SILICON VALLEY CLEAN ENERGY

City of Campbell

City of Cupertino

City of Gilroy

City of Los Altos

Town of Los Altos Hills

Town of Los Gatos

City of Milpitas

City of Monte Sereno

City of Morgan Hill

City of Mountain View

City of Saratoga

City of Sunnyvale

County of Santa Clara

# AGENDA PACKET MATERIALS AMENDMENTS SUMMARY

4/8/25

**Item 1f: Authorize the Chief Executive Officer to Execute a 15-Year Power Purchase Agreement with Yellow Pine III, LLC for an Energy Storage Service Agreement, in Substantial Form and Any Necessary Ancillary Agreements and Documents**

Draft Redacted Yellow Pine Solar III Power Purchase Agreement added (page 74 – 203

**svcleanenergy.org**

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Suite 330
Sunnyvale, CA 94087

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**Silicon Valley Clean Energy Authority**
**Board of Directors Meeting**
Wednesday, April 9, 2025
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

Gilroy City Hall
Administration Conference Room
7351 Rosanna Street
Gilroy, CA

Monte Sereno Council Chambers
18041 Saratoga-Los Gatos Road
Monte Sereno, CA

Teleconference Meeting
Webinar:
https://svcleanenergy-org.zoom.us/j/82449082087

Telephone (Audio Only):
US: +1 669-219-2599
Webinar ID: 824 4908 2087

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.



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

**svcleanenergy.org**

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

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

## AGENDA

Call to Order

Roll Call

Public Comment on Matters Not Listed on the Agenda

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

Consent Calendar (Action)

1a) Approve Minutes of the March 12, 2025, Board of Directors Meeting

1b) Receive February 2025 Treasurer Report

1c) Authorize the Chief Executive Officer to Execute a Contract Amendment with School of Thought for Marketing and Advertising Services to Add $230,000 for a New Amount Not to Exceed $530,000

1d) Authorize the Chief Executive Officer to Approve the CalCCA Annual Budget and Payment of Dues and Fees in an Amount Not to Exceed $750,000 per CalCCA's Fiscal Year

1e) Adopt Resolution Establishing Administrative Claims Procedure

1f) Authorize the Chief Executive Officer to Execute a 15-Year Power Purchase Agreement with Yellow Pine III, LLC for an Energy Storage Service Agreement, in Substantial Form and Any Necessary Ancillary Agreements and Documents

1g) Receive Executive Committee Report

1h) Receive Additional Committees Report

1i) Receive California Community Power Report

Regular Calendar

2) CEO Report (Informational)
3) Adopt SVCE's Power Purchase Agreement Project Selection Policy (Action)
4) Authorize the Chief Executive Officer to Execute Contracts with Kings Community Action Organization and Self-Help Enterprises in an Amount Not-to-Exceed $1,500,000 from the Hanford Hybrid Plant Emissions Mitigation Fund (Action)
5) Regionalization Overview (Discussion)
6) Local Agency Action Planning (Informational)

Board Member Announcements and Direction on Future Agenda Items

Adjourn

**svcleanenergy.org**

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Revised: February 7, 2024

# SVCE
# GLOSSARY OF TERMS

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

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

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

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

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

**CARE – California Alternate Rates for Energy Program** – A monthly discount of 20% or more on gas and electricity. Participants qualify through income guidelines or if enrolled in certain public assistance programs.

**CEC** – California Energy Commission

**CCCFA – California Community Choice Financing Authority** – The California Community Choice Financing Authority (CCCFA) was established in 2021 with the goal to reduce the cost of power purchases for member community choice aggregators (CCAs) through pre-payment structures. The founding members of CCCFA include Central Coast Community Energy, East Bay Community Energy, Marin Clean Energy, and Silicon Valley Clean Energy. CCCFA is a Joint Powers Authority which can help member CCAs save up to 10% or more on power purchase agreements, helping reduce costs for ratepayers and increase available funding for local programs.

**CC Power – California Community Power –** California Community Power is a Joint Powers Agency comprised of nine CCAs. CC Power allows its member CCAs to combine their buying power to procure new, cost-effective clean energy and reliability resources to continue advancing local and state climate goals.

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

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

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

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

**DER – Distributed Energy Resource –** A small-scale unit of power generation that operates locally and is connected to a larger power grid at the distribution level.

**Distribution** – The delivery of electricity to the retail customer's home or business through low voltage distribution lines.

**eHub** – SVCE's online customer resource center with the latest information on electric vehicles, home electrification, and solar and battery storage.

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

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

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

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

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

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

**IRA** – Inflation Reduction Act

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

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

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

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

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

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

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

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

**MAWG** – Member Agency Working Group, a group of PIOs from SVCE's member communities that gather monthly

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

**MWh – Megawatt-hour** – measure of energy

**NEM – Net Energy Metering** – A program in which solar customers receive credit for excess electricity generated by solar panels. The main differences between NEM and FIT programs are the type of rate (flat vs. dependent on time-of-day generation), number of meters required (two vs. one), and flexibility (long-term contract vs. non-binding program enrollment).

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

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

**PCC3 – RPS Portfolio Content Category 3** – Unbundled REC**PSPS – Public Safety Power Shutoff** – An event in which the IOUs purposely turn off segments of the grid due to high risk of ignition and wildfires.

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

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

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

**Prepay** – payment in advance by a municipal utility for a number of years of contracted energy, and this prepayment with tax-exempt debt

**RA – Resource Adequacy** – Under its Resource Adequacy (RA) program, the California Public Utilities Commission (CPUC) requires load-serving entities—both independently owned utilities and electric service providers—to demonstrate in both monthly and annual filings that they have purchased capacity commitments to contribute their share of system reliability. Today LSEs must procure no less than 115% of the peak hour load. In 2023 and 2024, this will increase to 116% and 117% respectively. Beginning in 2025 a new RA program will be implemented requiring LSEs show capacity to meet their hourly reliability needs, the "PRM" adder is still undetermined.

