also be reduced in the event that the underlying Seller supply agreement results in Seller's inability to deliver the Product to Buyer in accordance with this Agreement.

2.3 Seller's Option To Provide Alternate Capacity

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

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate

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Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

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

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

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

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

2.4 Planned Outages

As of the 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.

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

If Seller fails to pay the foregoing 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 four (4) Business Days before the Compliance Showing Deadline for each Showing Month for which Purchaser has resold the Product.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to offer, bid, or otherwise submit, or if necessary to direct the Seller or the Unit's SC to offer, bid, or otherwise submit the Expected Contract Quantity of Product for each Showing Month for re-sale into such market, and Seller and the Unit's SC shall comply with the Buyer's direction and Buyer shall retain and receive all revenues from such re-sale.

2.7 Self-Showing Obligation; Hold-Back Capacity

(a) If the Product includes Local RAR Attributes, and Seller has self-shown the Expected Contract Quantity associated with the Shown Unit to the Central Procurement Entity (CPE), Purchaser agrees to assume Seller's self-showing obligations by showing the Expected Contract Quantity in Purchaser's Resource Adequacy Plan, or causing the Subsequent Purchaser to show such Expected Contract Quantity in its Resource Adequacy Plan, for each applicable Showing Month of the Delivery Period.

(b) Provided that Section 2.7(a) is not applicable, no later than three (3) Business Days before the Compliance Showing Deadline with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Shown Unit's

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SC not to list, in the Shown Unit's Supply Plan a portion or all of the Contract Quantity for any portion of such Showing Month included in the Delivery Period ("Hold-Back Capacity"). Along with such request, Buyer shall also provide updated Unit information reflecting the requested change. The updated Unit information shall be in the form of the Supply Plan. The amount of Contract Quantity that is the subject of Buyer's request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.1 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5. Seller shall, or shall cause the Shown Unit's SC to, comply with Buyer's request under this Section 2.7.

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 and (ii) the twentieth (20^{th}) day of the Showing Month, and if such day is not a Business Day, the next following Business Day ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

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 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.

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

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

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

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

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

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

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

4.3 Seller's Representations and Warranties

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

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;

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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;

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;

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

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

ARTICLE 5
RESERVED

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 7920 et seq.).

6.2 Change in Law

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

6.3 Governing Law

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

6.4 Collateral

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

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6.5 No Recourse to Members

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

6.6 Other WSPP Agreement Changes

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

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

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

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

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to pay its debts generally as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

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

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

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

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

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

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

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

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

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

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

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

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

"34.1 DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THE AGREEMENT WITH RESPECT TO 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 THE AGREEMENT."

"34.2 EXCLUSIVE JURISDICTION

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

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

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

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"34.5 LIMITATION OF DAMAGES

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

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

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

"The Parties agree as follows:

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

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).

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

6.7 Counterparts

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

6.8 Entire Agreement; No Oral Agreements or Modifications

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

[*Signatures appear on the following page.*]

AGREED AS OF THE EFFECTIVE DATE:

East Bay Community Energy Authority, a California joint powers authority	**Silicon Valley Clean Energy, a California joint powers authority**
By: Marie Fontenot (DocuSigned by: 205EAE1AE9DE4A7...)	By: Monica Padilla (DocuSigned by: 573FC184110B4C8...)
Name: Marie Fontenot	Name: Monica Padilla
Title: Vice President of Power Resources	Title: COO & Director of Power Resources
Date: 10/4/2023	Date: 10/3/2023

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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, as such may be modified, amended, supplemented or updated from time to time.

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

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

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less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

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

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

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

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

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

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

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

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

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

"MW" means megawatt.

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

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

"Planned Outage" means, subject to and as further described in the CPUC Decisions, a CAISO-approved, planned or scheduled disconnection, separation or reduction in capacity of the Unit

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that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: __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)	Flexible Capacity Contract Quantity (MW)	Unit No.	Contract Price ($/kW-mo.)
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

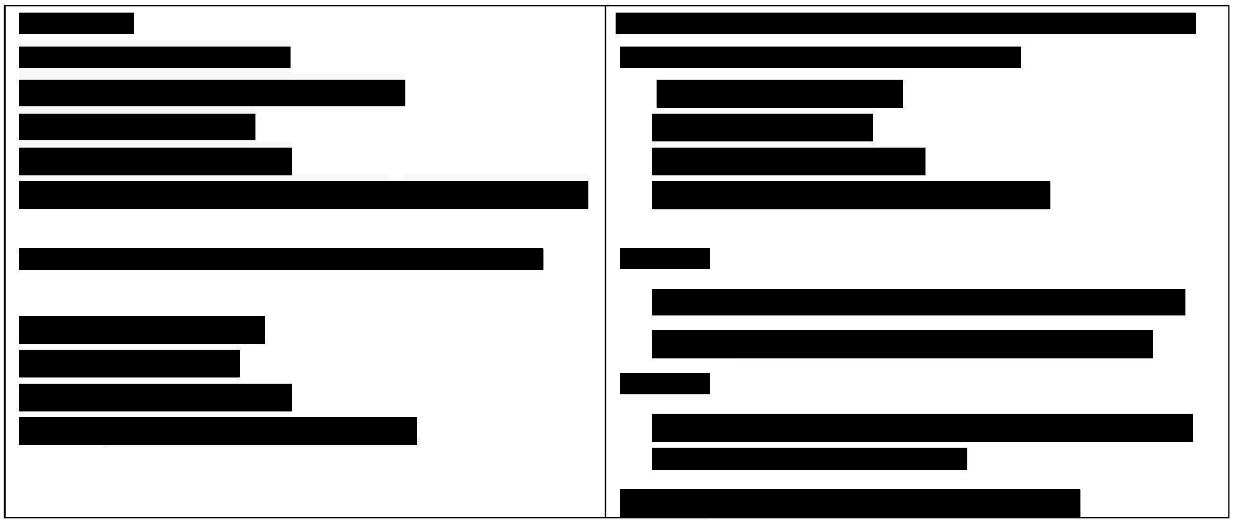
Unit 1

Unit Specific Information	
Resource Name	Sunrise Power Project
Physical Location	Fellows, CA
CAISO Resource ID	SUNRIS_2_PL1X3
SCID of Resource	
Unit NQC by month (e.g., Jan=50,Feb=65):	
Unit EFC by month (e.g., Jan=30, Feb=50)	
Resource Type (e.g., gas, hydro, solar, etc.)	
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	
Prorated Percentage of Unit Factor	
Prorated Percentage of Unit Flexible Factor	
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

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

APPENDIX C
NOTICE INFORMATION

Seller: East Bay Community Energy	Purchaser: Silicon Valley Clean Energy
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]



APPENDIX D
PLANNED OUTAGE SCHEDULE

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

LONG FORM CONFIRMATION
FOR RESOURCE ADEQUACY CAPACITY PRODUCT

Resource Adequacy Contract Number: SDGE_SVCEA_JAN_APR 2024_SELL_SYS_FLEX

This confirmation letter ("Confirmation") confirms the transaction (the "Transaction") between San Diego Gas & Electric Company ("Seller") and Silicon Valley Clean Energy Authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 10, 2024 (the "Confirmation Execution Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Section 3 of this Confirmation. This Transaction shall be deemed to have been entered into pursuant to, and shall supplement, form a part of, and be governed by the terms and conditions of the form of Master Power Purchase and Sale Agreement published by the Edison Electric Institute and the National Energy Marketers Association (version 2.1 dated 4/25/00) (the "EEI Agreement") with a Cover Sheet containing the elections and other changes contained herein as if the Parties have executed the EEI Agreement (with such Cover Sheet the "Master Agreement"). The Parties agree that the only transactions to be concluded pursuant to such Master Agreement shall be the Transaction documented in this Confirmation. The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein). To the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder.

Name: Party A / Seller

[redacted]

Name: Party B / Silicon Valley Clean Energy Authority

[redacted]

[redacted]

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Article Two
Transaction Terms and Conditions

☐ Optional provision in Section 2.4. If not checked, inapplicable.

Article Four
Remedies for Failure to Deliver or Receive

☒ Accelerated Payment of Damages.
If not checked, inapplicable.

Article Five
Events of Default; Remedies

☐ Cross Default for Party A:
☐ Party A: N/A_____ Cross Default Amount: N/A___
☐ Other Entity: N/A_____ Cross Default Amount: N/A____

☐ Cross Default for Party B:
☐ Party B: N/A_____ Cross Default Amount: N/A____
☐ Other Entity: N/A_____ Cross Default Amount: N/A____

5.6 Closeout Setoff
☒ Option A (Applicable if no other selection is made.)
☐ Option B – Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows:
_____
☐ Option C (No Setoff)

Article 8
Credit and Collateral Requirements

8.1 Party A Credit Protection:
(a) Financial Information:
☐ Option A
☐ Option B Specify: _____
☐ Option C Specify: _____

(b) Credit Assurances:
☒Not Applicable
☐ Applicable

(c) Collateral Threshold:
☒Not Applicable
☐ Applicable

(d) Downgrade Event:
☒Not Applicable
☐ Applicable

(e) Guarantor for Party B: N/A
Guarantee Amount: N/A

8.2 Party B Credit Protection
(a) Financial Information:
☐ Option A
☐ Option B Specify: _____
☐ Option C Specify: _____

(b) Credit Assurances:
☒Not Applicable
☐ Applicable

(c) Collateral Threshold:
☒ Not Applicable
☐ Applicable
If applicable, complete the following:

Party A Collateral Threshold: $_____;
provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: $_____
Party A Rounding Amount: $_____

(d) Downgrade Event:
☒Not Applicable
☐ Applicable
If applicable, complete the following:

☐ It shall be a Downgrade Event for Party A if Party A 's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's

☐ Other:
Specify: _____

(e) Guarantor for Party A: N/A

Guarantee Amount: N/A

Article 10
Confidentiality

☒ Confidentiality Applicable If not checked, inapplicable.

Schedule M

☐ Party A is a Governmental Entity or Public Power System
☒ Party B is a Governmental Entity or Public Power System
☐ Add Section 3.6. If not checked, inapplicable
☐ Add Section 8.4. If not checked, inapplicable

Other Changes

1. The modifications to Section 1.12, 1.50 and 5.2 of the Master Agreement specified in that certain Errata published by the Edison Electric Institute (version 1.1, July 18, 2007) are hereby incorporated herein as if set forth in full.

2. Section 1.60 is amended by inserting the words "in writing" immediately following the words "agreed to".

3. In Section 2.1, delete the first sentence in its entirety and replace with the following:

"A Transaction, or an amendment, modification or supplement thereto, shall be entered into only upon a writing signed by both Parties evidencing the commercial terms of such Transaction (a "Confirmation")."

4. Section 2.3 is deleted in its entirety and replaced with the following:

   "2.3 No Oral Agreements or Modifications. Notwithstanding anything to the contrary in this Master Agreement, the Master Agreement and any and all Transactions may not be orally amended, supplemented or modified and any such amendment, supplement or modification shall only be effective pursuant to a writing signed by both Parties."

5. Section 2.4 is hereby amended by deleting the words "either orally or" in the sixth line.

6. Section 10.2(ii) of the Master Agreement shall be modified by inserting "Except for the approval by the CPUC as stated in Section 2.2 of this Confirmation," at the beginning of the first sentence in such section.

7. Section 10.6 of the Master Agreement shall be deleted in its entirety and replaced with the following:

   "10.6 THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAW, EACH PARTY WAIVES ITS RESPECTIVE RIGH TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT."

8. Schedule P: Products and Related Definitions shall be deleted in its entirety.

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1. Definitions

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

1.2 "Availability Incentive Payments" has the meaning set forth in the Tariff and includes any similarly defined payments under the Tariff in respect of Flexible RA Attributes.

1.3 "Availability Standards" has the meaning set forth in the Tariff and includes any similarly defined standards under the Tariff in respect of Flexible RA Attributes.

1.4 "Buyer" has the meaning specified in the introductory paragraph.

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

1.6 "Capacity Attributes" means (a) the Local RA Attributes, (b) the RA Attributes, (c) the Flexible RA Attributes, and (d) any other current or future defined characteristics (including the ability to generate at a given capacity level, provide ancillary services, ramp up or down at a given rate, and flexibility or dispatch-ability attributes), certificates, tags, credits, howsoever entitled, including any account construct applied to any Compliance Obligations, based on the applicable Unit's electric generation capacity.

1.7 "Capacity Price" means the price specified in the Capacity Price Table in Section 4.1.

1.8 "Capacity Replacement Price" means (a) the actual rate per kW-day paid for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) including any penalties, fines, transaction costs and expenses reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of Replacement Capacity, any penalties, fines, transaction costs and expenses plus the per kW-day market price for the Product not delivered by Seller under this Confirmation. Buyer shall determine such market prices in a commercially reasonable manner. For purposes of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed the "Replacement Price" for this Transaction.

1.9 "Compliance Obligations" means the RAR, Local RAR, Flexible RAR, and other resource adequacy requirements associated with a generating unit's Capacity Attributes established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.10 "Compliance Showing" means one or more of the following: (a) Local RAR Showing, (b) RAR Showing, (c) Flexible RAR Showing, or (d) other Capacity Attributes compliance or advisory filing (or similar or successor showing or filing), in each case, that an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.11 "Confirmation" has the meaning specified in the introductory paragraph.

1.12 "Confirmation Execution Date" has the meaning specified in the introductory paragraph.

1.13 "Contract Price" means, for any day in any Monthly Delivery Period, the Capacity Price for such period.

1.14 "Contract Quantity" means the quantity of Product (in MW) as set forth in Section 3.5.

1.15 "Contract Term" has the meaning set forth in Section 2.1.

1.16 "CPUC" means the California Public Utilities Commission.

1.17 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-25, and any other existing or subsequent decisions, resolutions or rulings related to resource adequacy, as may be amended from time to time by the CPUC.

1.18 "CPUC Filing Guide" is the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSEs to demonstrate compliance with the CPUC's resource adequacy program as provided in the CPUC Decisions.

1.19 "Credit Rating" means, with respect to any entity, the rating assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) by S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Master Agreement, or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an

issuer rating by S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Master Agreement.

1.20 "Delivery Period" has the meaning specified in Section 3.3.

1.21 "Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

1.22 "Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

1.23 "Flexible RA Attributes" means, with respect to a Unit, any and all flexible resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and Local RA Attributes.

1.24 "Flexible RAR" means the flexible capacity requirements, including, without limitation, maximum continuous ramping, load following, and regulation, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Flexible RAR may also be known as ramping, maximum ramping, maximum continuous ramping, maximum continuous ramping capacity, maximum continuous ramping ramp rate, load following, load following capacity, load following ramp rate, regulation, regulation capacity, regulation ramp rate.

1.25 "Flexible RAR Showing" means the Flexible RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.26 "GADS" means the Generating Availability Data System, or its successor.

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

1.28 "Local Capacity Area" has the meaning set forth in the Tariff.

1.29 "Local RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes or other locational attributes for the Unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward a Local RAR, but exclusive of any RA Attributes and Flexible RA Attributes.

1.30 "Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Local RAR may also be

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known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

1.31 "Local RAR Showing" means the Local RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.32 "LSE" means load-serving entity.

1.33 "Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

1.34 "Master Agreement" has the meaning specified in the introductory paragraph.

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

1.36 "Monthly Payment" has the meaning specified in Section 4.1.

1.37 "Moody's" means Moody's Investors Services, Inc. or its successor.

1.38 "NERC" means the North American Electric Reliability Corporation, or its successor.

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

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

1.41 "Non-Availability Charges" has the meaning set forth in the Tariff and includes any similarly defined charges under the Tariff in respect of Flexible RA Attributes.

1.42 "Non-Specified RA Replacement Capacity" has the meaning set forth in the Tariff and includes any similarly defined capacity under the Tariff in respect of Flexible RA Attributes.

1.43 "Outage" means any disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff.

1.44 "Planned Outage" shall have the meaning in CPUC Decisions, and includes a planned, scheduled, or any other Outage approved by the CAISO for the routine repair or maintenance of the Unit, or for the purposes of new construction work, and does not include any Outage designated as either forced or unplanned as defined by the CAISO or NERC/GADS Protocols.

1.45 "Product" has the meaning specified in Section 3.1.

1.46 "Prorated Percentage of Unit Factor" means the percentage, as specified in Appendix A, of the Unit NQC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

1.47 "Prorated Percentage of Unit Flexible Factor" means the percentage, as specified in Appendix A, of the Unit EFC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

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1.48 "RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward RAR, exclusive of any Local RA Attributes and Flexible RA Attributes.

1.49 "RA Substitute Capacity" means capacity that the CAISO permits under the CAISO Tariff to be substituted for a Resource Adequacy Resource that is on Outage.

1.50 "RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.51 "RAR Showing" means the RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.52 "Replacement Capacity" means capacity which has equivalent Capacity Attributes as the portion of the Product not provided by the Units committed to Buyer as of the Confirmation Execution Date.

1.53 "Replacement Unit" means a generating unit providing Replacement Capacity.

1.54 "Resource Category" shall be as described in the CPUC Filing Guide.

1.55 "RMR Contract" has the meaning set forth in the Tariff.

1.56 "S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc. or its successor).

1.57 "Scheduling Coordinator" or "SC" has the meaning set forth in the Tariff.

1.58 "Seller" has the meaning specified in the introductory paragraph.

1.59 "Showing Month" shall be the calendar month that is the subject of the Compliance Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Execution Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.60 "Substitution Rules" has the meaning set forth in Section 3.8(b).

1.61 "Supply Plan" has the meaning set forth in the Tariff and includes any similarly defined plan under the Tariff in respect of Flexible RA Attributes.

1.62 "Tariff" means the tariff and protocol provisions, including any applicable CAISO-published "Operating Procedures" and "Business Practice Manuals," as amended or supplemented from time to time, of the CAISO.

1.63 "Transaction" has the meaning specified in the introductory paragraph.

1.64 "Unit" or "Units" shall mean the generation assets described in Appendix A (including any Replacement Units), from which Product is provided by Seller to Buyer.

1.65 "Unit Contract Quantity" means the amount of Product (in MW) to be delivered by Seller to Buyer by each individual Unit, as specified in Appendix A as of the Confirmation Execution Date.

1.66 "Unit EFC" means the effective flexible capacity or capacity that is qualified to provide Flexible RA Attributes established by the CAISO for the applicable Unit.

1.67 "Unit NQC" means the Net Qualifying Capacity established by the CAISO for the applicable Unit.

1.68 "Unit Delivered Quantity" means the amount of applicable Product (in MW) actually "delivered" by Seller to Buyer by each individual Unit. As used herein, "delivered" shall mean shown in the Supply Plan and, for purposes of Section 4.1, shall include any RA Substitute Capacity under Section 3.8, and in all cases, shall not include (i) any portion of Contract Capacity for which Buyer is required under the Compliance Obligations or the Tariff to procure Replacement Capacity, and (ii) any portion of Contract Capacity for which Seller is required hereunder, but fails, to provide Replacement Capacity to Buyer.

2. Term

2.1 Contract Term

The "Contract Term" shall mean the period of time commencing upon the Confirmation Execution Date and continuing until the later of (a) the expiration of the Delivery Period or (b) the date the Parties' obligations under this Agreement have been fulfilled.

3. Transaction

3.1 Product

(a) Seller shall sell and Buyer shall receive and purchase, the Capacity Attributes (including all Local RA Attributes and Flexible RA Attributes) of the Units identified in Appendix A (collectively, the "Product") and Seller shall deliver the Product as described in Section 3.2 below. Product does not include any right to dispatch or receive the energy or ancillary services from the Unit. Seller retains the right to sell any Product from a Unit in excess of its Unit Contract Quantity.

(b) The Parties agree that (i) the Contract Price for the Product shall not change if the CAISO, CPUC or other Governmental Body (A) defines new or re-defines existing Local Capacity Areas which decreases or increases the amount of Local RA Attributes provided hereunder, or (B) defines new or re-defines existing Local Capacity Areas whereby the Units qualify for a Local Capacity Area and (ii) if the event in Section 3.1(b)(i)(B) occurs then the Product shall include such Local RA Attributes.

(c) The Parties agree that (i) the Contract Price for the Product shall not change if the CAISO, CPUC or other Governmental Body defines new or re-defines existing Flexible RAR, Capacity Attributes related to Flexible RAR, or attributes of the Unit related to Flexible RAR, that results in a decrease or increase in the amount of Capacity Attributes related to Flexible RAR provided hereunder, and (ii) if the event in Section 3.1(c)(i) occurs then the Product shall include such Capacity Attributes related to Flexible RAR.

3.2 Unit Contingent Quantity

During the Delivery Period, Seller shall provide Buyer with the Product from the Unit(s) in the amount of the Contract Quantity. Except for reasons of Planned Outage, Force Majeure or any adjustment of the Capacity Attributes of any Unit(s), if the Unit(s) are not available to provide any portion of the Product, Seller shall provide Buyer with Replacement Capacity from one or more Replacement Units pursuant to Section 5.1. If Seller fails to provide Buyer with Replacement Capacity pursuant to Section 5.1, then Seller shall be liable for damages and/or to indemnify Buyer for penalties, fines or costs pursuant to the terms of Section 5 and Section 10.

3.3 Delivery Period

[redacted] inclusive, unless terminated earlier in accordance with the terms of this Agreement.

3.4 Contract Quantity:

During each month of the Delivery Period, Seller shall provide the Product from each Unit in the total amount for such month as follows:

CONTRACT QUANTITY TABLE

Unit Name	CAISO Resource ID*	Month(s)	Unit Contract Quantity (MW)	
			Capacity Attributes (excluding Flexible RA Attributes)	Flexible RA Attributes
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
* *CAISO Resource ID* should match a Unit described in Appendix A				

3.5 Delivery of Product

Seller shall provide Buyer with the Contract Quantity for each day in each Monthly Delivery Period consistent with the following:

(a) Seller shall, on a timely basis, submit, or cause each Unit's SC to submit, Supply Plans to identify and confirm the Unit Delivered Quantity for each Unit provided to Buyer so that the total amount of Unit Delivered Quantity identified and confirmed equals the Unit Contract Quantity for each Unit, unless specifically notified or requested not to do so by the Buyer pursuant to Section 3.8, and;

(b) Seller shall submit, or cause each Unit's SC to submit, written notification to Buyer, no later than fifteen (15) Business Days before the relevant deadline for any applicable Compliance Showing, that Buyer will be credited with Unit Delivered Quantity for the applicable portion of the Delivery Period in the Unit's SC Supply Plan so that the total amount of Unit Delivered Quantity for each Unit credited equals the Unit Contract Quantity.

3.6 CAISO/CPUC Offer Requirements

Subject to Buyer's request under Section 3.8(a), Seller shall, or cause the Unit's SC to, bid and/or schedule with, or make available to, the CAISO the Unit Contract Quantity for each Unit in compliance with the Tariff and the CPUC Filing Guide, including any must offer obligation under the Tariff or the CPUC Filing Guide, and shall, or cause the Unit's SC, owner, or operator, as applicable, to perform all obligations under the Tariff and the CPUC Filing Guide that are associated with the sale and delivery of Product hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's SC, owner, or operator to comply with such Tariff and CPUC Filing Guide provisions, including any penalties, charges or fines imposed on Seller or the Unit's SC, owner, or operator for such noncompliance.

3.7 Reserved

3.8 Unit Substitution; RA Replacement Capacity

(a) RA Replacement Capacity: No later than five (5) Business Days before the relevant deadline for each applicable Compliance Showing, Buyer may (i) request, subject to Seller's reasonable approval, that Seller not, or cause each Unit's SC not to, list a portion or all of a Unit's applicable Unit Contract Quantity on the Supply Plan or (ii) notify Seller that a portion or all of the Unit Contract Quantity of a Unit will be included in an applicable Compliance Showing as RA Substitute Capacity. The amount of Unit Contract Quantity that is the subject of such a request or notice shall be known as "RA Substitute Capacity" and, for purposes of calculating a Monthly Payment pursuant to Section 4.1, to the extent provided, such RA Substitute Capacity shall be deemed Unit Delivered Quantity provided consistent with Section 3.6.

(b) Seller's Obligations With Respect to RA Substitute Capacity: If Buyer requests RA Substitute Capacity, Seller shall (i) make such RA Substitute Capacity available to Buyer during the applicable Showing Month to allow Buyer to utilize, as applicable, the substitution rules in Sections 9.3.1.3.1, 9.3.1.3.2 and 40.9.4.2.1 of the Tariff including any similarly defined substitution rules under the Tariff in respect of Flexible RA Attributes ("Substitution Rules") and (ii) take, or cause each Unit's SC to take, all action to allow Buyer to utilize, as applicable, the Substitution Rules, including, but not limited to, ensuring that the RA Substitute Capacity will qualify, as applicable, for substitution under the Substitution Rules, and providing Buyer with all information needed to utilize the Substitution Rules.

(c) Seller agrees that all RA Substitute Capacity utilized by Buyer under the Substitution Rules, as applicable, is subject to the requirements identified in Section 3.6.

(d) Failure to Provide RA Substitute Capacity: If Seller fails to provide RA Substitute Capacity or Buyer is unable to utilize the RA Substitute Capacity under the Substitution Rules due to Seller's failure to fulfill its obligations under Section 3.8(b)(ii), then Seller shall reimburse Buyer for any and all Non-Availability Charges incurred by Buyer and shall pay Buyer the CPM revenue the CAISO would have paid the Buyer but for Seller failure, due to such failure or inability to utilize the Substitution Rules; provided, that if Buyer is unable to utilize the Substitution Rules because the RA Substitute Capacity does not qualify for substitution under Section 9.3.1.3.1, 9.3.1.3.2, 40.9.4.2.1(1)(i) or (ii) of the Tariff, then Seller shall not be responsible for any such Non-Availability Charges described in this Section 3.8(d) associated with such inability.

3.9 Buyer's Re-Sale of Product

Buyer may re-sell all or a portion of the Product.

4. Payment

4.1 Monthly Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a "Monthly Payment" to Seller for each Unit after the applicable Monthly Delivery Period, as follows:

$$Monthly\ Payment = \sum_{n=1}^{d} (A_n * B_n * 1000)$$

where:

A *= applicable Contract Price (in $/kW-day) for that calendar day*

B *= Unit Delivered Quantity (in MW) for Capacity Attributes provided by Seller for such Unit in that calendar day; provided, however, in no event shall this quantity "**B**" exceed the Contract Quantity for such Unit (in MW) for Capacity Attributes nor shall this quantity "**B**" be less than zero.*

d *= Total number of calendar days in the respective Monthly Delivery Period*

The Monthly Payment calculation shall be rounded to two decimal places. In no case shall a Unit's Monthly Payment (or any day in any Monthly Payment) be less than zero.

CAPACITY PRICE TABLE

Contract Month	Capacity Price ($/kW-day)
[redacted]	[redacted]
[redacted]	[redacted]

4.2 Reserved.

4.3 Allocation of Other Payments and Costs

(a) Seller shall retain any revenues it may receive from and pay all costs charged by, the CAISO or any other third party with respect to any Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, and (iv) any revenues for black start or reactive power services. Seller shall be responsible for the Environmental Costs associated with the Product and shall indemnify, defend and hold Buyer harmless from and against all third-party claims brought against Buyer for Environmental Costs.

(b) Buyer shall be entitled to receive and retain all revenues associated with the Contract Quantity during the Delivery Period including any capacity or availability revenues from RMR Contracts for any Unit, Capacity Procurement Mechanism (CPM) or its successor, and Residual Unit Commitment (RUC) Availability Payments or Reliability Capacity, or their successor, and Imbalance Reserves or its successor but excluding payments described in Section 4.3(a)(i)-(iv).

(c) In accordance with Section 4.1 of this Confirmation and Article Six of the Master Agreement, all such Buyer revenues described in Section 4.3(b), but received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. In order to verify the accuracy of such revenues, Buyer shall have the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity.

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(d) If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit the Contract Quantity for re-sale in such market, and retain and receive any and all related revenues.

(e) Subject to the Unit being made available to the CAISO in accordance with Article 3 of this Confirmation, Seller agrees that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments under the Tariff. Furthermore, the Parties agree that any Availability Incentive Payments are for the benefit of Seller and for Seller's account and that any Non-Availability Charges are the responsibility of Seller and for Seller's account.

4.4 Offset Rights

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

5. Seller's Failure to Deliver Contract Quantity

5.1 Seller's Duty to Provide Replacement Capacity

Planned Outage replacement shall be addressed by the Tariff. For all other replacements, if Seller is unable to provide the Contract Quantity from any Unit(s) for any day in any Monthly Delivery Period and Replacement Capacity is required under Section 3.2, then:

(a) Seller shall notify Buyer of the non-availability of any portion of the Contract Quantity from any Unit(s) and identify Replacement Unit(s), and

(b) Seller shall, at no additional cost to Buyer, provide Buyer with Replacement Capacity from one or more Replacement Units, such that the total amount of Product provided to Buyer from all Units and Replacement Units equals Contract Quantity.

provided that the designation of any Replacement Unit by Seller shall be subject to Buyer's prior written approval, which shall not be unreasonably withheld or delayed. Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 5.1, and Buyer has approved the designation of the Replacement Unit, then any such Replacement Unit shall be deemed a Unit for purposes of this Confirmation for that day in such Monthly Delivery Period. Notwithstanding anything to the contrary in this Confirmation, Seller's failure to properly provide Replacement Capacity, including Seller's obligation to identify Replacement Units within the notice deadlines specified in this Section 5.1, may result in the calculation of damages payable to Buyer and/or the indemnification of Buyer against any penalties, fines or costs under Section 5 and Section 10.

5.2 Damages for Failure to Provide Replacement Capacity

If Seller fails to provide Buyer any portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by Section 5.1, then the following shall apply:

(a) Buyer may, but shall not be obligated to, obtain Replacement Capacity. Buyer may enter into purchase transactions with one or more parties to replace the portion of Contract Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver the capacity to another party, and such arrangements shall be considered the procurement of Replacement Capacity. Buyer shall act in a commercially reasonable manner in purchasing any Replacement Capacity, and;

(b) Seller shall pay to Buyer damages, in accordance with the terms of Section 4.1 of the Master Agreement relating to "Accelerated Payment of Damages," if applicable, an amount equal to the positive difference, if any, between (i) the sum of (A) the Capacity Replacement Price paid by Buyer for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) for such day, plus (B) the Capacity Replacement Price times the portion of Contract Capacity not provided by Seller nor purchased by Buyer pursuant to Section 5.2(a) for such day times 1,000 kW/MW, and (ii) the portion of Contract Capacity not provided for the applicable day in the applicable Monthly Delivery Period times the Contract Price for that day times 1,000 kW/MW.

5.3 Indemnities for Failure to Deliver Contract Capacity

If Buyer is unable to purchase Replacement Capacity after Seller fails to provide Buyer a portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by Section 5.1, then in addition to the damages pursuant to Section 5.2(b)(i)(B) with respect to the portion of Contract Capacity that Buyer has not replaced, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC, CAISO, or any Governmental Body having jurisdiction, resulting from any of the following:

(a) Seller's failure to provide any portion of the Contract Capacity or any portion of the Replacement Capacity;

(b) Seller's failure to provide timely notice of the non-availability of any portion of the Contract Capacity;

(c) A Unit's SC's failure to timely submit Supply Plans that identify Buyer's right to the Unit Contract Quantity purchased hereunder, or;

(d) any other failure by Seller to perform its material obligations under this Confirmation.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines and costs.

6. Other Buyer and Seller Covenants

6.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's Compliance Obligations. The Parties further agree to negotiate in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions or decisions rendered by the CPUC, FERC, or other Governmental Body having jurisdiction to administer Compliance Obligations, to maintain the benefits of the bargain struck by the Parties on the Confirmation Execution Date. The Parties acknowledge that the benefit of the bargain as stated in this Agreement attempts to reflect anticipated changes to the CAISO and CPUC Resource Adequacy rules as such rules have been proposed as of the Confirmation Execution Date.

As used in this Section 6.1, "commercially reasonable actions" or "good faith" shall not require the Seller, or the owner or operator of any Unit to undertake any capital improvements, facility enhancements, or the construction of new facilities.

6.2 Seller's Represents, Warrants and Covenants

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

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

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

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

(d) Seller shall, and each Unit's SC, owner and operator is obligated to, comply with Applicable Laws, including the Tariff, relating to the Product;

(e) If Seller is the owner of any Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for any Unit does not exceed the Unit NQC or Unit EFC, as applicable, for that Unit;

(f) Seller has notified the SC of each Unit that Seller has transferred the Unit Contract Quantity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff fully reflecting such transfer;

(g) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to Buyer, at least fifteen (15) Business Days before the relevant deadline for each Compliance Showing, the Unit Contract Quantity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period;

(h) Seller has notified each Unit's SC that Buyer is entitled to the revenues set forth in Section 4.3, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues;

(i) In the event Seller has rights to the energy output of any Unit, and Seller or the Unit's SC schedules energy from the Unit for export from the CAISO Control Area, or commits energy to another entity in a manner that could result in scheduling energy from the Unit for export from the CAISO Control Area, it shall do so only as allowed by, and in accordance with, Applicable Laws and such exports may, if allowed by the Tariff, be curtailed by the CAISO, and;

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

7. Confidentiality

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer and Seller may disclose this Agreement to the CPUC, CAISO and any Governmental Body, as required by Applicable Law, and Seller may disclose the transfer of the Contract Quantity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans; provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or SC to further disclose such information. In addition, in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to

disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

8. Counterparts

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by fax will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by facsimile will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

9. Collateral Requirements

On or before the Confirmation Execution Date, to secure its obligations under this Confirmation, Buyer agrees to deliver (i) cash or (ii) a Letter of Credit, in substantially the same form as attached hereto as Appendix B in the amount of two hundred twelve thousand five hundred dollars ($212,500.00) to Seller and maintain such security in full force and effect until it is required to be returned in accordance with this Section 9. The security posted under this Section 9 shall not be deemed a limitation of Buyer's damages. Seller shall return to Buyer any unused portion of this security after the following have occurred: (i) the Delivery Period has expired or terminated early; and (ii) all payment obligations of the Buyer arising under this Confirmation, including compensation for penalties, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting).