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

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

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

**SB 100** – California Senate Bill 100 established a landmark policy requiring renewable energy and zero-carbon resources supply 100 percent of electric retail sales to end-use customers by 2045.

**SMUD** – Sacramento Municipality Utility District

**SCE** – Southern California Edison

**SDG&E** – San Diego Gas & Electric

**TOB – Tariff On-bill** – Tariff On-Bill Financing is a model in which utilities use a tariff to enable customers to pay back the cost of a solar panel without credit or income level conditions.

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

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

**VPP – Virtual Power Plant** – A cloud-based energy supply made up of a collection of an aggregation of distributed energy resources (DERs), such as smart EV chargers, smart thermostats, building energy management systems, battery storage systems, solar PV and smart inverters.

**24/7** – Goal of supplying consumer energy demand with 100% carbon-free energy at all hours of the day

**Silicon Valley Clean Energy Authority**
**Board of Directors Meeting**
Wednesday, March 12, 2025
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

Gilroy City Hall
Administration Conference Room 7351
Rosanna Street
Gilroy, CA

**DRAFT MEETING MINUTES**

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

**Roll Call**
**Present:**
George Tyson (Chair), Los Altos Hills
Larry Klein (Vice Chair), Sunnyvale
Elliot Scozzola, Campbell
J.R. Fruen, Cupertino
Zach Hilton, Gilroy (participated remotely)
Sally Meadows, Los Altos
Rob Rennie, Los Gatos
Garry Barbadillo, Milpitas
Lisa Shannon, Monte Sereno
Tanya Carothers, Morgan Hill
Pat Showalter, Mountain View
Otto Lee, Santa Clara County
Tina Walia, Saratoga

**Absent:**
None.

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

Bruce Karney, Mountain View resident, provided a statement regarding potential implementation of a voluntary carbon tax program by cities to offset carbon emissions.

**Consent Calendar**

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

1a) Approve Minutes of the February 12, 2025, Board of Directors Meeting

1b) Receive January 2025 Treasurer Report

1c) Authorize the Chief Executive Officer to Enter into Agreements Between SVCE and Customers Participating in the On-Bill Financing Pilot

1d) Authorize the Chief Executive Officer to Execute Agreements with the Cities of Milpitas and Mountain View to Administer City Rebates for Home Electrification

1e) Authorize the Chief Executive Officer to Execute and Amend Community Grants as Part of the 2024 Member Agency Grant Program and the Competitive Community Grant Program

1f) Adopt Resolution Amending SVCE's Energy Risk Management Policy

1g) Authorize the Chief Executive Officer to Enter a Midterm Agreement to Purchase Small Hydroelectric Energy from East Bay Municipal Utilities District for a Five-Year Term and Amount Not to Exceed $30,000,000

1h) Adopt Resolution to Establish Rate Stabilization Fund Under Government Accounting Standard Board (GASB) Standard 62

1i) Adopt Resolution Establishing the Silicon Valley Clean Energy Community Fund

1j) Approve Assignment of Auditor Contract to Kosmatka Donnelly & Co. LLP

1k) Receive Executive Committee Report

1l) Receive Finance and Administration Committee Report

1m) Receive Audit Committee Report

1n) Receive 2025 Legislative Responses to Industry Transition Ad Hoc Committee Report

1o) Receive California Community Power Report

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

**The motion carried unanimously by verbal roll call vote.**

**Regular Calendar**

**2) CEO Report (Discussion)**

Chief Executive Officer (CEO) Monica Padilla addressed the following in her report:

1) In recognition of Women's History Month, CEO Padilla acknowledged Director Martinez Beltran as the recipient of Senator Dave Cortese's, District 15, Woman of the Year award;

2) An announcement regarding the upgrade of Moody's SVCE credit rating to an A3;

3) An announcement regarding the purchase of SVCE building headquarters in Sunnyvale;

4) An update on State and Federal government legislation from Bena Chang, Director of Government and Legislative Affairs, who provided information on the following:
   - Senate Bill (SB) 540 allowing the formation of a regional organization enabling California's participation in energy markets with other Western states;
   - Assembly Bill (AB) 306 prohibiting local governments from adopting new reach codes for the next six years unless the codes are related to emergency health and safety initiatives; and
   - The State re-opening of Home Electrification and Appliance Rebate (HEERA) program.

5) Introduction of new staff member Phillip Wang, IT Support Specialist, who provided brief welcome comments.

Staff responded to questions and comments regarding SB 540, AB 306, and the status of halted federal funds previously allocated for clean energy initiatives.

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

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

Kellin Gilbert, CPA, Kosmatka Donnelly & Co., LLP, announced the January 2025 merger with Pisenti & Brinker LLP and Kosmatka Donnelly & Co., LLP, and noted that the merged group will maintain all current contract terms with SVCE through September 2027.

Mr. Gilbert presented the following: audit results for Fiscal Year (FY) 2023-2024, noting SVCE received a "clean" audit opinion; review of roles and responsibilities of management and the auditor; and review of the audit procedures.

Amrit Singh, Chief Financial Officer (CFO) and Director of Administrative Services, provided information regarding the audit timeline and process, and noted the SVCE Audit Committee's recommendation that the Board of Directors receive the audit results.

SVCE staff and Mr. Gilbert responded to Board member questions regarding the audit results and information relating to surplus funds and SVCE's future programs funding.