10. Declaration of an Early Termination Date and Calculation of Settlement Amounts

Notwithstanding anything to the contrary, the Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation as applicable. Furthermore, with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the EEI Agreement:

> "If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur penalties, fines or costs from the CPUC, the CAISO, or any other Governmental Body having jurisdiction, because Buyer is not able to include the Contract Quantity in any applicable Compliance Showing due to the termination of the Transaction under the Master Agreement caused by Seller's Event of Default and Buyer has not purchased Replacement Capacity for the applicable portion of the Contract Quantity, then Buyer may, in good faith, estimate as its Losses in respect of the Transaction the present value of the amount of those penalties, fines and costs on a $/kW-day basis subtracting the Contract Price (in $/kW-day) and include this estimate in its determination of the Settlement Amount, subject to accounting to Seller when those penalties, fines and costs are finally ascertained. The rights and obligations with respect to determining and paying any Settlement Amount or Termination Payment, and any dispute resolution provisions with respect thereto, shall survive the termination of this Transaction and shall continue until after those penalties or fines are finally ascertained."

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Confirmation to be duly executed as of the date first above written.

Silicon Valley Clean Energy Authority
a California joint powers authority

DocuSigned by:
By: Monica Padilla
573FC104110B4C0...

Name: Monica Padilla

Title: COO & Director of Power Resources

SAN DIEGO GAS & ELECTRIC COMPANY
a California corporation

DocuSigned by:
By: [signature]
BB43C9758847486...

Name: Joe Pasquito

Title: Market Analysis Manager

APPROVED as to legal form DS AS

APPENDIX A

Buyer SCID: LSVCE

Unit Information

Unit Resource Name	Desert Star Energy Center
CAISO Resource ID	MRCHNT_2_PL1X3
Unit SCID	LSDGE
Unit NQC (MW)	419.25
Prorated Percentage of Unit Factor	5.96%
Unit EFC (MW)	239.25
Flexible Category	1
Prorated Percentage of Unit Flexible Factor	10.45%
Resource Type	Combined Cycle
Resource Category (MMC Bucket 1, 2, 3 or 4)	4
Path 26 (North or South)	South
Local Capacity Area (if any, as of Confirmation Execution Date)	N/A
Unit Contract Quantity (MW) for Capacity Attributes (excluding Flexible RA Attributes)	■
Unit Contract Quantity (MW) for Flexible RA Attributes	■
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	None

Run Hour Restrictions	None

Unit Resource Name	Otay Mesa Energy Center
CAISO Resource ID	OTMESA_2_PL1X3
Unit SCID	CalJ
Unit NQC (MW)	603.60
Prorated Percentage of Unit Factor	12.76%
Unit EFC (MW)	448.6
Flexible Category	1
Prorated Percentage of Unit Flexible Factor	17.16%
Resource Type	Combined Cycle
Resource Category (MMC Bucket 1, 2, 3 or 4)	4 (24/7=Yes)
Path 26 (North or South)	South
Local Capacity Area (if any, as of Confirmation Execution Date)	N/A
Unit Contract Quantity (MW) for Capacity Attributes (excluding Flexible RA Attributes)	■
Unit Contract Quantity (MW) for Flexible RA Attributes	■
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	None

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Run Hour Restrictions	None

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Appendix B

Form of Letter of Credit

LETTER OF CREDIT FORM

IRREVOCABLE STANDBY
LETTER OF CREDIT
Reference Number:_____
Transaction Date:

BENEFICIARY:

San Diego Gas & Electric Company
_____
_____
_____

Ladies and Gentlemen:

_____(the "Bank") hereby establishes this Irrevocable Standby Letter of Credit ("Letter of Credit") in favor of San Diego Gas & Electric Company, a California corporation (the "Beneficiary"), for the account of_____, a _____corporation (the "Applicant"), for the amount of XXX AND XX/100 Dollars ($_____ _____) (the "Available Amount"), effective immediately and expiring at 5:00 p.m., New York time, on the Expiration Date (as hereinafter defined).

This Letter of Credit shall be of no further force or effect upon the close of business on _____or, if such day is not a Business Day (as hereinafter defined), on the next preceding Business Day, unless extended in accordance with the terms of this Letter of Credit. For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in New York, New York.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to the Beneficiary by presentation in compliance on or prior to 5:00 p.m. New York time, on or prior to the Expiration Date, of the following:

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and

2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at_____or such other number as specified from time to time by the Bank or by electronic signature. The facsimile or electronic signature transmittal shall be deemed delivered when received. It is understood that drawings made by facsimile transmittal or electronic signature are deemed to be the operative instrument without the need of originally signed documents.

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Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; *provided that,* the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is transferable in whole or in part.

Banking charges shall be the sole responsibility of the Applicant.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period beginning on the present expiry date hereof and upon each anniversary of such date, unless at least ninety (90) days prior to any such expiry date we have sent you written notice by regular and registered mail or courier service that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored except as described in the succeeding paragraph.

We agree that if this Letter of Credit would otherwise expire during, or within 30 days after, an interruption of our business caused by an act of god, riot, civil commotion, insurrection, act of terrorism, war or any other cause beyond our control or by any strike or lockout, then this Letter of Credit shall expire on the 30th day following the day on which we resume our business after the cause of such interruption has been removed or eliminated and any drawing on this Letter of Credit which could properly have been made but for such interruption shall be permitted during such extended period.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

The Bank engages with the Beneficiary that Beneficiary’s drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 600 ("UCP"), EXCEPT TO THE EXTENT THAT THE TERMS HEREOF ARE INCONSISTENT WITH THE PROVISIONS OF THE UCP, INCLUDING BUT NOT LIMITED TO ARTICLES 14(8) AND 36 OF THE UCP, IN WHICH CASE THE TERMS OF THIS LETTER OF CREDITSHALLGOVERN. MATTERSNOTCOVERED BY THE UCP SHALL BEGOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

AUTHORIZED SIGNATURE for Bank

_____

By:

Title:_____

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ATTACHMENT A TO APPENDIX B
DRAWING CERTIFICATE TO [ISSUING BANK NAME]
IRREVOCABLE STANDBY LETTER OF CREDIT

Reference Number. _____
(Sample Text)

DRAWING CERTIFICATE
Bank
Bank Address

Subject: Irrevocable Standby Letter of Credit
Reference Number:
_____

The undersigned_____, an authorized representative of San Diego Gas & Electric Company (the "Beneficiary"), hereby certifies to [Issuing Bank Name] (the "Bank"), and _____(the "Applicant"), with reference to Irrevocable Standby Letter of Credit No._____, dated _____, (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to $_____, for the following reason(s) [check applicable provision]:

   [ ]A. An Event of Default, as defined in the [INSERT] Agreement between Beneficiary and Applicant (the "Agreement"), with respect to the Applicant has occurred and is continuing or an amount is due and unpaid to Beneficiary by Applicant.

   [ ]B. The Letter of Credit will expire in fewer than sixty (60) days from the date hereof, and Applicant has not provided to Beneficiary alternate Performance Assurance (as defined in the Agreement) acceptable to Beneficiary.

2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. DOLLARS AND /100ths (U.S.$_____), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire-transferred to the Beneficiary in accordance with the following instructions:

LONG FORM CONFIRMATION
FOR RESOURCE ADEQUACY CAPACITY PRODUCT

Resource Adequacy Contract Number: SDGE_SVCEA_AUG 2024_SELL_SYS

This confirmation letter ("Confirmation") confirms the transaction (the "Transaction") between San Diego Gas & Electric Company ("Seller") and Silicon Valley Clean Energy Authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 10, 2024 (the "Confirmation Execution Date") in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Section 3 of this Confirmation. This Transaction shall be deemed to have been entered into pursuant to, and shall supplement, form a part of, and be governed by the terms and conditions of the form of Master Power Purchase and Sale Agreement published by the Edison Electric Institute and the National Energy Marketers Association (version 2.1 dated 4/25/00) (the "EEI Agreement") with a Cover Sheet containing the elections and other changes contained herein as if the Parties have executed the EEI Agreement (with such Cover Sheet the "Master Agreement"). The Parties agree that the only transactions to be concluded pursuant to such Master Agreement shall be the Transaction documented in this Confirmation. The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein). To the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder.

Name: Party A / Seller

[redacted]

Name: Party B / Silicon Valley Clean Energy Authority

[redacted]

[redacted]

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Article Two
Transaction Terms and Conditions

☐ Optional provision in Section 2.4.
If not checked, inapplicable.

Article Four
Remedies for Failure to Deliver or Receive

☒ Accelerated Payment of Damages.
If not checked, inapplicable.

Article Five
Events of Default; Remedies

☐ Cross Default for Party A:
☐ Party A: N/A_____ Cross Default Amount: N/A___
☐ Other Entity: N/A_____ Cross Default Amount: N/A____

☐ Cross Default for Party B:
☐ Party B: N/A_____ Cross Default Amount: N/A____
☐ Other Entity: N/A_____ Cross Default Amount: N/A____

5.6 Closeout Setoff
☒ Option A (Applicable if no other selection is made.)
☐ Option B – Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows:
_____
☐ Option C (No Setoff)

Article 8
Credit and Collateral Requirements

8.1 Party A Credit Protection:
(a) Financial Information:
☐ Option A
☐ Option B Specify: _____
☐ Option C Specify: _____

(b) Credit Assurances:
☒Not Applicable
☐ Applicable

(c) Collateral Threshold:
☒Not Applicable
☐ Applicable

(d) Downgrade Event:
☒Not Applicable
☐ Applicable

(e) Guarantor for Party B: N/A
Guarantee Amount: N/A

8.2 Party B Credit Protection
(a) Financial Information:
☐ Option A
☐ Option B Specify: _____
☐ Option C Specify: _____

(b) Credit Assurances:
☒Not Applicable
☐ Applicable

(c) Collateral Threshold:
☒ Not Applicable
☐ Applicable
If applicable, complete the following:

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Party A Collateral Threshold: $_____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: $_____
Party A Rounding Amount: $_____

(d) Downgrade Event:
☒Not Applicable
☐ Applicable
If applicable, complete the following:

☐ It shall be a Downgrade Event for Party A if Party A 's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's

☐ Other:
Specify: _____

(e) Guarantor for Party A: N/A

Guarantee Amount: N/A

Article 10
Confidentiality

☒ Confidentiality Applicable If not checked, inapplicable.

Schedule M

☐ Party A is a Governmental Entity or Public Power System
☒ Party B is a Governmental Entity or Public Power System
☐ Add Section 3.6. If not checked, inapplicable
☐ Add Section 8.4. If not checked, inapplicable

Other Changes

1. The modifications to Section 1.12, 1.50 and 5.2 of the Master Agreement specified in that certain Errata published by the Edison Electric Institute (version 1.1, July 18, 2007) are hereby incorporated herein as if set forth in full.

2. Section 1.60 is amended by inserting the words "in writing" immediately following the words "agreed to".

3. In Section 2.1, delete the first sentence in its entirety and replace with the following:

"A Transaction, or an amendment, modification or supplement thereto, shall be entered into only upon a writing signed by both Parties evidencing the commercial terms of such Transaction (a "Confirmation")."

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4. Section 2.3 is deleted in its entirety and replaced with the following:

   "2.3 No Oral Agreements or Modifications. Notwithstanding anything to the contrary in this Master Agreement, the Master Agreement and any and all Transactions may not be orally amended, supplemented or modified and any such amendment, supplement or modification shall only be effective pursuant to a writing signed by both Parties."

5. Section 2.4 is hereby amended by deleting the words "either orally or" in the sixth line.

6. Section 10.2(ii) of the Master Agreement shall be modified by inserting "Except for the approval by the CPUC as stated in Section 2.2 of this Confirmation," at the beginning of the first sentence in such section.

7. Section 10.6 of the Master Agreement shall be deleted in its entirety and replaced with the following:

   "10.6 THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAW, EACH PARTY WAIVES ITS RESPECTIVE RIGH TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT."

8. Schedule P: Products and Related Definitions shall be deleted in its entirety.

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1. Definitions

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

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

1.3 "Availability Standards" has the meaning set forth in the Tariff.

1.4 "Buyer" has the meaning specified in the introductory paragraph.

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

1.6 "Capacity Attributes" means (a) the Local RA Attributes, (b) the RA Attributes, (c) the Flexible RA Attributes, and (d) any other current or future defined characteristics (including the ability to generate at a given capacity level, provide ancillary services, ramp up or down at a given rate, and flexibility or dispatch-ability attributes), certificates, tags, credits, howsoever entitled, including any account construct applied to any Compliance Obligations, based on the applicable Unit's electric generation capacity.

1.7 "Capacity Price" means the price specified in the Capacity Price Table in Section 4.1.

1.8 "Capacity Replacement Price" means (a) the actual rate per kW-day paid for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) including any penalties, fines, transaction costs and expenses reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of Replacement Capacity, any penalties, fines, transaction costs and expenses plus the per kW-day market price for the Product not delivered by Seller under this Confirmation. Buyer shall determine such market prices in a commercially reasonable manner. For purposes of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed the "Replacement Price" for this Transaction.

1.9 "Compliance Obligations" means the RAR, Local RAR, Flexible RAR, and other resource adequacy requirements associated with a generating unit's Capacity Attributes established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.10 "Compliance Showing" means one or more of the following: (a) Local RAR Showing, (b) RAR Showing, (c) Flexible RAR Showing, or (d) other Capacity Attributes compliance or advisory filing (or similar or successor showing or filing), in each case, that an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.11 "Confirmation" has the meaning specified in the introductory paragraph.

1.12 "Confirmation Execution Date" has the meaning specified in the introductory paragraph.

1.13 "Contract Price" means, for any day in any Monthly Delivery Period, the Capacity Price for such period.

1.14 "Contract Quantity" means the quantity of Product (in MW) as set forth in Section 3.5.

1.15 "Contract Term" has the meaning set forth in Section 2.1.

1.16 "CPUC" means the California Public Utilities Commission.

1.17 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-25, and any other existing or subsequent decisions, resolutions or rulings related to resource adequacy, as may be amended from time to time by the CPUC.

1.18 "CPUC Filing Guide" is the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSEs to demonstrate compliance with the CPUC's resource adequacy program as provided in the CPUC Decisions.

1.19 "Credit Rating" means, with respect to any entity, the rating assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) by S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Master Agreement, or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Master Agreement.

1.20 "Delivery Period" has the meaning specified in Section 3.3.

1.21 "Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

1.22 "Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

1.23 "Flexible RA Attributes" means, with respect to a Unit, any and all flexible resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and Local RA Attributes.

1.24 "Flexible RAR" means the flexible capacity requirements, including, without limitation, maximum continuous ramping, load following, and regulation, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Flexible RAR may also be known as ramping, maximum ramping, maximum continuous ramping, maximum continuous ramping capacity, maximum continuous ramping ramp rate, load following, load following capacity, load following ramp rate, regulation, regulation capacity, regulation ramp rate.

1.25 "Flexible RAR Showing" means the Flexible RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.26 "GADS" means the Generating Availability Data System, or its successor.

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

1.28 "Local Capacity Area" has the meaning set forth in the Tariff.

1.29 "Local RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes or other locational attributes for the Unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward a Local RAR, but exclusive of any RA Attributes and Flexible RA Attributes.

1.30 "Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

1.31 "Local RAR Showing" means the Local RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.32 "LSE" means load-serving entity.

1.33 "Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

1.34 "Master Agreement" has the meaning specified in the introductory paragraph.

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

1.36 "Monthly Payment" has the meaning specified in Section 4.1.

1.37 "Moody's" means Moody's Investors Services, Inc. or its successor.

1.38 "NERC" means the North American Electric Reliability Corporation, or its successor.

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

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

1.41 "Non-Availability Charges" has the meaning set forth in the Tariff.

1.42 "Non-Specified RA Replacement Capacity" has the meaning set forth in the Tariff.

1.43 "Outage" means any disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff.

1.44 "Planned Outage" shall have the meaning in CPUC Decisions, and includes a planned, scheduled, or any other Outage approved by the CAISO for the routine repair or maintenance of the Unit, or for the purposes of new construction work, and does not include any Outage designated as either forced or unplanned as defined by the CAISO or NERC/GADS Protocols.

1.45 "Product" has the meaning specified in Section 3.1.

1.46 "Prorated Percentage of Unit Factor" means the percentage, as specified in Appendix A, of the Unit NQC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

1.47 "Prorated Percentage of Unit Flexible Factor" means the percentage, as specified in Appendix A, of the Unit EFC as of the Confirmation Execution Date that is dedicated to Buyer under this Transaction.

1.48 "RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction that can be counted toward RAR, exclusive of any Local RA Attributes and Flexible RA Attributes.

1.49 "RA Substitute Capacity" means capacity that the CAISO permits under the CAISO Tariff to be substituted for a Resource Adequacy Resource that is on Outage.

1.50 "RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body having jurisdiction.

1.51 "RAR Showing" means the RAR compliance or advisory filing (or similar or successor showing or filing) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to any Governmental Body having jurisdiction.

1.52 "Replacement Capacity" means capacity which has equivalent Capacity Attributes as the portion of the Product not provided by the Units committed to Buyer as of the Confirmation Execution Date.

1.53 "Replacement Unit" means a generating unit providing Replacement Capacity.

1.54 "Resource Category" shall be as described in the CPUC Filing Guide.

1.55 "RMR Contract" has the meaning set forth in the Tariff.

1.56 "S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc. or its successor).

1.57 "Scheduling Coordinator" or "SC" has the meaning set forth in the Tariff.

1.58 "Seller" has the meaning specified in the introductory paragraph.

1.59 "Showing Month" shall be the calendar month that is the subject of the Compliance Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Execution Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.60 "Substitution Rules" has the meaning set forth in Section 3.8(b).

1.61 "Supply Plan" has the meaning set forth in the Tariff.

1.62 "Tariff" means the tariff and protocol provisions, including any applicable CAISO-published "Operating Procedures" and "Business Practice Manuals," as amended or supplemented from time to time, of the CAISO.

1.63 "Transaction" has the meaning specified in the introductory paragraph.

1.64 "Unit" or "Units" shall mean the generation assets described in Appendix A (including any Replacement Units), from which Product is provided by Seller to Buyer.

1.65 "Unit Contract Quantity" means the amount of Product (in MW) to be delivered by Seller to Buyer by each individual Unit, as specified in Appendix A as of the Confirmation Execution Date.

1.66 "Unit EFC" means the effective flexible capacity or capacity that is qualified to provide Flexible RA Attributes established by the CAISO for the applicable Unit.

1.67 "Unit NQC" means the Net Qualifying Capacity established by the CAISO for the applicable Unit.

1.68 "Unit Delivered Quantity" means the amount of applicable Product (in MW) actually "delivered" by Seller to Buyer by each individual Unit. As used herein, "delivered" shall mean shown in the Supply Plan and, for purposes of Section 4.1, shall include any RA Substitute Capacity under Section 3.8, and in all cases, shall not include (i) any portion of Contract Capacity for which Buyer is required under the Compliance Obligations or the Tariff to procure Replacement Capacity, and (ii) any portion of Contract Capacity for which Seller is required hereunder, but fails, to provide Replacement Capacity to Buyer.

2. Term

2.1 Contract Term

The "Contract Term" shall mean the period of time commencing upon the Confirmation Execution Date and continuing until the later of (a) the expiration of the Delivery Period or (b) the date the Parties' obligations under this Agreement have been fulfilled.

3. Transaction

3.1 Product

(a) Seller shall sell and Buyer shall receive and purchase, the Capacity Attributes (including all Local RA Attributes but excluding Flexible RA Attributes (if any)) of the Units identified in Appendix A (collectively, the "Product") and Seller shall deliver the Product as described in Section 3.2 below. Product does not include any right to dispatch or receive the energy or ancillary services from the Unit. Seller retains the right to sell any Product from a Unit in excess of its Unit Contract Quantity.

(b) The Parties agree that (i) the Contract Price for the Product shall not change if the CAISO, CPUC or other Governmental Body (A) defines new or re-defines existing Local Capacity Areas which decreases or increases the amount of Local RA Attributes provided hereunder, or (B) defines new or re-defines existing Local Capacity Areas whereby the Units qualify for a Local Capacity Area and (ii) if the event in Section 3.1(b)(i)(B) occurs then the Product shall include such Local RA Attributes.

3.2 Unit Contingent Quantity

During the Delivery Period, Seller shall provide Buyer with the Product from the Unit(s) in the amount of the Contract Quantity. Except for reasons of Planned Outage, Force Majeure or any adjustment of the Capacity Attributes of any Unit(s), if the Unit(s) are not available to provide any portion of the Product, Seller shall provide Buyer with Replacement Capacity from one or more Replacement Units pursuant to Section 5.1. If Seller fails to provide Buyer with Replacement Capacity pursuant to Section 5.1, then Seller shall be liable for damages and/or to indemnify Buyer for penalties, fines or costs pursuant to the terms of Section 5 and Section 10.

3.3 Delivery Period

[redacted] inclusive, unless terminated earlier in accordance with the terms of this Agreement.

3.4 Contract Quantity:

During each month of the Delivery Period, Seller shall provide the Product from each Unit in the total amount for such month as follows:

CONTRACT QUANTITY TABLE

Unit Name	CAISO Resource ID*	Month(s)	Unit Contract Quantity (MW)	
			Capacity Attributes (excluding Flexible RA Attributes)	Flexible RA Attributes
[redacted]			[redacted]	[redacted]
* *CAISO Resource ID* should match a Unit described in Appendix A				

3.5 Delivery of Product

Seller shall provide Buyer with the Contract Quantity for each day in each Monthly Delivery Period consistent with the following:

(a) Seller shall, on a timely basis, submit, or cause each Unit's SC to submit, Supply Plans to identify and confirm the Unit Delivered Quantity for each Unit provided to Buyer so that the total amount of Unit Delivered Quantity identified and confirmed equals the Unit Contract Quantity for each Unit, unless specifically notified or requested not to do so by the Buyer pursuant to Section 3.8, and;

(b) Seller shall submit, or cause each Unit's SC to submit, written notification to Buyer, no later than fifteen (15) Business Days before the relevant deadline for any applicable Compliance Showing, that Buyer will be credited with Unit Delivered Quantity for the applicable portion of the Delivery Period in the Unit's SC Supply Plan so that the total amount of Unit Delivered Quantity for each Unit credited equals the Unit Contract Quantity.

3.6 CAISO/CPUC Offer Requirements

Subject to Buyer's request under Section 3.8(a), Seller shall, or cause the Unit's SC to, bid and/or schedule with, or make available to, the CAISO the Unit Contract Quantity for each Unit in compliance with the Tariff and the CPUC Filing Guide, including any must offer obligation under the Tariff or the CPUC Filing Guide, and shall, or cause the Unit's SC, owner, or operator, as applicable, to perform all obligations under the Tariff and the CPUC Filing Guide that are associated with the sale and delivery of Product hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's SC, owner, or operator to comply with such Tariff and CPUC Filing Guide provisions, including any penalties, charges or fines imposed on Seller or the Unit's SC, owner, or operator for such noncompliance.

3.7 Reserved

3.8 Unit Substitution; RA Replacement Capacity

(a) RA Replacement Capacity: No later than five (5) Business Days before the relevant deadline for each applicable Compliance Showing, Buyer may (i) request, subject to Seller's reasonable approval, that Seller not, or cause each Unit's SC not to, list a portion or all of a Unit's applicable Unit Contract Quantity on the Supply Plan or (ii) notify Seller that a portion or all of the Unit Contract Quantity of a Unit will be included in an applicable Compliance Showing as RA Substitute Capacity. The amount of Unit Contract Quantity that is the subject of such a request or notice shall be known as "RA Substitute Capacity" and, for purposes of calculating a Monthly Payment pursuant to Section

4.1, to the extent provided, such RA Substitute Capacity shall be deemed Unit Delivered Quantity provided consistent with Section 3.6.

(b) Seller's Obligations With Respect to RA Substitute Capacity: If Buyer requests RA Substitute Capacity, Seller shall (i) make such RA Substitute Capacity available to Buyer during the applicable Showing Month to allow Buyer to utilize, as applicable, the substitution rules in Sections 9.3.1.3.1, 9.3.1.3.2 and 40.9.4.2.1 of the Tariff ("Substitution Rules") and (ii) take, or cause each Unit's SC to take, all action to allow Buyer to utilize, as applicable, the Substitution Rules, including, but not limited to, ensuring that the RA Substitute Capacity will qualify, as applicable, for substitution under the Substitution Rules, and providing Buyer with all information needed to utilize the Substitution Rules.

(c) Seller agrees that all RA Substitute Capacity utilized by Buyer under the Substitution Rules, as applicable, is subject to the requirements identified in Section 3.6.

(d) Failure to Provide RA Substitute Capacity: If Seller fails to provide RA Substitute Capacity or Buyer is unable to utilize the RA Substitute Capacity under the Substitution Rules due to Seller's failure to fulfill its obligations under Section 3.8(b)(ii), then Seller shall reimburse Buyer for any and all Non-Availability Charges incurred by Buyer and shall pay Buyer the CPM revenue the CAISO would have paid the Buyer but for Seller failure, due to such failure or inability to utilize the Substitution Rules; provided, that if Buyer is unable to utilize the Substitution Rules because the RA Substitute Capacity does not qualify for substitution under Section 9.3.1.3.1, 9.3.1.3.2, 40.9.4.2.1(1)(i) or (ii) of the Tariff, then Seller shall not be responsible for any such Non-Availability Charges described in this Section 3.8(d) associated with such inability.

3.9 Buyer's Re-Sale of Product

Buyer may re-sell all or a portion of the Product.

4. Payment

4.1 Monthly Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a "Monthly Payment" to Seller for each Unit after the applicable Monthly Delivery Period, as follows:

$$Monthly\ Payment = \sum_{n=1}^{d} (A_n * B_n * 1000)$$

where:

A *= applicable Contract Price (in $/kW-day) for that calendar day*

B *= Unit Delivered Quantity (in MW) for Capacity Attributes provided by Seller for such Unit in that calendar day; provided, however, in no event shall this quantity "**B**" exceed the Contract Quantity for such Unit (in MW) for Capacity Attributes nor shall this quantity "**B**" be less than zero.*

d *= Total number of calendar days in the respective Monthly Delivery Period*

The Monthly Payment calculation shall be rounded to two decimal places. In no case shall a Unit's Monthly Payment (or any day in any Monthly Payment) be less than zero.

CAPACITY PRICE TABLE

Contract Month	Capacity Price ($/kW-day)
[redacted]	[redacted]

4.2 Reserved.

4.3 Allocation of Other Payments and Costs

(a) Seller shall retain any revenues it may receive from and pay all costs charged by, the CAISO or any other third party with respect to any Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, and (iv) any revenues for black start or reactive power services. Seller shall be responsible for the Environmental Costs associated with the Product and shall indemnify, defend and hold Buyer harmless from and against all third-party claims brought against Buyer for Environmental Costs.

(b) Buyer shall be entitled to receive and retain all revenues associated with the Contract Quantity during the Delivery Period including any capacity or availability revenues from RMR Contracts for any Unit, Capacity Procurement Mechanism (CPM) or its successor, and Residual Unit Commitment (RUC) Availability Payments or Reliability Capacity, or their successor, and Imbalance Reserves or its successor but excluding payments described in Section 4.3(a)(i)-(iv).

(c) In accordance with Section 4.1 of this Confirmation and Article Six of the Master Agreement, all such Buyer revenues described in Section 4.3(b), but received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. In order to verify the accuracy of such revenues, Buyer shall have the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity.

(d) If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit the Contract Quantity for re-sale in such market, and retain and receive any and all related revenues.

(e) Subject to the Unit being made available to the CAISO in accordance with Article 3 of this Confirmation, Seller agrees that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments under the Tariff. Furthermore, the Parties agree that any Availability Incentive Payments are for the benefit of Seller and for Seller's account and that any Non-Availability Charges are the responsibility of Seller and for Seller's account.

4.4 Offset Rights

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

5. Seller's Failure to Deliver Contract Quantity

5.1 Seller's Duty to Provide Replacement Capacity

Planned Outage replacement shall be addressed by the Tariff. For all other replacements, if Seller is unable to provide the Contract Quantity from any Unit(s) for any day in any Monthly Delivery Period and Replacement Capacity is required under Section 3.2, then:

(a) Seller shall notify Buyer of the non-availability of any portion of the Contract Quantity from any Unit(s) and identify Replacement Unit(s), and

(b) Seller shall, at no additional cost to Buyer, provide Buyer with Replacement Capacity from one or more Replacement Units, such that the total amount of Product provided to Buyer from all Units and Replacement Units equals Contract Quantity.

provided that the designation of any Replacement Unit by Seller shall be subject to Buyer's prior written approval, which shall not be unreasonably withheld or delayed. Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 5.1, and Buyer has approved the designation of the Replacement Unit, then any such Replacement Unit shall be deemed a Unit for purposes of this Confirmation for that day in such Monthly Delivery Period. Notwithstanding anything to the contrary in this Confirmation, Seller's failure to properly provide Replacement Capacity, including Seller's obligation to identify Replacement Units within the notice deadlines specified in this Section 5.1, may result in the calculation of damages payable to Buyer and/or the indemnification of Buyer against any penalties, fines or costs under Section 5 and Section 10.

5.2 Damages for Failure to Provide Replacement Capacity

If Seller fails to provide Buyer any portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by Section 5.1, then the following shall apply:

(a) Buyer may, but shall not be obligated to, obtain Replacement Capacity. Buyer may enter into purchase transactions with one or more parties to replace the portion of Contract Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver the capacity to another party, and such arrangements shall be considered the procurement of Replacement Capacity. Buyer shall act in a commercially reasonable manner in purchasing any Replacement Capacity, and;

(b) Seller shall pay to Buyer damages, in accordance with the terms of Section 4.1 of the Master Agreement relating to "Accelerated Payment of Damages," if applicable, an amount equal to the positive difference, if any, between (i) the sum of (A) the Capacity Replacement Price paid by Buyer for any Replacement Capacity purchased by Buyer pursuant to Section 5.2(a) for such day, plus (B) the Capacity Replacement Price times the portion of Contract Capacity not provided by Seller nor purchased by Buyer pursuant to Section 5.2(a) for such day times 1,000 kW/MW, and (ii) the portion of Contract Capacity not provided for the applicable day in the applicable Monthly Delivery Period times the Contract Price for that day times 1,000 kW/MW.

5.3 Indemnities for Failure to Deliver Contract Capacity

If Buyer is unable to purchase Replacement Capacity after Seller fails to provide Buyer a portion of the Contract Capacity from Replacement Units for any day in any Monthly Delivery Period as required by

Section 5.1, then in addition to the damages pursuant to Section 5.2(b)(i)(B) with respect to the portion of Contract Capacity that Buyer has not replaced, Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC, CAISO, or any Governmental Body having jurisdiction, resulting from any of the following:

(a) Seller's failure to provide any portion of the Contract Capacity or any portion of the Replacement Capacity;

(b) Seller's failure to provide timely notice of the non-availability of any portion of the Contract Capacity;

(c) A Unit's SC's failure to timely submit Supply Plans that identify Buyer's right to the Unit Contract Quantity purchased hereunder, or;

(d) any other failure by Seller to perform its material obligations under this Confirmation.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines and costs.

6. Other Buyer and Seller Covenants

6.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's Compliance Obligations. The Parties further agree to negotiate in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions or decisions rendered by the CPUC, FERC, or other Governmental Body having jurisdiction to administer Compliance Obligations, to maintain the benefits of the bargain struck by the Parties on the Confirmation Execution Date. The Parties acknowledge that the benefit of the bargain as stated in this Agreement attempts to reflect anticipated changes to the CAISO and CPUC Resource Adequacy rules as such rules have been proposed as of the Confirmation Execution Date.

As used in this Section 6.1, "commercially reasonable actions" or "good faith" shall not require the Seller, or the owner or operator of any Unit to undertake any capital improvements, facility enhancements, or the construction of new facilities.

6.2 Seller's Represents, Warrants and Covenants

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

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

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

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

(d) Seller shall, and each Unit's SC, owner and operator is obligated to, comply with Applicable Laws, including the Tariff, relating to the Product;

(e) If Seller is the owner of any Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for any Unit does not exceed the Unit NQC or Unit EFC, as applicable, for that Unit;

(f) Seller has notified the SC of each Unit that Seller has transferred the Unit Contract Quantity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff fully reflecting such transfer;

(g) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to Buyer, at least fifteen (15) Business Days before the relevant deadline for each Compliance Showing, the Unit Contract Quantity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period;

(h) Seller has notified each Unit's SC that Buyer is entitled to the revenues set forth in Section 4.3, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues;

(i) In the event Seller has rights to the energy output of any Unit, and Seller or the Unit's SC schedules energy from the Unit for export from the CAISO Control Area, or commits energy to another entity in a manner that could result in scheduling energy from the Unit for export from the CAISO Control Area, it shall do so only as allowed by, and in accordance with, Applicable Laws and such exports may, if allowed by the Tariff, be curtailed by the CAISO, and;

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

7. Confidentiality

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer and Seller may disclose this Agreement to the CPUC, CAISO and any Governmental Body, as required by Applicable Law, and Seller may disclose the transfer of the Contract Quantity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans; provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Body, CAISO, or SC to further disclose such information. In addition, in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

8. Counterparts

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by fax will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by facsimile will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

9. Collateral Requirements

On or before the Confirmation Execution Date, to secure its obligations under this Confirmation, Buyer agrees to deliver (i) cash or (ii) a Letter of Credit, in substantially the same form as attached hereto as Appendix B in the

amount of seventeen thousand one hundred dollars ($17,100.00) to Seller and maintain such security in full force and effect until it is required to be returned in accordance with this Section 9. The security posted under this Section 9 shall not be deemed a limitation of Buyer's damages. Seller shall return to Buyer any unused portion of this security after the following have occurred: (i) the Delivery Period has expired or terminated early; and (ii) all payment obligations of the Buyer arising under this Confirmation, including compensation for penalties, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting).