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

**MOTION: Director Lee moved and Director Showalter seconded the motion to accept the Year-End Financial Statements and Independent Auditor's Report from FY 2023-2024.**

**The motion carried unanimously by verbal roll call vote.**

**4) Adopt Resolution Approving the Mid-Year 2024-25 Adjusted Operating Budget (Action)**

CFO and Director of Administrative Services Singh provided a presentation regarding SVCE's mid-year 2024-25 adjusted operating budget, which projected contributing $98.1 million to reserves. The presentation reviewed the following:

- Budget approval timeline;
- A proposed one-time additional bill credit;
- Increases in operating expenses;
- Five-year reserve projections; and
- Staffing update

CFO and Director of Administrative Services Singh and CEO Padilla responded to Board member questions and comments regarding existing customer bill credits, one-time bill credit cost, reserve projections, bill credits to municipalities, SVCE marketing efforts, current clean energy targets, fiscal year clean targets, funding allocation to various programs and rebates, current reserve targets, carbon reduction based on investment return, past rate discounts, and rebate timing.

Chair Tyson opened Public Comment.

Bruce Karney, Mountain View resident, provided a statement regarding budget allocations to curb carbon emissions and expressed his opposition to funding the one-time bill credit.

Chair Tyson closed Public Comment.

Prior to the motion, Chair Tyson noted the motion would imply that the Board is providing conceptual general advice to staff for the $35 million to return additional funds to customers.

**MOTION: Director Lee moved and Director Scozzola seconded the motion to adopt Resolution 2025-08 approving the Mid-Year 2024-25 Adjusted Operating Budget.**

**The motion carried by verbal roll call vote with a no vote by Director Barbadillo.**

**5) Affordability Strategic Focus Area Update (Discussion)**

Justin Zagunis, Director of Customer Success, introduced Peyton Parks, Manager of Energy Services, and Michaela Pippin, Communications Manager, and provided information regarding SVCE's focus on affordability that included: legislative and regulatory advocacy, rate-setting principles and outreach, and customer education and outreach efforts.

Staff responded to questions and comments regarding electricity distribution costs, Pacific Gas and Electric (PG&E) regional affordability programs and enrollment targets, and translative services as part of customer outreach.

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

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

Director Walia thanked SVCE for sponsoring her attendance at the Joint Venture Silicon Valley State of the Valley event, noting it was an informative session.

Director Showalter announced two items: 1) the grand opening of an all-electric Aquatic Center in March at Rengstorff Park in Mountain View and 2) an announcement of the City of Mountain View's campaign 'The Year for the Heat Pump' which would be rolled out at the Mountain View Earth Day celebration.

Vice Chair Klein announced that the Sunnyvale Earth Day event would be held on April 5, 2025 at Sunnyvale City Hall.

Director Scozzola announced the City of Campbell, along with SVCE, the Bay Area Regional Energy Network (BayREN), California Green Business Network and the Campbell Chamber of Commerce, would host a business incentives lunch and learn event on March 17, 2025 event at the Campbell Community Center.

Director Lee announced the Santa Clara County, State of the County 2025 event will be held March 14, 2025 in the Board Chambers at the County Building in San Jose.

**Adjourn**
Chair Tyson adjourned the meeting at 9:26 p.m.
**ATTEST**:

________________________________
Andrea Pizano, Board Secretary

# TREASURER REPORT

**Fiscal Year to Date**
**As of February 28, 2025**

*(Preliminary & Unaudited)*

**Issue Date: April 9, 2025**

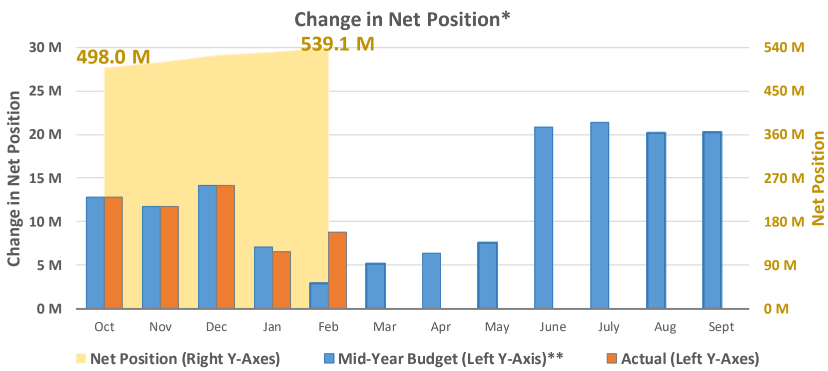
**Table of Contents**

# SILICON VALLEY CLEAN ENERGY AUTHORITY
## Financial Statement Highlights* ($ in millions)
## February 28, 2025

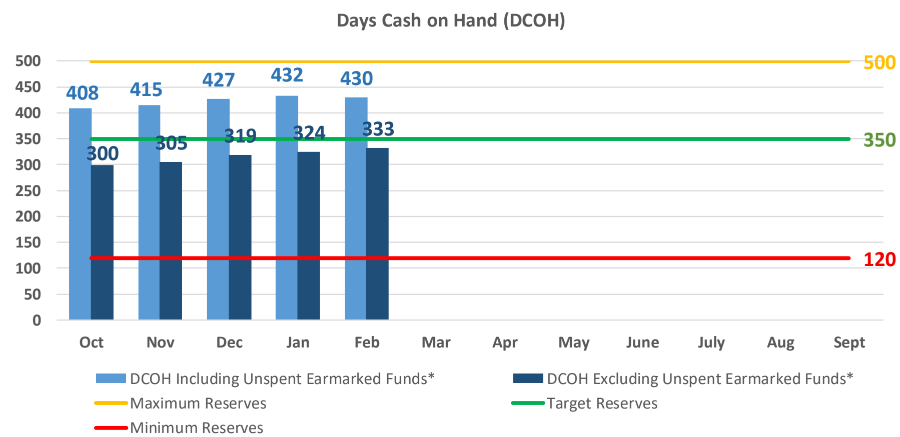


**Balance Sheet Highlights:**

**> SVCE operations resulted in a change in net position of $8.7 million for the month of February and $53.9 million for fiscal-year-to-date (FYTD).***
**> Total Net Position increased further to $539.1 million.**
**> SVCE is investing ~98.3% of available funds, recognizing interest/dividend income of $8.5M FYTD.**