10. Declaration of an Early Termination Date and Calculation of Settlement Amounts

Notwithstanding anything to the contrary, the Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation as applicable. Furthermore, with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the EEI Agreement:

> "If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur penalties, fines or costs from the CPUC, the CAISO, or any other Governmental Body having jurisdiction, because Buyer is not able to include the Contract Quantity in any applicable Compliance Showing due to the termination of the Transaction under the Master Agreement caused by Seller's Event of Default and Buyer has not purchased Replacement Capacity for the applicable portion of the Contract Quantity, then Buyer may, in good faith, estimate as its Losses in respect of the Transaction the present value of the amount of those penalties, fines and costs on a $/kW-day basis subtracting the Contract Price (in $/kW-day) and include this estimate in its determination of the Settlement Amount, subject to accounting to Seller when those penalties, fines and costs are finally ascertained. The rights and obligations with respect to determining and paying any Settlement Amount or Termination Payment, and any dispute resolution provisions with respect thereto, shall survive the termination of this Transaction and shall continue until after those penalties or fines are finally ascertained."

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Confirmation to be duly executed as of the date first above written.

Silicon Valley Clean Energy Authority
a California joint powers authority

By: DocuSigned by: Monica Padilla 573FC104110B4C0...

Name: Monica Padilla

Title: COO & Director of Power Resources

SAN DIEGO GAS & ELECTRIC COMPANY
a California corporation

By: DocuSigned by: BB43C9758847486...

Name: Joe Pasquito

Title: Market Analysis Manager

APPROVED as to legal form DS AS

APPENDIX A

Buyer SCID: LSVCE

Unit Information

Unit Resource Name	Sagebrush Solar 2
CAISO Resource ID	WSTWND_2_SBSBT1
Unit SCID	LSDGE
Unit NQC (MW)	80
Prorated Percentage of Unit Factor	11.25%
Unit EFC (MW)	N/A
Flexible Category	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Resource Type	Battery
Resource Category (MMC Bucket 1, 2, 3 or 4)	1
Path 26 (North or South)	South
Local Capacity Area (if any, as of Confirmation Execution Date)	N/A
Unit Contract Quantity (MW) for Capacity Attributes (excluding Flexible RA Attributes)	[redacted]
Unit Contract Quantity (MW) for Flexible RA Attributes	N/A
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	None

Run Hour Restrictions	None

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Appendix B

Form of Letter of Credit

LETTER OF CREDIT FORM

IRREVOCABLE STANDBY
LETTER OF CREDIT
Reference Number:_____
Transaction Date:

BENEFICIARY:

San Diego Gas & Electric Company
_____
_____
_____

Ladies and Gentlemen:

_____(the "Bank") hereby establishes this Irrevocable Standby Letter of Credit ("Letter of Credit") in favor of San Diego Gas & Electric Company, a California corporation (the "Beneficiary"), for the account of_____, a _____corporation (the "Applicant"), for the amount of XXX AND XX/100 Dollars ($_____ _____) (the "Available Amount"), effective immediately and expiring at 5:00 p.m., New York time, on the Expiration Date (as hereinafter defined).

This Letter of Credit shall be of no further force or effect upon the close of business on _____or, if such day is not a Business Day (as hereinafter defined), on the next preceding Business Day, unless extended in accordance with the terms of this Letter of Credit. For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in New York, New York.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to the Beneficiary by presentation in compliance on or prior to 5:00 p.m. New York time, on or prior to the Expiration Date, of the following:

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and

2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at_____or such other number as specified from time to time by the Bank or by electronic signature. The facsimile or electronic signature transmittal shall be deemed delivered when received. It is understood that drawings made by facsimile transmittal or electronic signature are deemed to be the operative instrument without the need of originally signed documents.

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Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; *provided that,* the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is transferable in whole or in part.

Banking charges shall be the sole responsibility of the Applicant.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period beginning on the present expiry date hereof and upon each anniversary of such date, unless at least ninety (90) days prior to any such expiry date we have sent you written notice by regular and registered mail or courier service that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored except as described in the succeeding paragraph.

We agree that if this Letter of Credit would otherwise expire during, or within 30 days after, an interruption of our business caused by an act of god, riot, civil commotion, insurrection, act of terrorism, war or any other cause beyond our control or by any strike or lockout, then this Letter of Credit shall expire on the 30th day following the day on which we resume our business after the cause of such interruption has been removed or eliminated and any drawing on this Letter of Credit which could properly have been made but for such interruption shall be permitted during such extended period.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

The Bank engages with the Beneficiary that Beneficiary’s drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION) INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 600 ("UCP"), EXCEPT TO THE EXTENT THAT THE TERMS HEREOF ARE INCONSISTENT WITH THE PROVISIONS OF THE UCP, INCLUDING BUT NOT LIMITED TO ARTICLES 14(8) AND 36 OF THE UCP, IN WHICH CASE THE TERMS OF THIS LETTER OF CREDITSHALLGOVERN. MATTERSNOTCOVERED BY THE UCP SHALL BEGOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

AUTHORIZED SIGNATURE for Bank

_____

By:

Title:_____

ATTACHMENT A TO APPENDIX B
DRAWING CERTIFICATE TO [ISSUING BANK NAME]
IRREVOCABLE STANDBY LETTER OF CREDIT

Reference Number. _____
(Sample Text)

DRAWING CERTIFICATE
Bank
Bank Address

Subject: Irrevocable Standby Letter of Credit
Reference Number:
_____

The undersigned_____, an authorized representative of San Diego Gas & Electric Company (the "Beneficiary"), hereby certifies to [Issuing Bank Name] (the "Bank"), and _____(the "Applicant"), with reference to Irrevocable Standby Letter of Credit No._____, dated _____, (the "Letter of Credit"), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to $_____, for the following reason(s) [check applicable provision]:

   [ ]A. An Event of Default, as defined in the [INSERT] Agreement between Beneficiary and Applicant (the "Agreement"), with respect to the Applicant has occurred and is continuing or an amount is due and unpaid to Beneficiary by Applicant.

   [ ]B. The Letter of Credit will expire in fewer than sixty (60) days from the date hereof, and Applicant has not provided to Beneficiary alternate Performance Assurance (as defined in the Agreement) acceptable to Beneficiary.

2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. DOLLARS AND /100ths (U.S.$_____), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.

3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire-transferred to the Beneficiary in accordance with the following instructions:

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WSPP RESOURCE ADEQUACY CONFIRMATION

This confirmation ("Confirmation") confirms the transaction between City of Santa Clara, a chartered California municipal corporation, dba Silicon Valley Power ("Seller") and Silicon Valley Clean Energy Authority, a California joint powers authority ("Purchaser"), and each individually a "Party" and together the "Parties", dated as of the last dated signature on the signature page hereto (the "Confirmation Effective Date" or "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). The Confirmation includes Appendices A, B, and C which are attached hereto and incorporated herein. This Transaction is governed by the WSPP Agreement dated August 26, 2022 (the "WSPP Agreement"). The WSPP Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". The Agreement contains the entire agreement of the Parties with respect to the Transaction, and no agreement, statement or promise made by either Party which is not contained herein, shall be valid or binding with respect to this Transaction. No amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties. Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the WSPP Agreement or the Tariff or in the CPUC Decisions (defined herein below). In the event of a conflict between the provisions of the WSPP Agreement and this Confirmation, this Confirmation shall control.

ARTICLE 1
RESOURCE ADEQUACY CAPACITY PRODUCT

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are defined in Appendix B.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller will sell and deliver to Purchaser, and Purchaser will purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s).

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

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

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each day of such Showing Month will equal the Expected Contract Quantity, less any excused deductions to the Contract Quantity in the case of Flexible RA Capacity for excused reductions in Unit EFC.

(d) Seller shall sell and deliver from a Shown Unit that meets requirements set forth in Appendix B. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel or be a nuclear generating facility. A Shown Unit must be a specific resource that is connected directly to the CAISO Balancing Authority Area or under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller will identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific Unit information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

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

(f) The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Shown Unit by CAISO or Seller complies with Purchaser's instruction to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the LRA, 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. Purchaser will have received the Contract Quantity if (i) Seller's Supply Plan is accepted by the CAISO for the applicable Showing Month or (ii) Seller complies with Purchaser's instruction to withhold all or part of the Contract Quantity from Seller's Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the LRA, CPUC or CAISO.

(g) The Shown Unit must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.[1]

[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

(h) Excused Reductions in Unit EFC: Unless the Parties have designated this Section 2.1(h) as "Not applicable", if the Product includes FCR Attributes, then Seller's failure to deliver any of the Contract Quantity of FCR Attributes during the Delivery Period will be excused if the Unit experiences a reduction in Unit EFC after the Effective Date as determined by CAISO and Seller has provided notice of such reduction to Purchaser by the Notification Deadline for the applicable Showing Month. The extent to which Seller's failure is excused will equal (i) the Contract Quantity of FCR Attributes for such day multiplied by (ii) the total amount (in MW) by which the Unit EFC was reduced since the Effective Date, divided by (iii) the Unit EFC as of the Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller may, but is not obligated to, provide the applicable part of the Contract Quantity of FCR Attributes for such day from the Shown Unit.

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

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

(b) Seller agrees to indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, including Environmental Costs, assessed against Purchaser by the LRA, 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 applicable Tariff that identify Purchaser's right to the Expected Contract Quantity purchased hereunder for each day of the Delivery Period. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.3 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 2.3(a). For any such a resale, Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller will, or will cause the Unit's SC, to follow Purchaser's instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller will, and will cause the Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with

Purchaser's rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Unit's SC to comply with this Confirmation, Seller will be liable to Purchaser for the same amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

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

2.4 Seller's Option to Provide Alternate Capacity

If Seller is unable to provide the full Expected Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.1, or Seller desires to provide some or all of the Expected Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more replacement units having the same Capacity Attributes 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 (each such unit, a "Replacement Unit") in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify Replacement Units from which such Alternate Capacity shall be provided and that (i) have the same Capacity Attributes of the Units originally identified in Appendix B, (ii) are accepted by the CAISO, and (iii) otherwise satisfy the requirements of this Confirmation, no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

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

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

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

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Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.4 and Purchaser has approved such Replacement Units as consistent with this Confirmation, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month. Purchaser's approval of a Replacement Unit as to a given Showing Month shall not be construed as approval of such Replacement Unit for any subsequent Showing Month.

ARTICLE 3
PAYMENTS

3.1 Payment

Purchaser shall pay Seller for the Product in the amount of Monthly RA Capacity Payment by the later of (i) ten (10) calendar days after Purchaser's receipt of Seller's invoice; and (ii) the twentieth (20^{th}) day of the Showing Month, and if such day is not a Business Day, the next following Business Day 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 at the time of the CAISO filing 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 Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it against any amounts owed to Purchaser under the WSPP Agreement.

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

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller will, or will cause the Unit's SC to, within one

Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

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

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

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

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

Throughout the Delivery Period, Purchaser and Seller will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Purchaser's rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and in the case of Seller causing each Shown Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, the LRA or any other Governmental Body responsible for administering the applicable Compliance Obligations under Applicable Laws, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to qualify as RA Capacity, pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction.

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

4.3 Seller's Representations and Warranties

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

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

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(b) the Unit qualifies under the Tariff for the Product, and the Unit and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Unit during the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;

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

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

4.4 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
COLLATERAL REQUIREMENTS

Notwithstanding any other provision of the Agreement, Section 27 of the WSPP Agreement is not applicable to this Transaction, and credit support is not required for either Party under this Confirmation.

ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

6.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

> "If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting

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

Each of the Parties acknowledge that the other Party is a public agency subject to the requirements of the California Public Records Act Cal. Gov. Code section 6250 et seq. Each Party (the "Receiving Party") acknowledges that the other Party (the "Disclosing Party") may submit information to the Receiving Party that the Disclosing 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). Upon request or demand of any third person or entity not a party to this Contract ("Requestor") for production, inspection and/or copying of information designated by a Disclosing Party as Confidential Information, the Receiving Party as soon 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 provided in Appendix C. 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.

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 (a "Change in Law") 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, the Parties shall work in good faith to try and revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of Products sold hereunder in order to maintain the original intent.

6.5 Governing Law

For this Transaction, Section 13.1 of the WSPP Agreement is amended to change "FERC" to "FERC or the CPUC", and Section 24 of the WSPP Agreement is amended to replace "Utah" with "California".

6.6 No Recourse to Members of Purchaser

Purchaser is 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. Purchaser will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Seller will have no rights and shall not make any claims, take any actions or assert any remedies against any of Purchaser's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Purchaser or Purchaser's constituent members, in connection with this Confirmation. Purchaser will have no rights and shall not make any claims, take any actions or assert any remedies against any of the officers, directors, advisors, contractors, consultants or employees of Seller.

6.7 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

[*Signatures appear on following page.*]

AGREED AS OF THE EFFECTIVE DATE:

City of Santa Clara, dba Silicon Valley Power	**Silicon Valley Clean Energy, a California joint powers authority**
By: Manuel Pineda (Oct 10, 2023 20:01 PDT)	By: DocuSigned by: Monica Padilla 573EC104110B4C0...
Name: Manuel Pineda	Name: Monica Padilla
Title: Chief Electric Utility Officer	Title: COO & Director of Power Resources
Date: 10/10/23	Date: 10/10/2023

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APPENDIX A
DEFINED TERMS

"Alternate Capacity" means any replacement Product which Seller has elected to provide to Purchaser in accordance with the terms of Section 2.4.

"CAISO" means the California ISO.

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

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

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

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the LRA of competent jurisdiction over the LSE, or CPUC for an applicable Showing Month.

"Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MW) set forth in Appendix B. Seller has agreed to provide to Purchaser from the Unit for such Showing Month.

"Contract Price" means the price to be paid by Purchaser to Seller the Product (in MW) as set forth in Appendix B.

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

"Delivery Period" means the period for Product delivery specified in Appendix B.

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

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"Expected Contract Quantity" means, with respect to any particular day of any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product for such day of such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity with respect to for such day, and (b) for Contingent Firm RA Product, the Contract Quantity of Product for such day of such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity with respect to for such day, less any reductions to Contract Quantity for such day specified in 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 Unit, any and all resource adequacy attributes of the Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations that can be counted toward an LSE's FCR.

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

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

"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 by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in payments made pursuant to this Transaction.

"LRA" means Local Regulatory Authority as defined in the Tariff.

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

"Monthly RA Capacity Payment" shall mean the calculation contained in Section 3.1 of this Confirmation.

"MW" means megawatt.

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

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"Product" has the meaning set forth in Appendix B.

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

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

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

"RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified from time to time 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.

"Replacement Unit" has the meaning set forth in Section 2.4

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

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

"Shown Unit" means the Unit specified by Seller in a Supply Plan.

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

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

"Unit" means the generation unit described in Appendix B.

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

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

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APPENDIX B
UNIT INFORMATION, CONTRACT QUANTITY, AND CONTRACT PRICE

Product:

During the Delivery Period, Seller shall provide to Purchaser and Purchaser shall sell, pursuant to the terms of this Confirmation, the Product in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified below (the "Product"). The Product does not confer to Purchaser any right to the electrical output from the Units, other than the right to include the Product associated with the Contract Quantity, 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 Purchaser as part of this Transaction and Purchaser shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell, pursuant to the Tariff, any RA Capacity from a Unit that is in excess of Contract Quantity and any RAR Attributes, LAR Attributes, or FCR Attributes not otherwise transferred, conveyed, or sold to Purchaser under this Confirmation.

☒ **RAR Attributes**

Seller shall sell Purchaser and Purchaser shall buy the RAR Attributes of the Product from the Unit in the amount of the Contract Quantity

☐ **LAR Attributes**

Seller shall sell Purchaser and Purchaser shall buy the LAR Attributes of the Product from the Unit in the amount of the Contract Quantity.

☐ **Flexible RA Product**

Seller shall sell Purchaser and Purchaser shall buy FCR Attributes from the Unit in the amount of the applicable Contract Quantity.

☐ **Firm RA Product:**

Seller shall sell Purchaser and Purchaser shall buy the Firm RA 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 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, the 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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☒ **Contingent Firm RA Product:**

Seller shall sell Purchaser and Purchaser shall buy Contingent Firm RA Product from the Unit in the amount of the Expected Contract Quantity. If the Unit is not available to provide the full amount of the Expected Contract Quantity as a result of any adjustment of the Expected Contract Quantity of any 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 Expected 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 Expected Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Expected 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 Expected 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, Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

Additional Product Information (fill in all that apply):
CAISO Zone: NP15
MCC Bucket: _____
CPUC Local Area (if applicable): _____
Flexible Capacity Category (if applicable): _____

Delivery Period: [redacted]

Contract Quantity and Contract Price:

Showing Month and Year	LAR Contract Quantity (MW)	Contract Price ($/kW-mo.)
[redacted]	[redacted]	[redacted]

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Unit 1

Unit Specific Information	
Resource Name	Lodi Energy Center
Physical Location	Lodi, CA
CAISO Resource ID	LODIEC_2_PL1X2
SCID of Resource	NCPA
Unit NQC by month (e.g., Jan=50,Feb=65):	302.58
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Gas
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	_____
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	
Prorated Percentage of Unit Flexible Factor	
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	Sierra
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

(*Repeat for additional Units)*

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

APPENDIX C
NOTICE INFORMATION

Purchaser: Silicon Valley Clean Energy	**Seller:** City of Santa Clara dba Silicon Valley Power
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

[redacted]	[redacted]

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WSPP RESOURCE ADEQUACY CONFIRMATION

This confirmation under the WSPP Agreement ("Confirmation") confirms the transaction between Silicon Valley Clean Energy, a California joint powers authority ("SVCE") and Clean Power Alliance of Southern California, a California joint powers authority ("CPA"), and each individually a "Party" and together the "Parties", dated as of October 20, 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 hereto, 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.