*Does not yet recognize unspent program dollars
**For reconciliation purposes, budget numbers include actual program expenses and depreciation, excludes GASP 87 expenses.

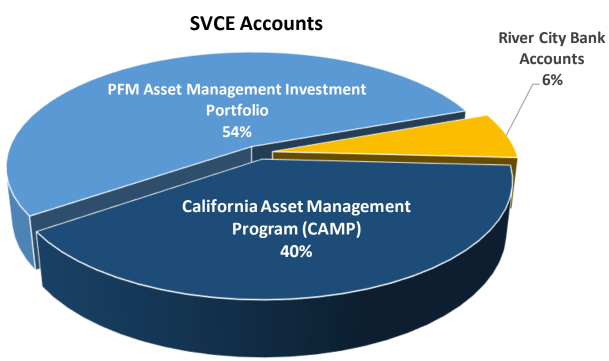


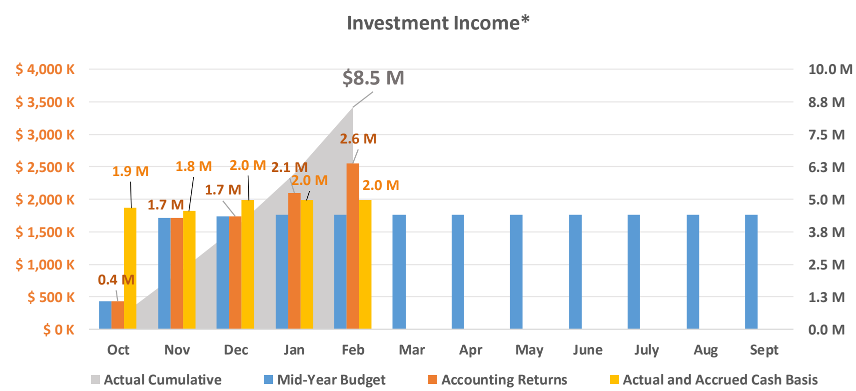

* Earmarked funds are unspent SVCE program and the building funds.
October, 2024-January, 2025 results are updated per the Mid-Year budget revisions adopted in March 2025.

**SVCE Yield-bearing Accounts:**

| | |
|---|---|
| Combined Ending Balance* | 528.6 M |
| Total Interest/Div. Earned FYTD | 8.5 M |
| Average Yield to Maturity** | 4.41% |

* Includes River Bank accounts - Money Market, Collateral and ICS; CAMP; PFM Portfolio
** Average annualized yield for the current month. Investment yields are measured to maturity at market.




* Accounting returns investment of income includes unrealized mark-to-market gain or loss of the total investment portfolio as per US GAAP, Actual and Accrued Cash Basis excludes mark-to-market gains (losses).

**SILICON VALLEY CLEAN ENERGY AUTHORITY**
**Financial Statement Highlights**** ($ in millions)
**February 28, 2025**

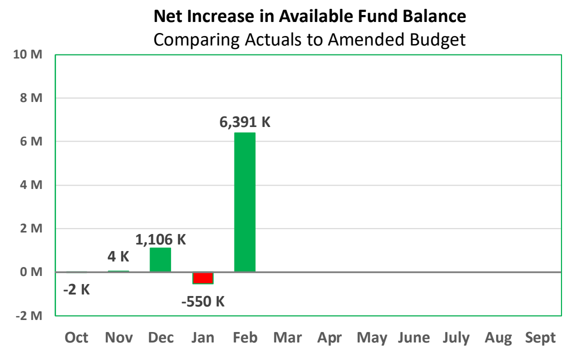


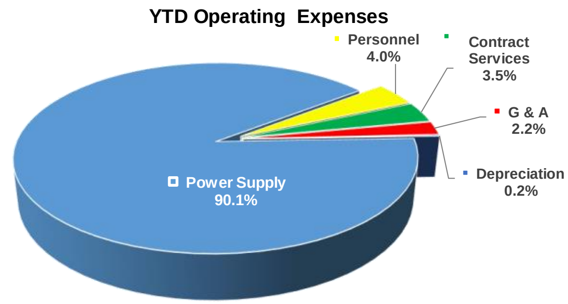
## Summary of Actual Results vs. Adopted Budget (includes allocated but unspent program dollars):

- > **FYTD operating margin of $60.7 million or 30% is above the Amended Budget expectations of $59.5M (28%) operating margin for the fiscal year to date.**
- > **FYTD Power Supply costs are -7% below Mid-Year Budget.**
- > **Retail GWh sales for the month of February and FYTD landed -9% and -3% below budget respectively.**

***Variance Explanation:***
***October-December*** *- revenue and all operating cost were actualized during the Mid-Year budgeting*

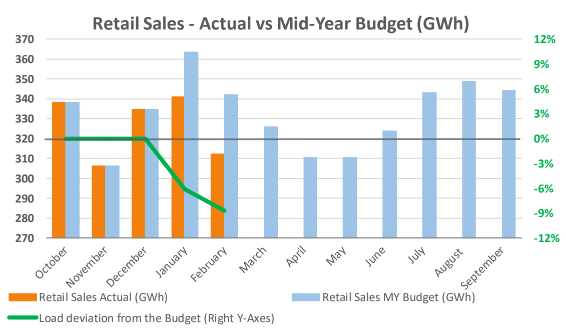
***January -February*** *- Weaker customer demand was offset by lower power supply cost, liquidated damage payments and reduced operating expenses.*

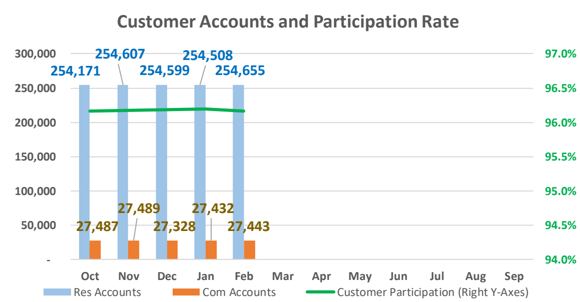



| *$ in millions* | February Actual | February MY Budget | February % Dif | Fiscal YTD Actual | Fiscal YTD MY Budget | Fiscal YTD % Dif | Main Drivers: |
|---|---|---|---|---|---|---|---|
| **Revenue** | 40.5 M | 41.5 M | -2.6% | 200.1 M | 209.2 M | -4.4% | • *Lower November-February customer demand and a negative true-up settlement, partly offset by liquidated damage payments.* |
| **Power Supply Cost** | 31.4 M | 35.9 M | -12.7% | 139.3 M | 149.8 M | -7.0% | • *Lower YTD costs is mostly due to lower energy consumption and decline in energy/attribute prices.* |
| **Operating Margin** | 9.1 M | 5.6 M | 62.7% | 60.7 M | 59.5 M | 2.1% | |
| **Operating Expenses** (ex Power) | 2.1 M | 3.6 M | -42.6% | 11.3 M | 14.2 M | -20.3% | • *Staffing vacancies, underrunning professional services, and lower marketing expenses* |
| **Other Non-Op. Expen.** (Income) | -3.1 M | -1.8 M | 77.1% | 11.2 M | 14.0 M | -20.0% | |
| **Net Increase in Available Fund Balance** | 10.2 M | 3.8 M | 169.4% | 38.2 M | 31.2 M | 22.3% | • *Reflects budgetary transfers to program and other funds* |

## Customer Load Statistics:




| | |
|---|---|
| **Total Accounts** | **282,098** |
| **Opt-Out Accounts (Month)** | **42** |
| **Opt-Out Accounts (FYTD)** | **205** |
| **Opt-Up Accounts (Month)** | **8** |
| **Opt-Up Accounts (FYTD)** | **(14)** |

## Program Funds:

| | Beginning Balance | End Balance | YTD Contributions | YTD Expenditures |
|---|---|---|---|---|
| **General Program Fund** | $ 77,436,658 | $ 84,569,924 | $ 10,530,000 | $ 3,396,734 |
| **CRCR Fund*** | $ 5,437,984 | $ 8,878,769 | $ 5,370,000 | $ 1,929,215 |
| **Electrification Discount Fund** | $ 9,159,383 | $ 8,925,619 | $ - | $ 233,764 |
| **Nuclear & Hanford Prog. Funds** | $ 2,188,000 | $ 7,696,000 | $ 5,508,000 | $ - |
| **Building Fund** | $ 20,000,000 | $ 8,461,190 | $ - | $ 11,538,810 |

** Customer Relief and Community Resilience Fund*

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

# SILICON VALLEY CLEAN ENERGY AUTHORITY

## STATEMENT OF NET POSITION
## As of February 28, 2025

| | | |
|---|---|---|
| **ASSETS** | | |
| **Current Assets** | | |
| Cash & Cash Equivalents* | $ | 272,362,744 |
| Accounts Receivable, net of allowance | | 34,734,422 |
| Investments | | 65,580,033 |
| Accrued Revenue | | 23,273,455 |
| Other Receivables | | 10,937,975 |
| Prepaid Expenses | | 1,564,949 |
| Deposits | | 752,428 |
| **Total Current Assets** | | **409,206,006** |
| **Noncurrent assets** | | |
| Capital assets, net of depreciation | | 12,402,486 |
| Investments** | | 203,064,631 |
| Deposits | | |
| **Total Noncurrent Assets** | | **215,467,117** |
| **Total Assets** | | **624,673,123** |
| **LIABILITIES** | | |
| **Current Liabilities** | | |
| Accounts Payable | | 1,311,867 |
| Accrued Cost of Electricity | | 54,864,920 |
| Other accrued liabilities | | 4,500,348 |
| User Taxes and Energy Surcharges due to other gov'ts | | 1,238,985 |
| Supplier security deposits | | 225,000 |
| Lease liability | | 182,832 |
| **Total Current Liabilities** | | **62,323,952** |
| **Noncurrent Liabilities** | | |
| Supplier security deposits | | 23,228,125 |
| **Total noncurrent liabilities** | | **23,228,125** |
| **Total Liabilities** | | **85,552,077** |
| **NET POSITION** | | |
| Net investment in capital assets | | 12,219,654 |
| Unrestricted (deficit) | | 526,901,392 |
| **Total Net Position** | **$** | **539,121,046** |