The terms of the Transaction to which this Confirmation relates are as follows:

Purchaser :	Silicon Valley Clean Energy	**Seller :**	Clean Power Alliance of Southern California

Product:	☒ RAR ☐ Local RAR ☒ Flexible Capacity, as further described in Appendix B
Contract Price ($/kW-mo):	[redacted] as further described in Appendix B
Contract Quantity (MW):	[redacted]
Delivery Period:	[redacted]
Unit:	SANBRN_2_ESBBT1, as further described in Appendix B
Payment Terms:	20th Day of Showing Month, as further described in Article 3
Collateral:	[redacted]
Total Notional Value:	[redacted]

This Confirmation is subject to the Appendices identified below and attached hereto:
Appendix A – Defined Terms
Appendix B – Product and Unit Information
Appendix C – Notice Information
Appendix D – Planned Outage Schedule

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IN WITNESS WHEREOF, the Parties have signed this Confirmation effective as of the Effective Date.

SILICON VALLEY CLEAN ENERGY, a California joint powers authority	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority**
Sign: DocuSigned by: Monica Padilla 573FC104110B4C0...	Sign: Lindsay Saxby
Print: Monica Padilla	Print: Lindsay Saxby
Title: COO and Director of Power Resources	Title: Vice President, Power Supply

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ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are described on page 1 of this Confirmation and 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 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 as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller's obligation to deliver the Expected Contract Quantity of Product for each day of 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

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Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

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

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

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

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit(s) 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 shall 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.[1]

[1] For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046

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2.2 Adjustments to Contract Quantity

If Seller is providing Contingent Firm RA Product, Seller's obligation to deliver the Contract Quantity for each day of 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 for the applicable days of such Planned Outages; 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 for each day of that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plansin accordance with the Tariff.

In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section2.3.

2.3 Seller's Option To Provide Alternate Capacity

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

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the Replacement Unit(s) from which such Alternate Capacity shall be provided before the Notification Deadline for such Showing Month; and

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

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

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may

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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 such Seller proposed changes, Purchaser shall notify Seller in writing of reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

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

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

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

2.6 Purchaser's Re-Sale of Product

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

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(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 Product. Purchaser shall notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser shall have the exclusive right to direct the Seller or the Unit's SC to offer, bid, or otherwise submit the Expected Contract Quantity for re-sale into such market, and Seller and the Unit's SC shall comply with Purchaser's direction and Purchaser shall retain and receive all revenues from such re-sale.

(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 pay for the Product as provided in Article 9 of the WSPP Agreement and this Confirmation; except that under Section 9.4 of the WSPP Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute. Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Business Days after Purchaser's receipt of Seller's invoice or (ii) the twentieth (20^{th}) day of the Showing Month; provided, however, if such day is not a Business Day then payment shall be made on the following Business Day ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

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3.2 Allocation of Other Payments and Costs

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

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

(c) 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

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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 and 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 RAR pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction.

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

4.3 Seller's Representations and Warranties

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

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

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

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

(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

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contractual arrangement conveys ownership or control of generation capacity from Seller to Purchaser.

ARTICLE 5
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

5.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

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

5.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement:

(a) (i) Purchaser may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit's SC or as necessary for submitting Supply Plans; and (iii) Purchaser may disclose information to any Subsequent Purchaser. Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the disclosing party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as confidential. Over-designation would include stamping whole agreements, entire pages or series of pages as Confidential that clearly contain information that is not confidential.

(b) Upon request or demand of any third person or entity not a Party hereto to CPA pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("Requested Confidential Information"), CPA will as soon as practical notify Seller in writing via email that such request has been made. Seller will be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to

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the third party by CPA. If Seller takes no such action after receiving the foregoing notice from CPA, CPA shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, CPA shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless CPA, its officers, employees and agents ("CPA Indemnified Parties") from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of CPA Indemnified Parties for CPA's refusal to disclose any Requested Confidential Information.

5.3 Dodd-Frank Act

The Parties intend this Transaction to be a "customary commercial arrangement" as described in Section II.A.1 of Commodity Futures Trading Commission, *Proposed Guidance, Certain Natural Gas and Electric Power Contracts*, 81 Fed. Reg. 20583 at 20586 (Apr. 8, 2016) and a "Forward Capacity Transaction" within the meaning of Commodity Futures Trading Commission, *Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations To Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission*, 78 Fed. Reg. 19,880 (Apr. 2, 2013).

5.4 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction results in any change in applicable law occurring after the Confirmation Effective Date that (i) materially changes 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 Product sold hereunder in order to maintain the original intent. If the Change in Law results in the Product no longer being able to be counted towards Purchaser's Resource Adequacy Requirements, and the Parties have not reached agreement on amendments within thirty (30) days after the initiation of discussions regarding the Change in Law that would allow the Product to be able to be counted towards Purchaser's Resource Adequacy Requirements, Purchaser may terminate this Confirmation upon written notice to Seller, which shall be effective the next Business Day after such notice is received, and any such termination shall be without liability to either Party, subject to payment of any amounts owing as of the effective date of such termination.

5.5 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.

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5.6 Collateral

Seller shall provide collateral in the amount of $0.00.

5.7 No Recourse to Members of Purchaser

Purchaser is 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. Purchaser will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Seller will have no rights and will not make any claims, take any actions or assert any remedies against any of Purchaser's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Purchaser or Purchaser's constituent members, in connection with this Confirmation.

5.8 Other WSPP Agreement Changes

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

(a) Section 22.1 of the WSPP Agreement is modified by inserting the following new text at the end thereof:

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

(c) Section 22.3 of the WSPP Agreement is amended by:

In Section 22.3(c), deleting the third sentence thereof and replacing it with the following: "If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

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

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(e) In Section 22.3(f), delete the entire provision and replace with the following:

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

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

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

(h) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby deleted and replaced with the following:

"34.1 INFORMAL DISPUTE RESOLUTION

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

"34.2 EXCLUSIVE JURISDICTION

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

(i) The phrase "arbitration or" is hereby deleted from the first line of Section 34.4.

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

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

(k) Section 37 of the WSPP Agreement is amended by inserting the following in the beginning of the section: "On the date of entering into this Confirmation,".

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

"The Parties agree as follows:

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

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the "Mobile-

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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."

5.9 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, facsimile or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation by facsimile or electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

5.10 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.

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APPENDIX A
DEFINED TERMS

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

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

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

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

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

"Compliance Showings" means the applicable LSE's compliance with the Resource Adequacy Requirements of the CPUC for an applicable Showing Month.

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

"CPUC Decisions" means any currently effective or future decisions, resolutions, or rulings related to the Resource Adequacy Requirements.

"Effective Flexible Capacity" has the meaning given in the CAISO Tariff.

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

"Expected Contract Quantity" means, with respect to any particular day of any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the

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amount of Contract Quantity of Product that Seller has elected to provide as Alternate Capacity with respect to such day, and (b) for Contingent Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide as Alternate Capacity with respect to such day, less any reductions to Contract Quantity for such day consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

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

"Flexible Capacity" or "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.

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

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

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

"MW" means megawatt.

"Net Qualifying Capacity" has the meaning given in the CAISO Tariff.

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

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

"Product" means RAR, Local RAR and/or FCR for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications described on page 1 of this Confirmation and 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.

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"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.

"Replacement Unit" means a generating unit meeting the requirements specified in Section 2.3.

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

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

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

"Shown Unit" means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

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

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

"Unit" means the generation unit described in Appendix B. A Unit or Shown Unit may not be a nuclear or coal-fired generating facility.

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

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

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APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☒ Flexible Capacity

and all Capacity Attributes related to such Product.

Delivery Period: [redacted].

Contract Quantity and Contract Price:

RAR and Flex RAR, as applicable

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	Edwards Sanborn - BESS
Physical Location	Kern, CA
CAISO Resource ID	SANBRN_2_ESBBT1
SCID of Resource	CPAA
Unit NQC by month (e.g., Jan=50,Feb=65):	100 MW
Unit EFC by month (e.g., Jan=30, Feb=50)	200 MW
Resource Type (e.g., gas, hydro, solar, etc.)	LESR
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	2
TAC Area (e.g., PG&E, SCE)	SCE
Prorated Percentage of Unit Factor	Na
Prorated Percentage of Unit Flexible Factor	Na
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	1

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APPENDIX C
NOTICE INFORMATION

Buyer: Silicon Valley Clean Energy	Seller: Clean Power Alliance of Southern California
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

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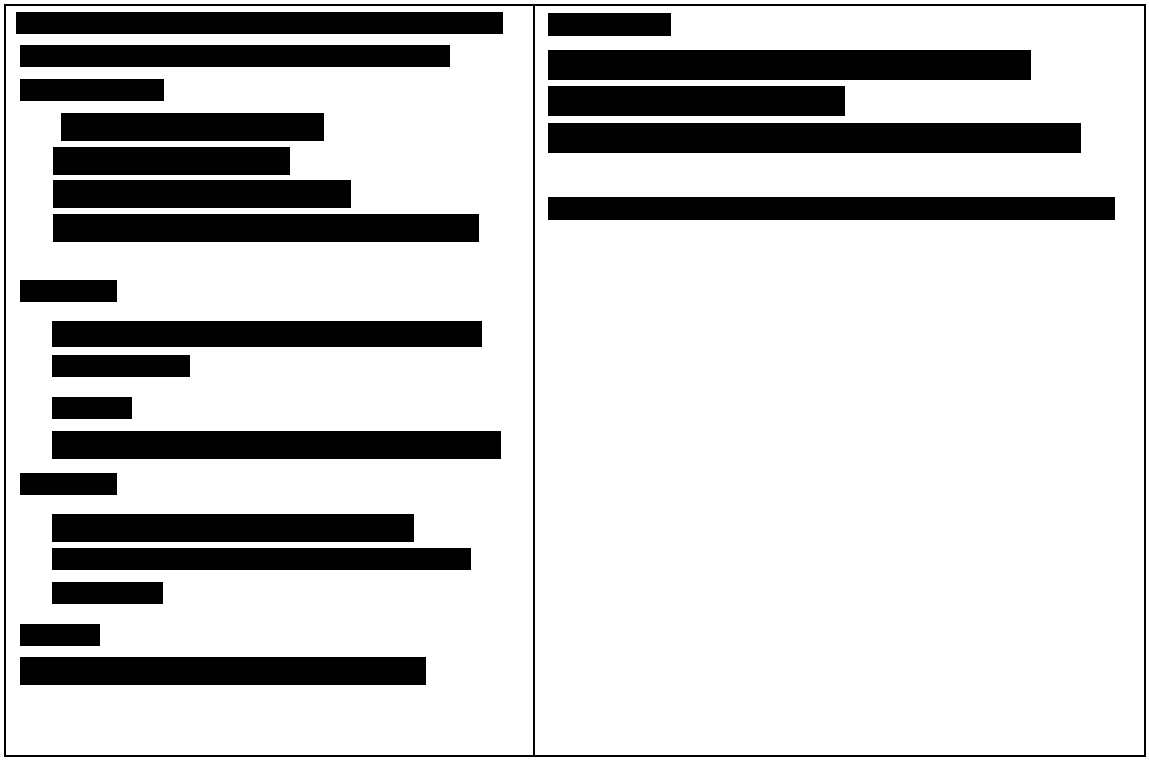

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APPENDIX D
PLANNED OUTAGE SCHEDULE

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

WSPP RESOURCE ADEQUACY CONFIRMATION

This confirmation under the WSPP Agreement ("Confirmation") confirms the transaction between Silicon Valley Clean Energy, a California joint powers authority ("SVCE") and Clean Power Alliance of Southern California, a California joint powers authority ("CPA"), and each individually a "Party" and together the "Parties", dated as of October 20,2023 (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 hereto, 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.

The terms of the Transaction to which this Confirmation relates are as follows:

Purchaser :	Clean Power Alliance of Southern California	**Seller :**	Silicon Valley Clean Energy

Product:	☒ RAR ☐ Local RAR ☐ Flexible Capacity, as further described in Appendix B
Contract Price ($/kW-mo):	[redacted], as further described in Appendix B
Contract Quantity (MW):	[redacted], as further described in Appendix B
Delivery Period:	[redacted]
Unit:	HIDSRT_2_UNITS, as further described in Appendix B
Payment Terms:	20th Day of Showing Month, as further described in Article 3
Collateral:	[redacted]
Total Notional Value:	[redacted]

This Confirmation is subject to the Appendices identified below and attached hereto:
Appendix A – Defined Terms
Appendix B – Product and Unit Information
Appendix C – Notice Information
Appendix D – Planned Outage Schedule

IN WITNESS WHEREOF, the Parties have signed this Confirmation effective as of the Effective Date.

SILICON VALLEY CLEAN ENERGY, a California joint powers authority	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority**
Sign: DocuSigned by: Monica Padilla 573FC104110B4C0...	Sign: Lindsay Saxby
Print: Monica Padilla	Print: Lindsay Saxby
Title: COO and Director of Power Resources	Title: Vice President, Power Supply

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ARTICLE 1
TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are described on page 1 of this Confirmation and 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 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 as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller's obligation to deliver the Expected Contract Quantity of Product for each day of 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

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Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

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

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

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

(f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit(s) 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 shall 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.[1]

[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

2.2 Adjustments to Contract Quantity

If Seller is providing Contingent Firm RA Product, Seller's obligation to deliver the Contract Quantity for each day of 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 for the applicable days of such Planned Outages; 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 for each day of that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plansin accordance with the Tariff.

In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section2.3.

2.3 Seller's Option To Provide Alternate Capacity

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

(a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the Replacement Unit(s) from which such Alternate Capacity shall be provided before the Notification Deadline for such Showing Month; and

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

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

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may

provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any such Seller proposed changes, Purchaser shall notify Seller in writing of reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

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

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

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

2.6 Purchaser's Re-Sale of Product

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

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(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 Product. Purchaser shall notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.

(c) If CAISO or CPUC develops a centralized capacity market, Purchaser shall have the exclusive right to direct the Seller or the Unit's SC to offer, bid, or otherwise submit the Expected Contract Quantity for re-sale into such market, and Seller and the Unit's SC shall comply with Purchaser's direction and Purchaser shall retain and receive all revenues from such re-sale.

(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 pay for the Product as provided in Article 9 of the WSPP Agreement and this Confirmation; except that under Section 9.4 of the WSPP Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute. Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Business Days after Purchaser's receipt of Seller's invoice or (ii) the twentieth (20^{th}) day of the Showing Month; provided, however, if such day is not a Business Day then payment shall be made on the 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 shall receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.

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

(c) 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 and 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 RAR pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction.

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

4.3 Seller's Representations and Warranties

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

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

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

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

(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
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

5.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

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

5.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement:

(a) (i) Purchaser may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit's SC or as necessary for submitting Supply Plans; and (iii) Purchaser may disclose information to any Subsequent Purchaser. Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the disclosing party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as confidential. Over-designation would include stamping whole agreements, entire pages or series of pages as Confidential that clearly contain information that is not confidential.

(b) Upon request or demand of any third person or entity not a Party hereto to CPA pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("Requested Confidential Information"), CPA will as soon as practical notify Seller in writing via email that such request has been made. Seller will be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to

the third party by CPA. If Seller takes no such action after receiving the foregoing notice from CPA, CPA shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, CPA shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless CPA, its officers, employees and agents ("CPA Indemnified Parties") from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of CPA Indemnified Parties for CPA's refusal to disclose any Requested Confidential Information.

5.3 Dodd-Frank Act

The Parties intend this Transaction to be a "customary commercial arrangement" as described in Section II.A.1 of Commodity Futures Trading Commission, *Proposed Guidance, Certain Natural Gas and Electric Power Contracts*, 81 Fed. Reg. 20583 at 20586 (Apr. 8, 2016) and a "Forward Capacity Transaction" within the meaning of Commodity Futures Trading Commission, *Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations To Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission*, 78 Fed. Reg. 19,880 (Apr. 2, 2013).

5.4 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction results in any change in applicable law occurring after the Confirmation Effective Date that (i) materially changes 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 Product sold hereunder in order to maintain the original intent. If the Change in Law results in the Product no longer being able to be counted towards Purchaser's Resource Adequacy Requirements, and the Parties have not reached agreement on amendments within thirty (30) days after the initiation of discussions regarding the Change in Law that would allow the Product to be able to be counted towards Purchaser's Resource Adequacy Requirements, Purchaser may terminate this Confirmation upon written notice to Seller, which shall be effective the next Business Day after such notice is received, and any such termination shall be without liability to either Party, subject to payment of any amounts owing as of the effective date of such termination.

5.5 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.

5.6 Collateral

Seller shall provide collateral in the amount of $0.00.