** May not account for securities acquired towards the end of the month but not yet paid.*

*** May include securities acquired towards the end of the month but not yet paid.*

## SILICON VALLEY CLEAN ENERGY AUTHORITY

## STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
## October 1, 2024 through February 28, 2025

| | |
|---|---|
| **OPERATING REVENUES** | |
| Electricity Sales, Net | $ 191,541,775 |
| GreenPrime electricity premium | 952,746 |
| Liquidated damages | 7,573,869 |
| **TOTAL OPERATING REVENUES** | **200,068,390** |
| **OPERATING EXPENSES** | |
| Cost of Electricity | 139,340,204 |
| Contract services | 5,392,116 |
| Staff compensation and benefits | 6,171,576 |
| Other operating expenses | 3,474,142 |
| Depreciation | 304,190 |
| **TOTAL OPERATING EXPENSES** | **154,682,228** |
| **OPERATING INCOME(LOSS)** | **45,386,162** |
| **NONOPERATING REVENUES (EXPENSES)** | |
| Investment Income | 8,542,482 |
| Financing costs | (4,472) |
| **TOTAL NONOPERATING REVENUES (EXPENSES)** | **8,538,010** |
| **CHANGE IN NET POSITION** | 53,924,172 |
| Net Position at beginning of period | 485,196,874 |
| **Net Position at end of period** | **$ 539,121,046** |

# SILICON VALLEY CLEAN ENERGY AUTHORITY

## STATEMENT OF CASH FLOWS
## October 1, 2024 through February 28, 2025

| | |
|---|---|
| **CASH FLOWS FROM OPERATING ACTIVITIES** | |
| Receipts from customers | $ 210,591,492 |
| Receipts of liquidated damages | 7,573,869 |
| Receipts of security deposits | 10,492,100 |
| Payments of security deposits | (2,700,000) |
| Payments to suppliers for electricity | (143,637,685) |
| Payments for other goods and services | (10,214,738) |
| Payments for staff compensation and benefits | (5,896,129) |
| Tax and surcharge payments to other governments | (3,907,009) |
| **Net cash provided (used) by operating activities** | **62,301,900** |
| **CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES** | |
| Finance costs paid | (1,729) |
| **Net cash provided (used) by financing activities** | **(1,729)** |
| **CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES** | |
| Payments of lease liability | (222,650) |
| Acquisition of capital assets | (11,728,699) |
| **Net cash provided (used) by capital and related financing activities** | **(11,951,349)** |
| **CASH FLOWS FROM INVESTING ACTIVITIES** | |
| Purchase of investments | (117,550,050) |
| Proceeds from investment sales | 69,945,398 |
| Investment income received | 8,144,702 |
| **Net cash provided (used) by investing activities** | **(39,459,950)** |
| Net change in cash and cash equivalents | 10,888,872 |
| Cash and cash equivalents at beginning of year | 261,473,872 |
| **Cash and cash equivalents at end of period** | **$ 272,362,744** |
| **NONCASH INVESTING ACTIVITIES** | |
| Unrealized appreciation (depreciation) and timing differences in investment incom | $ 397,780 |

## SILICON VALLEY CLEAN ENERGY AUTHORITY

### STATEMENT OF CASH FLOWS (Continued)
### October 1, 2024 through February 28, 2025

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

| | | |
|---|---|---|
| Operating Income (loss) | $ | 45,386,162 |
| **Adjustments to reconcile operating income to net cash provided (used) by operating activities** | | |
| Depreciation expense | | 304,190 |
| (Increase) decrease in accounts receivable | | 8,327,023 |
| (Increase) decrease in other receivables | | 5,578,701 |
| (Increase) decrease in accrued revenue | | 6,306,030 |
| (Increase) decrease in prepaid expenses | | (938,620) |
| (Increase) decrease in current deposits | | 14,350 |
| Increase (decrease) in accounts payable | | (458,198) |
| Increase (decrease) in accrued cost of electricity | | (9,569,032) |
| Increase (decrease) in accrued liabilities | | 16,634 |
| Increase (decrease) in taxes and surcharges due to other governments | | (440,340) |
| Increase (decrease) in supplier security deposits | | 7,775,000 |
| **Net cash provided (used) by operating activities** | **$** | **62,301,900** |

**SILICON VALLEY CLEAN ENERGY AUTHORITY**
**BUDGETARY COMPARISON SCHEDULE**
**October 1, 2024 through February 28, 2025**