5.7 No Recourse to Members of Purchaser

Purchaser is 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. Purchaser will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Seller will have no rights and will not make any claims, take any actions or assert any remedies against any of Purchaser's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Purchaser or Purchaser's constituent members, in connection with this Confirmation.

5.8 Other WSPP Agreement Changes

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

(a) Section 22.1 of the WSPP Agreement is modified by inserting the following new text at the end thereof:

"(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets."

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

(c) Section 22.3 of the WSPP Agreement is amended by:

In Section 22.3(c), deleting the third sentence thereof and replacing it with the following: "If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

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

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(e) In Section 22.3(f), delete the entire provision and replace with the following:

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

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

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

(h) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby deleted and replaced with the following:

"34.1 INFORMAL DISPUTE RESOLUTION

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

"34.2 EXCLUSIVE JURISDICTION

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

(i) The phrase "arbitration or" is hereby deleted from the first line of Section 34.4.

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

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

(k) Section 37 of the WSPP Agreement is amended by inserting the following in the beginning of the section: "On the date of entering into this Confirmation,".

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

"The Parties agree as follows:

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

(i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the "Mobile-

Sierra" doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm'n, 558 U.S. 165 (2010).

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

5.9 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, facsimile or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation by facsimile or electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

5.10 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.

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APPENDIX A
DEFINED TERMS

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

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

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

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

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

"Compliance Showings" means the applicable LSE's compliance with the Resource Adequacy Requirements of the CPUC for an applicable Showing Month.

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

"CPUC Decisions" means any currently effective or future decisions, resolutions, or rulings related to the Resource Adequacy Requirements.

"Effective Flexible Capacity" has the meaning given in the CAISO Tariff.

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

"Expected Contract Quantity" means, with respect to any particular day of any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the

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amount of Contract Quantity of Product that Seller has elected to provide as Alternate Capacity with respect to such day, and (b) for Contingent Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide as Alternate Capacity with respect to such day, less any reductions to Contract Quantity for such day consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

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

"Flexible Capacity" or "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.

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

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

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

"MW" means megawatt.

"Net Qualifying Capacity" has the meaning given in the CAISO Tariff.

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

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

"Product" means RAR, Local RAR and/or FCR for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications described on page 1 of this Confirmation and 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.

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"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.

"Replacement Unit" means a generating unit meeting the requirements specified in Section 2.3.

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

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

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

"Shown Unit" means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

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

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

"Unit" means the generation unit described in Appendix B. A Unit or Shown Unit may not be a nuclear or coal-fired generating facility.

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

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

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Delivery Period: [redacted] inclusive.

Contract Quantity and Contract Price:

RAR and Flex RAR, as applicable

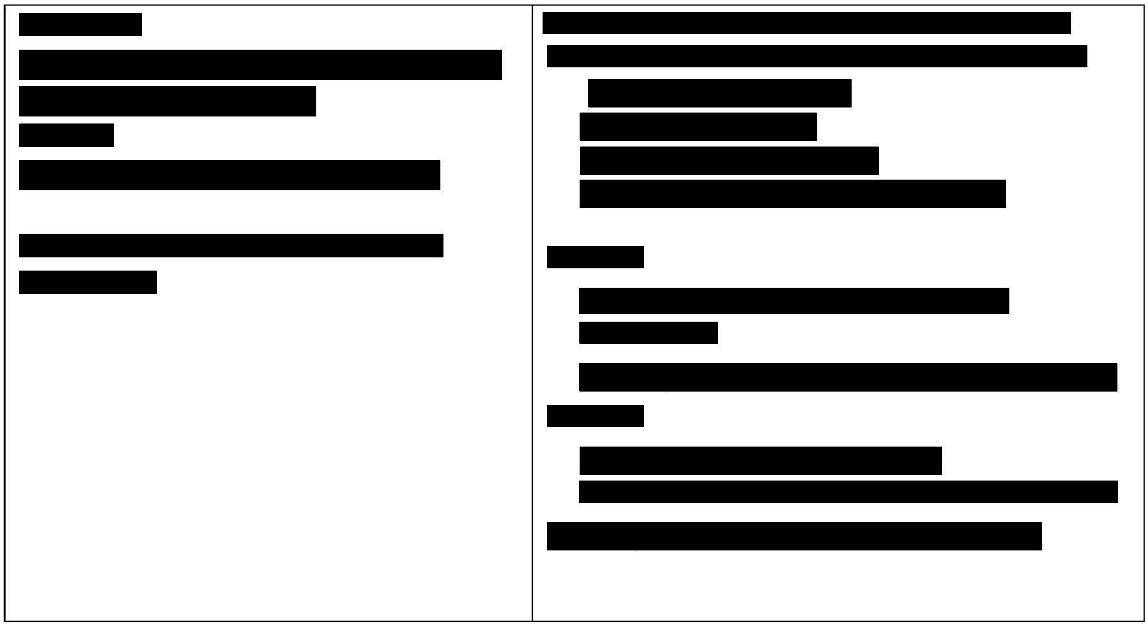
Showing Month and Year	RAR and Flex Contract Quantity (MW)	Contract Price ($/kW-mo)
[redacted]	[redacted]	[redacted]

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):	850
Unit EFC by month (e.g., Jan=30, Feb=50)	NA
Resource Type (e.g., gas, hydro, solar, etc.)	Gas Cogen
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	NA
TAC Area (e.g., PG&E, SCE)	SCE
Prorated Percentage of Unit Factor	NA
Prorated Percentage of Unit Flexible Factor	NA
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

APPENDIX C
NOTICE INFORMATION

Buyer: Clean Power Alliance of Southern California	Seller: Silicon Valley Clean Energy
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]



APPENDIX D
PLANNED OUTAGE SCHEDULE

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

MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER – RESOURCE ADEQUACY
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
Silicon Valley Clean Energy Authority

This Confirmation Letter ("Confirmation") confirms the Transaction between **Calpine Energy Services, L.P.**, a Delaware limited partnership ("Seller"), and **Silicon Valley Clean Energy Authority,** a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of October 17, 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, and that certain Cover Sheet, effective as of June 20, 2017, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". All provisions contained in or incorporated by reference in the Master Agreement will govern this Confirmation except as expressly modified herein. Subject to any contrary provisions in the Master Agreement, in the event of any inconsistency between the provisions of the Master Agreement and this Confirmation, this Confirmation will prevail for the purpose of this Transaction. Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

1.
DEFINITIONS

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

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

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

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

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

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

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

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

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

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

1.11 "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.

1.12 "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.

1.13 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month (as such amount may be adjusted pursuant to Section 4.4).

1.14 "Control Area" has the meaning set forth in the Tariff.

1.15 "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022 and 19-06-026, 20-06-002, 20-06-028, 20-06-31, 20-12-006, 21-06-035, and any other existing or subsequent decisions related to resource adequacy issued from time to time by the CPUC, as amended from time to time.

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

1.17 "Delivery Period" has the meaning specified in Section 4.1 hereof.

1.18 "Delivery Point" has the meaning specified in Section 4.2 hereof.

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

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

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

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

1.23 "Firm RA Product" has the meaning specified in the Section 3.3 hereof.

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

1.25 "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.

1.26 "GADS" means the Generating Availability Data System or its successor.

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

1.28 "Good Utility Practice" has the meaning set forth in the Tariff.

1.29 "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.

1.30 "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.

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

1.32 "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.

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

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

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

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

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

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

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

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

1.41 "Non-Availability Charges" has the meaning set forth in the Tariff.

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

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

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

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

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

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

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

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

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

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

1.52 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.

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

1.54 "Scheduling Coordinator" or "SC" has the meaning set forth in the Tariff.

1.55 "Seller" has the meaning specified in the introductory paragraph hereof.

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

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

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

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

1.60 "Transaction" has the meaning specified in the introductory paragraph hereof.

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

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

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

2.
UNIT INFORMATION AND DESIGNATION

2.1 Unit Information

Delta Energy Center

Name: Delta Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: DELTA_2_PL1X4

Resource Type: I_Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV substation

Local Capacity Area (as of the Confirmation Effective Date): CAISO System

Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None

Run Hour Restrictions: None

LAR Attributes (Yes/No): N/A

If yes: Local Capacity Area (as of the Confirmation Effective Date): N/A

Product Type (Generic/Flexible): Generic

If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month

If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A
Flexible Capacity Category (Base/Peak/Super-peak): N/A

Pastoria Energy Facility

Name: Pastoria Energy Facility

Location: Lebec, CA

CAISO Resource ID: LEBECS_2_UNITS

Resource Type: I_Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): LEBEC

Local Capacity Area (as of the Confirmation Effective Date): CAISO System

Path 26 (North, South or None): South

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment: None

Run Hour Restrictions: None

LAR Attributes (Yes/No): N/A

If yes: Local Capacity Area (as of the Confirmation Effective Date): N/A

Product Type (Generic/Flexible): Generic

If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month

If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A
Flexible Capacity Category (Base/Peak/Super-peak): N/A

King City

Name: King City Cogen: (Calpine American I Cogen)

Location: King City, California

CAISO Resource ID: BASICE_2_UNITS

Unit NQC (as of the Confirmation Effective Date): 120

Unit EFC (as of the Confirmation Effective Date): N/A

Resource Type: Natural Gas

Resource Category (1, 2, 3 or 4): 4

Unit EFC Category (1, 2, or 3): 1

Path 26 (North, South or None): North

Local Capacity Area (if any, as of Confirmation Effective Date): N/A

2.2 Seller to Designate Unit

(a) At any point prior to the Delivery Period, Seller may modify the Unit from which RA Capacity will be provided to Buyer by providing Buyer with the specific Unit information identified in Section 2.1 by no later than ten (10) Business Days before the relevant deadline for the Compliance Showing.

(b) The Unit shall meet the Product characteristics and Contract Quantity specified in Articles 3 and 4 and the Resource Category requirements set forth in Section 2.2(c). Under no circumstances shall the Unit be a coal-fired generating facility.

(c) The Unit shall qualify as a Maximum Cumulative Capacity ("MCC") Resource Category 4 resource, which is described in the CPUC's 2020 Filing Guide as being able to run or operate in "All Hours (planned availability is unrestricted)".

(d) Seller may designate an import resource as a Unit, provided that (i) such import resource meets each of the requirements of this Section 2.2, (ii) such resource meets the requirements of "resource-specific resource) pursuant to the CPUC Decisions, and any other applicable CAISO or CPUC requirements, and (iii) Seller provides to Buyer, at no additional cost, sufficient import allocation rights necessary to ensure delivery of the Product to Buyer.

(e) Nothing in this Section 2.2 shall be construed to limit the applicability of Sections 4.4 (Adjustment to Contract Quantity) or 4.5 (Alternate Capacity and Replacement Units) of this Confirmation.

(f) Seller's designation of the Unit each year shall not in any way (i) convert the Contingent Firm RA Product being sold under this Confirmation into a Firm RA Product, or (ii) cause any change to the Monthly RA Capacity Payment.

3.
RESOURCE ADEQUACY CAPACITY PRODUCT

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

3.1 RAR and LAR Attributes

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

3.2 ☐ Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 ☐ Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units 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.

3.4 ☒ Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity (x) for a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit (as provided in Section 4.4), or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

4.
DELIVERY AND PAYMENT

4.1 Delivery Period

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

4.2 Delivery Point

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

4.3 Contract Quantity

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

Contract Quantity (MWs)

Contract Year/Month	Contract Quantity (MWs)	Resource ID
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

4.4 Adjustments to Contract Quantity

(a) Planned Outages: Seller's obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller's option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than ten (10) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer's RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

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

(b) Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity of Flexible RA for any Showing Month may also be reduced or adjusted by Seller if the CPUC, CAISO, or other Governmental Body changes or eliminates the FCR, such that Flexible Capacity Attributes are no longer required for compliance or results in changes to

how the Units are counted towards such requirements. To the extent any such changes occur during the Delivery Period, Seller may reduce the amount of Flexible RA Product provided to Buyer from the Unit on a pro rata basis based on the overall size (in MWs) of the Unit. The Parties acknowledge and agree that any such change to the Unit EFC shall not (i) entitle Buyer to a change in the Contract Price or a change in the amounts payable under Article 3, (ii) result in any change to the Contract Quantity, (iii) give either Party the right to terminate this Agreement, or (iv) allow for the severability of any provisions of this Confirmation pursuant to the Master Agreement.. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

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

(d) UCAP: If during the Delivery Period the CAISO or the CPUC either (i) replaces Unit NQC as the value utilized to measure the qualifying capacity of a Unit with a successor value such as unforced capacity (UCAP) or (ii) utilizes such successor value as a supplemental means of measuring the qualifying capacity of a Unit together with Unit NQC, then from and after such replacement, Seller will convey the equivalent amount of qualifying capacity of such Unit, to be determined by Seller, on a pro rata basis (i.e. following such replacement, Seller's delivery obligation will be obtained by calculating the product of (A) the Contract Quantity divided by the Unit NQC, multiplied by (B) the Unit's overall qualifying capacity (in MW) as measured by such new method of measuring a Unit's qualifying capacity).

4.5 Alternate Capacity and Replacement Units

(a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than ten (10) Business Days before that Showing Month's applicable deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of

this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.

(b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit (as provided in Section 4.4) and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month's relevant deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

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

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

(b) Seller shall cause the Unit's Scheduling Coordinator to submit written notification to Buyer, no later than ten (10) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit's Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month and such failure is not excused under the terms of this 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 RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of

Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

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

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO to the extent not otherwise paid by Seller to Buyer under Section 4.7(b), resulting from any of the following:

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

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

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

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

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

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).

RA CAPACITY PRICE TABLE

Contract Year/Month	RA Capacity Price ($/kW-month)
[redacted]	[redacted]

4.10 Allocation of Other Payments and Costs

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

5.
CAISO OFFER REQUIREMENTS

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

6.
RESERVED

7.
OTHER BUYER AND SELLER COVENANTS

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

(a) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and

Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and

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

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

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

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

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

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

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

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

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

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

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

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

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

8.
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose 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.

9.
BUYER'S RE-SALE OF PRODUCT

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

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

10.
MARKET BASED RATE AUTHORITY

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

11.
COLLATERAL REQUIREMENTS

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

12.
COUNTERPARTS

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

13.
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 writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a writing executed by both Parties.

[SIGNATURE PAGE FOLLOWS]

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.	**Silicon Valley Clean Energy Authority**
By: _____	By: DocuSigned by: Monica Padilla 573FC104110B4C0...
Name: William Stokes	Name: Monica Padilla
Title: Vice President	Title: COO & Director of Power Resources

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Resource Adequacy ("RA") Transaction Confirmation

Confirmation #233RA381: Resource Adequacy Sale

Effective Date: 10/20/2023

This RA Transaction Confirmation ("**Transaction Confirmation**") by and between Silicon Valley Clean Energy Authority ("**Customer**") and Google Energy LLC ("**Provider**") (together with Customer, the "**Parties**" and each a "**Party**") is entered into as of the Effective Date set forth above.

This Transaction Confirmation is governed by the Framework GreenPrime Direct Energy Supply Agreement entered between Silicon Valley Clean Energy Authority, Google LLC, and Google Energy LLC on April 8, 2022 (the "**Framework Agreement**"). The Framework Agreement, including any applicable exhibits or amendments thereto and this Transaction Confirmation will be collectively referred to herein as the "**Agreement**" and will constitute a single agreement between the Parties. Terms capitalized but not defined herein will have the meaning set forth in the Framework Agreement.

1. Purchase & Sale Obligations -

    a. For each Showing Month of the Term, Provider will sell and deliver to Customer, and Customer will purchase and receive from Provider, the Quantity of the Product from the Shown Unit(s).

    b. Provider will deliver the Quantity by submitting to CAISO in its Supply Plan (as such term is used in the CAISO Tariff) the Shown Unit and the characteristics of the Shown Unit and Product for Customer, as further specified in Exhibit A, all in compliance with this Transaction Confirmation.

    c. Provider will cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the CAISO Tariff. Provider will submit, or cause the Unit's SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Customer for each Showing Month of the Term. The total amount of Product identified and confirmed for each day of such Showing Month will equal the Quantity, less any excused deductions to the Quantity in the case of Flexible RA Capacity (as such term is defined in the CAISO Tariff) for excused reductions in Unit EFC.

    d. Provider may sell and deliver from a Shown Unit that meets requirements set forth in Exhibit A. Provider will identify the Shown Unit(s) and Quantity by providing Customer with the specific Unit information contemplated in Exhibit A no later than the Notification Deadline for the relevant Showing Month.