| | FYTD | FYTD | Variance | | FY 2024-25 | FY 2024-25 |
|---|---|---|---|---|---|---|
| **OPERATING REVENUES** | **Actual** | **Mid-Year Budget** | **$** | **%** | **Mid-Year Budget** | **Remaining Budget** |
| Energy Sales | $191,534,593 | $205,405,767 | -$13,871,174 | -7% | $518,255,633 | $326,721,040 |
| Green Prime Premium | 952,746 | 1,030,182 | -$77,436 | -8% | $2,470,078 | 1,517,332 |
| Other Income | 7,581,051 | 2,808,042 | 4,773,009 | 170% | $2,808,042 | (4,773,009) |
| **TOTAL OPERATING REVENUES** | **200,068,390** | **209,243,991** | **(9,175,601)** | **-4%** | **523,533,753** | **323,465,363** |
| | | | | | | |
| **ENERGY EXPENSES** | | | | | | |
| Power Supply | 139,340,204 | 149,780,625 | (10,440,421) | -7% | 349,478,000 | 210,137,796 |
| **Operating Margin** | **60,728,186** | **59,463,366** | **1,264,820** | **2%** | **174,055,753** | **113,327,567** |
| | 30% | 28% | | | | |
| **OPERATING EXPENSES** | | | | | | |
| Data Management | 1,353,932 | 1,419,806 | (65,874) | -5% | 3,549,000 | 2,195,068 |
| PG&E Fees | 499,063 | 570,456 | (71,393) | -13% | 1,516,000 | 1,016,937 |
| Salaries & Benefits | 6,171,576 | 7,128,175 | (956,599) | -13% | 18,805,000 | 12,633,424 |
| Professional Services | 1,609,776 | 2,564,907 | (955,131) | -37% | 7,797,000 | 6,187,224 |
| Marketing & Promotions | 292,996 | 542,521 | (249,525) | -46% | 1,885,000 | 1,592,004 |
| General & Administrative | 1,399,164 | 1,984,813 | (585,649) | -30% | 5,733,000 | 4,333,836 |
| **TOTAL OPERATING EXPENSES** | **11,326,507** | **14,210,678** | **(2,884,171)** | **-20%** | **39,285,000** | **27,958,493** |
| **OPERATING INCOME/(LOSS)** | **49,401,679** | **45,252,688** | **4,148,991** | **9%** | **134,770,753** | **85,369,074** |
| | | | | | | |
| **NON-OPERATING REVENUES** | | | | | | |
| Investment Income | 8,542,482 | 7,410,768 | 1,131,714 | 15% | 19,756,000 | 11,213,518 |
| **TOTAL NON-OPERATING REVENUES** | **8,542,482** | **7,410,768** | **1,131,714** | **15%** | **19,756,000** | **11,213,518** |
| | | | | | | |
| **NON-OPERATING EXPENSES** | | | | | | |
| Financing | 1,730 | 4,108 | (2,378) | -58% | 12,000 | 10,270 |
| | | | | | | |
| **CAPITAL EXPENDITURES, TRANSFERS, & OTHER** | | | | | | |
| Capital Outlay | 6,361 | 20,833 | (14,472) | -69% | 50,000 | 43,639 |
| One-Time Customer Bill Credit | - | - | - | n/a | 35,000,000 | 35,000,000 |
| Transfer to Programs Fund | 10,530,000 | 10,530,000 | - | 0% | 10,530,000 | - |
| Nuclear Allocation | 3,708,000 | 3,708,000 | - | 0% | 3,708,000 | - |
| Transfer to Hanford Emissions Mitigation Fund | 1,800,000 | 1,800,000 | | | 1,800,000 | |
| Transfer to CRCR Fund | 5,370,000 | 5,370,000 | - | 0% | 5,370,000 | - |
| Transfer from Electrification Discount Fund | (233,764) | - | (233,764) | n/a | - | 233,764 |
| Transfer from CRCR Fund - customer bill relief | (1,425,251) | - | (1,425,251) | n/a | - | 1,425,251 |
| **TOTAL OTHER USES** | **19,755,346** | **21,428,833** | **(1,673,487)** | **-8%** | **56,458,000** | **36,702,654** |
| | | | | | | |
| **NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE** | **$ 38,187,085** | **$ 31,230,515** | **$ 6,956,570** | **22%** | **$98,056,753** | **$59,869,668** |

**SILICON VALLEY CLEAN ENERGY AUTHORITY**
**GENERAL PROGRAM FUND**
**BUDGETARY COMPARISON SCHEDULE**
**October 1, 2024 through February 28, 2025**

| **REVENUE & OTHER SOURCES:** | **BUDGET** | **ACTUAL** | **BUDGET REMAINING** | **ACTUAL/ BUDGET** |
|---|---|---|---|---|
| Transfers in - General Programs | $ 10,530,000 | $ 10,530,000 | $ - | 100.0% |
| Total | $ 10,530,000 | $ 10,530,000 | $ - | |
| **EXPENDITURES & OTHER USES:** | | | | |
| Program expenditures | 17,552,064 | 3,396,734 | 14,155,330 | 19.4% |
| **Net increase (decrease) in fund balance** | **$ (7,022,064)** | **$7,133,266** | | |
| Fund balance at beginning of period | | 77,436,658 | | |
| Fund balance at end of period | | $84,569,924 | | |

**CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND**
**BUDGETARY COMPARISON SCHEDULE**
**October 1, 2024 through February 28, 2025**

| **REVENUE & OTHER SOURCES:** | **BUDGET** | **ACTUAL** | **BUDGET REMAINING** | **ACTUAL/ BUDGET** |
|---|---|---|---|---|
| Transfer from Operating Fund | $ 5,370,000 | $ 5,370,000 | $ - | 100.0% |
| **EXPENDITURES & OTHER USES:** | | | | |
| Customer bill relief credit | 4,411,000 | 1,425,251 | 2,985,749 | 32.3% |
| Other program expenditures | 825,000 | 503,964 | 321,036 | 61.1% |
| Total Program expenditures | 5,236,000 | 1,929,215 | 3,306,785 | |
| **Net increase (decrease) in fund balance** | **$ 134,000** | **3,440,785** | | |
| Fund balance at beginning of period | | 5,437,984 | | |
| Fund balance at end of period | | $8,878,769 | | |

# ELECTRIFICATION DISCOUNT FUND
## BUDGETARY COMPARISON SCHEDULE
## October 1, 2024 through February 28, 2025

| REVENUE & OTHER SOURCES: | BUDGET | ACTUAL | BUDGET REMAINING | ACTUAL/ BUDGET |
|---|---|---|---|---|
| Transfer from Operating Fund | $ - | $ - | $ - | n/a |
| **EXPENDITURES & OTHER USES:** | | | | |
| Program expenditures | 850,000 | 233,764 | 616,236 | 27.5% |
| **Net increase (decrease) in fund balance** | **$ (850,000)** | **(233,764)** | | |
| Fund balance at beginning of period | | 9,159,383 | | |
| Fund balance at end of period | | $8,925,619 | | |