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

f. The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Shown Unit by CAISO or Provider complies with Customer's instruction to withhold all or part of the Quantity from Provider's Supply Plan for any Showing Month during the Term. Provider has failed to deliver the Product if (i) Customer 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 1(e) or (ii) Provider fails to submit the volume of Quantity for any Showing Month in such amount as instructed by Customer for the applicable Showing Month. Customer will have received the Quantity if (i) Provider's Supply Plan is accepted by the CAISO for the applicable Showing Month or (ii) Provider complies with Customer's instruction to withhold all or part of the Quantity from Provider's Supply Plan for the applicable Showing Month. Provider will not have failed to deliver the Quantity if Customer fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO. Title, liability and risk of loss associated with the Product will pass from Provider to Customer when Customer has received the Product in accordance with this Transaction Confirmation.

g. Excused Reductions in Unit EFC: If the Product includes FCR Attributes, then Provider's failure to deliver any of the Quantity of FCR Attributes during the Term will be excused if the Unit experiences a reduction in Unit EFC after the Effective Date as determined by CAISO and Provider has provided notice of such reduction to Customer by the Notification Deadline for the applicable Showing Month. The extent to which Provider's failure is excused will equal (i) the Quantity of FCR Attributes for such day multiplied by (ii) the total amount (in MW) by which the Unit EFC was reduced since the Effective Date, divided by (iii) the Unit EFC as of the Effective Date. If the Unit experiences such a reduction in Unit EFC, then Provider may, but is not obligated to, provide the applicable part of the Quantity of FCR Attributes for such day from the Shown Unit.

2. Term – [redacted].

3. Product - as specified in Exhibit A.

4. Quantity - as specified in Exhibit A.

5. Payment & Costs -

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a. Provider will invoice Customer and Customer will pay Provider for amounts due pursuant to this Transaction Confirmation in accordance with Section 2 of the Framework Agreement. Customer will owe Provider each month during the Term the Monthly RA Capacity Payment, which will equal the product of (a) the applicable Contract Price for that Showing Month, (b) the 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 will be adjusted to reflect any portion of Contract Quantity for the Showing Month that was not delivered in accordance with Section 1(f) for such Showing Month.

b. Provider will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Customer must promptly report receipt of any such revenues to Provider. Customer must pay to Provider any such amounts described in this Section 5(b) received by Customer or a Subsequent Customer. Without prejudice to its other rights and remedies, Provider may setoff and recoup any such amounts that are not paid to it against any amounts owed to Customer under the Framework Agreement.

c. Customer is to receive and retain all revenues associated with the Quantity of Product during the Term, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 5(b). Provider must promptly report receipt of any such revenues to Customer. Provider must pay to Customer any such amounts received by Provider, or a Unit's SC, owner, or operator. Without prejudice to its other rights, Customer may set off and recoup any such amounts that are not paid to it against amounts owed to Provider under the Framework Agreement.

d. If CAISO designates any part of the Quantity as Capacity Procurement Mechanism Capacity, then Provider will, or will cause the Unit's SC to, within one Business Day of the time Provider receives notification from CAISO, notify Customer and not accept any such designation by CAISO unless and until Customer has agreed to accept such designation.

e. Any Availability Incentive Payments or Non-Availability Charges (as such terms are defined in the CAISO Tariff) are for Provider to receive and pay.

6. Customer's Remedies for Provider's Failure to Deliver -

a. If Provider fails to deliver any part of the Quantity as required herein for any Showing Month, and such failure is not excused under the terms of this Transaction Confirmation or by Customer's failure to perform, then Provider will owe Customer, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement

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Price. The Monthly Statement issued under the Framework Agreement that includes such amount will include a written statement explaining in reasonable detail the calculation of such amount.

b. Provider agrees to indemnify, defend and hold harmless Customer from any penalties, fines or costs assessed against Customer by the CPUC, CAISO or other Governmental Body resulting from Provider's failure to deliver the Product. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Customer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Provider fails to pay the foregoing penalties, fines or costs, or fails to reimburse Customer for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Customer may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Provider under this Transaction Confirmation or the Framework Agreement.

7. Customer's Resale of Product -

a. Customer may re-sell all or part of the Product; provided that any such re-sale must not increase Provider's obligations hereunder other than as set forth in this Section 7(a). For any such a resale, Resource Adequacy Plan of Customer as used herein will refer to the Resource Adequacy Plan of Subsequent Customer. Provider will, or will cause the Unit's SC, to follow Customer's instructions with respect to providing such resold Product to Subsequent Customers, to the extent such instructions are consistent with Provider's obligations under this Transaction Confirmation. Provider will, and will cause the Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Customers to use such resold Product in a manner consistent with Customer's rights under this Transaction Confirmation. If Customer incurs any liability to a Subsequent Customer due to the failure of Provider or the Unit's SC to comply with this Transaction Confirmation, Provider will be liable to Customer for the same amounts Provider would have owed Customer under this Transaction Confirmation if Customer had not resold the Product.

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

c. If CAISO or CPUC develops a centralized capacity market, Customer will have exclusive rights to direct Provider or the Unit's SC to offer, bid, or otherwise submit the Quantity of Product for re-sale into such market, and Provider and the Unit's SC will comply with the Customer's direction and Customer will retain and receive all revenues from such re-sale.

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8. Other Rights and Obligations -

    a. Provider must schedule or cause the Unit's SC to schedule or make available to CAISO the Quantity of the Product during the Term, in compliance with the CAISO Tariff, and perform all, or cause the Unit's SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Customer is not liable for, and Provider will indemnify and hold Customer harmless from, the failure of Provider or the Unit's SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Provider or the Unit's SC, owner, or operator for noncompliance.

    b. Throughout the Term, Customer and Provider will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Customer's rights to the Quantity for the sole benefit of Customer or any Subsequent Customer. If necessary, the Parties further agree to negotiate in good faith to amend this Transaction Confirmation to conform this Transaction to clarifications, revisions, decisions, or changes in applicable law occurring after the Effective Date rendered by CAISO, CPUC or an applicable Governmental Body, that (i) result in material changes to Customer's or Provider's obligations with regard to the Product sold hereunder, (ii) have the effect of changing the transfer and sale procedure set forth in this Transaction Confirmation so that the performance of this Transaction Confirmation becomes impracticable, or (iii) change the Resource Adequacy Requirements such that the Product can no longer be counted towards Customer's Resource Adequacy Requirements, 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 of the Parties under this Transaction Confirmation.

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

9. Provider Representations and Warranties - In addition to the representations, warranties and covenants set forth in Section 11 of the Framework Agreement that are applicable to Google Energy LLC, Provider represents and warrants:

    a. no part of the Quantity during the Term has been committed by Provider to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

    b. the Unit qualifies under the CAISO Tariff for the Product, and the Unit and Provider are capable of delivering the Product;

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c. the aggregation of all amounts of Capacity Attributes that Provider has sold, assigned, or transferred for the Unit during the Term does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;

d. if applicable, Provider has notified either the Unit's SC or the entity from which Provider purchased the Product that Provider has transferred the Quantity of Product for the Term to Customer; and

e. Provider has notified or will notify the Unit's SC that Customer is entitled to the revenues set forth in Section 5(c), and such SC is obligated to promptly deliver those revenues to Customer, along with appropriate documentation supporting the amount of those revenues.

10. Dodd-Frank Act –

Each Party represents and warrants to the other that it is an "eligible commercial entity" and an "eligible contract participant" within the meaning of United States Commodity Exchange Act §§1a(17) and 1a(18), respectively. The Parties intend this Transaction Confirmation 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).

11. Entire Agreement; No Oral Agreements or Modifications -

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

12. Performance Assurance

No later than thirty (30) days after the Effective Date, Provider will deliver to Customer Performance Assurance in an amount equal to $[•] US dollars. "Performance Assurance" means a guaranty in substantially the form set forth in Exhibit B hereto of an Affiliate of Provider who has an Investment-Grade Rating, *provided* that as long as Provider is Google Energy LLC or an Affiliate of Google Energy LLC, Provider's guarantor will be Google LLC or, in Provider's sole discretion, Alphabet Inc. Provider will maintain its Performance Assurance in accordance with this Confirmation throughout the Delivery Term, except to the extent such Performance Assurance is drawn upon in whole or in part by Customer in accordance with this Confirmation. Customer will be entitled to draw, in one or more

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individual draws, against Provider's Performance Assurance: (a) for any past-due payment obligation of Provider (subject to any applicable cure periods); or (b) otherwise in compliance with the terms of such Performance Assurance. To the extent such past-due payment is fully paid with such drawn Performance Assurance, then such past-due payment obligation and any related Event of Default (if declared) will be deemed cured.

13. Defined Terms -

a. "**CAISO**" means the California Independent System Operator.

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

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

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

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

f. "**CPUC**" means the California Public Utilities Commission.

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

h. "**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.

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

j. "**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.

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k. "**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.

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

m. "**MW**" means megawatt.

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

o. "**Product**" means RAR, Local RAR and FCR, for the Term, Unit, Quantity, Contract Price and other specifications contained in Exhibit A.

p. "**Prorated Percentage of Unit Factor**" means the percentage, as specified in Exhibit A, of the Unit NQC as of the Effective Date that is dedicated to Customer under this Transaction Confirmation.

q. "**Prorated Percentage of Unit Flexible Factor**" means the percentage, as specified in Exhibit A, of the Unit EFC as of the Effective Date that is dedicated to Customer under this Transaction Confirmation.

r. "**RAR**" or "**Resource Adequacy Requirements**" 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.

s. "**Replacement Price**" means the price at which Customer, acting in a commercially reasonable manner, purchases a replacement for any Product specified in this Transaction Confirmation but not delivered by Provider, plus costs reasonably incurred by Customer in purchasing such substitute Product, or at Customer's option, the market price for such Product not delivered as determined by Customer in a commercially reasonable manner; provided, however, in no event will such price include any penalties, ratcheted demand or similar charges, nor will Customer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Customer's liability.

t. "**SC**" means Scheduling Coordinator as defined in the CAISO Tariff.

u. "**Showing Month**" means the calendar month of the Term that is the subject of the related Compliance Showing.

v. "**Shown Unit**" means a Unit specified by Provider in a Supply Plan, but not necessarily identified by Provider to Customer on the Effective Date.

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w. "**Subsequent Customer**" means the Customer of Product from Customer in a re-sale of Product by Customer.

x. "**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.

y. "**Unit**" means the generation unit described in Exhibit A and any Shown Unit.

z. "**Unit EFC**" means Unit Effective Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

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

IN WITNESS WHEREOF, the Parties have executed this Transaction Confirmation to be effective as of the Effective Date.

Silicon Valley Clean Energy Authority

BY: DocuSigned by: Monica Padilla 20-Oct-2023
573FC104110B4C0...
NAME: Monica Padilla
TITLE: Acting CEO

Google Energy LLC

BY: DocuSigned by: Gary Demasi 22-Oct-2023
FDA14D740D9A4BE...
NAME: Gary Demasi
TITLE: Authorized Signatory

DocuSign Envelope ID: E6942695-4C6A-4EAB-9530-9C7A7965B7BE

Exhibit A

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:	CAISO System
MCC Bucket:	4, Not 24/7
CPUC Local Area (if applicable):	N/A
Flexible Capacity Category (if applicable):	N/A

Quantity and Contract Price:

Showing Month and Year	**RAR Contract Quantity (MW)**	**Local RAR Contract Quantity (MW)**	**Flexible Capacity** Contract Quantity (MW)	**Contract Price ($/kW-mo.)**
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
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Unit 1

Unit Specific Information	
Resource Name	Golden Hills B
Physical Location	Altamont Pass, Alameda County, California.
CAISO Resource ID	USWND2_1_WIND2
SCID of Resource	GHW1
Unit NQC by month (e.g., Jan=50,Feb=65):	Varies; See Quantity and Contract Price table
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Wind
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	100%
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System 4
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4, Not 24/7

(*Repeat for additional Units)*

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Exhibit 2

FORM OF PROVIDER GUARANTY

GUARANTY

THIS GUARANTY, dated as of the last date this Guaranty is signed by either party as set forth below, is executed by the company identified below as the guarantor ("**Guarantor**") in favor of Silicon Valley Clean Energy Authority, a California Joint Powers Authority, with its principal place of business at 333 W. El Camino Real, #330, Sunnyvale, CA 94087 ("**Creditor**").

Whereas, (a) the affiliate of Guarantor identified below ("**Obligor**") has entered or seeks to enter into a certain Transaction Confirmation #2 -- Golden Hills Sale under the Framework GreenPrime Direct Energy Supply Agreement with Creditor (such agreement is referred to herein as the "**Contract**"); and (b) Guarantor is the parent corporation or an affiliate of Obligor and has agreed to guarantee Obligor's Obligations (as defined below) under the Contract.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, Guarantor and Creditor hereby agree as follows:

1. Guaranty.
(a) Guarantor hereby unconditionally guarantees, and promises to perform, each Obligation of Obligor under the Contract upon a demand by Creditor in writing, stating that the Obligor is in breach of such Obligation under the Contract, provided, however, that nothing herein shall require Guarantor to make any payment to Creditor in excess of that which Obligor is then liable for under the Contract. For purposes of this Guaranty, "**Obligation**" shall include all payments, liabilities and obligations owed by Obligor to Creditor for the payment of money now existing or hereafter arising pursuant to the terms of the Contract. Notwithstanding anything to the contrary in this Guaranty, in no event shall Guarantor's aggregate liability under this Guaranty exceed [•] (the "**Cap**"). It is understood and agreed that this Guaranty may not be enforced against Guarantor without giving effect to the Cap, and that this Guaranty may be enforced for payment of money only.

(b) Guarantor's obligations under this Guaranty are continuing obligations and, subject to Section 1(e) hereof, are not satisfied or discharged in full by an intermediate payment or settlement of account by Obligor. This Guaranty constitutes an independent guaranty of payment, and is not conditioned on, contingent upon or affected by any attempt to enforce in whole or in part any Obligations of Obligor to Creditor, the existence or continuance of Obligor as a legal entity, the consolidation or merger of Obligor with or into any other entity, the sale, lease or disposition by Obligor of all or substantially all of its assets to any other entity, the bankruptcy or insolvency of Obligor, the admission by Obligor of its inability to perform any obligation, or the making by Obligor of a general assignment for the benefit of its creditors.

(c) Guarantor's obligations hereunder are primary obligations and not those of mere sureties. The obligations of Guarantor may be enforced by Creditor against Guarantor without first having exercised any of its rights against Obligor or any other person.

(d) Guarantor may revoke this Guaranty, and terminate its obligations hereunder, at any time upon written notice to Creditor if
(i) Obligor replaces this Guaranty with either a bank guaranty or standby letter of credit or
(ii) Obligor replaces this Guaranty with one issued by a new guarantor that has credit worthiness of at least BBB- according to Standard & Poor's or Baa3 according to Moody's;

(e) This Guaranty shall terminate on the earliest to occur of (i) [•] and (ii) the date on which Obligor has fully paid and performed its Obligations under the Contract.

2. Representations and Warranties. Guarantor represents and warrants to Creditor that: (a) Guarantor is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation; and (b) the execution, delivery and performance by Guarantor of this Guaranty have been duly authorized by all necessary actions on the part of Guarantor and this Guaranty constitutes a legally binding obligation of Guarantor except as the enforceability hereof may be limited by applicable bankruptcy, insolvency, moratorium and other laws affecting creditor's rights generally and by equitable principles (regardless of whether enforcement is sought in equity or at law).

3. Miscellaneous. All notices or other communications to Creditor or Guarantor under this Guaranty shall be in writing and delivered by courier, signature on receipt required, or via mail with a copy via confirmed facsimile, to the addresses stated in this Guaranty (or such other address as is provided for notice purposes in writing) and shall be effective upon delivery. This Guaranty may not be amended or modified except by written instruments signed by Guarantor and Creditor. This Guaranty shall be binding upon and inure to the benefit of Creditor and Guarantor and their respective successors and assigns, provided, however that, except as provided in Section 1(d) hereof, neither Guarantor nor Creditor shall assign its rights and obligations hereunder without the prior written consent of the other party, and any assignment without the prior written consent of the other party shall be null and void. If at any time any provision of this Guaranty is deemed to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions of this Guaranty shall not in any way be affected or impaired thereby. This Guaranty shall be governed by and construed in accordance with the laws of the State of California without reference to conflicts of law rules. Any action or proceeding arising out of this Guaranty shall be brought and enforced in the courts of Santa Clara county, California, USA or of the United States for the Northern District of California, and the Creditor hereby irrevocably submits to the jurisdiction of such courts and waives any objection based on forum non conveniens or to venue of any action instituted hereunder.

4. Confidentiality. This Guaranty (its existence and terms) and all documents, data, information, and other materials, which are disclosed by one party to the other party in fulfilling the provisions and intent of this Guaranty, are and shall be confidential (the "Confidential Information"). Neither party shall divulge or otherwise disclose the Confidential Information to any third party without the prior written consent of the other party, except that either party may make disclosure on a need-to-know basis to those employees required for the implementation or performance of this Guaranty. In addition, either party may make disclosure as required by a court order or as otherwise required by law or in the performance of a party's obligations (or those of its affiliates) as a

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public company. If either party is required by law or similar process to disclose any Confidential Information, it will provide the other party with prompt prior written notice of such request or requirement so that such party may seek an appropriate protective order and/or waive compliance with this Article 4. The Party whose consent to disclose information is requested shall respond to such request, in writing, within ten (10) working days of the request by either authorizing the disclosure or advising of its election to seek a protective order, or if such Party fails to respond within the prescribed period the disclosure shall be deemed approved. Upon termination of this Guaranty for any reason or upon request of a party, each party shall return all Confidential Information, together with any copies of the same, to the other party. The requirements of confidentiality set forth herein shall survive the return of such Confidential Information or termination of this Guaranty for a period of two (2) years.

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