# BUILDING FUND
## BUDGETARY COMPARISON SCHEDULE
## October 1, 2024 through February 28, 2025

| REVENUE & OTHER SOURCES: | BUDGET | ACTUAL | BUDGET REMAINING | ACTUAL/ BUDGET |
|---|---|---|---|---|
| Transfer from Operating Fund * | | | $ - | n/a |
| **EXPENDITURES & OTHER USES:** | | | | |
| Expenditures | - | 11,538,810 | (11,538,810) | |
| **Net increase (decrease) in fund balance** | **$ -** | **(11,538,810)** | | |
| Fund balance at beginning of period | | 20,000,000 | | |
| Fund balance at end of period | | $8,461,190 | | |

**NUCLEAR AND HANFORD PROGAM FUNDS**
**BUDGETARY COMPARISON SCHEDULE**
**October 1, 2024 through February 28, 2025**

| REVENUE & OTHER SOURCES: | BUDGET | ACTUAL | BUDGET REMAINING | ACTUAL/ BUDGET |
|---|---|---|---|---|
| Transfers in - Nuclear Allocation | $ 3,708,000 | $ 3,708,000 | | |
| Transfer in - Hanford Emissions Mitigation Fund | $ 1,800,000 | $ 1,800,000 | $ - | 100.0% |
| Total | $ 5,508,000 | $ 5,508,000 | $ - | |
| **EXPENDITURES & OTHER USES:** | | | | |
| Program expenditures | - | - | - | |
| **Net increase (decrease) in fund balance** | **$ 5,508,000** | **$5,508,000** | | |
| Fund balance at beginning of period | | 2,188,000 | | |
| Fund balance at end of period | | $7,696,000 | | |

**SILICON VALLEY CLEAN ENERGY AUTHORITY**
**STATEMENT OF REVENUES, EXPENSES**
**AND CHANGES IN NET POSITION**
**October 1, 2024 through February 28, 2025**

| | October | November | December | January | February | March | April | May | June | July | August | September | YTD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **OPERATING REVENUES** | | | | | | | | | | | | | |
| Electricity sales, net | $ 42,272,261 | $ 36,066,964 | $ 40,444,049 | $ 37,228,673 | $ 35,529,828 | | | | | | | | $ 191,541,775 |
| Green electricity premium | $ 216,009 | $ 177,897 | $ 192,481 | $ 188,052 | $ 178,307 | | | | | | | | 952,746 |
| Liquidated damages | $ 2,400,000 | $ 404,610 | | | $ 4,769,259 | | | | | | | | 7,573,869 |
| Other Income | | | | | | | | | | | | | - |
| Total operating revenues | 44,888,270 | 36,649,471 | 40,636,530 | 37,416,725 | 40,477,394 | - | - | - | - | - | - | - | 200,068,390 |
| **OPERATING EXPENSES** | | | | | | | | | | | | | |
| Cost of electricity | 29,690,455 | $ 23,435,665 | $ 24,597,864 | $ 30,250,162 | $ 31,366,058 | | | | | | | | 139,340,204 |
| Staff compensation and benefits | 1,153,708 | $ 1,135,297 | $ 1,503,015 | $ 1,268,232 | $ 1,111,324 | | | | | | | | 6,171,576 |
| Data manager | 270,465 | $ 270,551 | $ 270,449 | $ 271,060 | $ 271,407 | | | | | | | | 1,353,932 |
| Service fees - PG&E | 100,000 | $ 96,085 | $ 104,098 | $ 99,430 | $ 99,450 | | | | | | | | 499,063 |
| Consultants and other professional fees | 806,956 | $ 771,641 | $ 713,688 | $ 488,719 | $ 758,117 | | | | | | | | 3,539,121 |
| Other operating expenses | 462,895 | $ 852,622 | $ 1,008,087 | $ 522,513 | $ 628,025 | | | | | | | | 3,474,142 |
| Depreciation | 53,537 | $ 53,341 | $ 65,816 | $ 65,817 | $ 65,679 | | | | | | | | 304,190 |
| Total operating expenses | 32,538,016 | 26,615,202 | 28,263,017 | 32,965,933 | 34,300,060 | - | - | - | - | - | - | - | 154,682,228 |
| Operating income (loss) | 12,350,254 | 10,034,269 | 12,373,513 | 4,450,792 | 6,177,334 | - | - | - | - | - | - | - | 45,386,162 |
| **NONOPERATING REVENUES (EXPENSES)** | | | | | | | | | | | | | |
| Grant income | - | $ - | | | | | | | | | | | - |
| Interest income | 428,694 | $ 1,712,666 | $ 1,742,311 | $ 2,102,525 | $ 2,556,286 | | | | | | | | 8,542,482 |
| Financing costs | (701) | $ (625) | $ (549) | $ (472) | $ (2,125) | | | | | | | | (4,472) |
| Total nonoperating revenues (expenses) | 427,993 | 1,712,041 | 1,741,762 | 2,102,053 | 2,554,161 | - | - | - | - | - | - | - | 8,538,010 |
| **CHANGE IN NET POSITION** | **$ 12,778,247** | **$ 11,746,310** | **$ 14,115,275** | **$ 6,552,845** | **$ 8,731,495** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ -** | **$ 53,924,172** |

**SILICON VALLEY CLEAN ENERGY AUTHORITY**
**INVESTMENTS SUMMARY**
**October 1, 2024 through February 28, 2025**

| Ending Balance of SVCE Accounts: | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| River City Bank Accounts | $ 33,363,756 | $ 28,561,690 | $ 48,885,983 | $ 23,794,276 | $ 27,049,188 | | | | | | | |
| California Asset Management Program (CAMP) | $ 206,767,899 | $ 229,607,825 | $ 216,507,939 | $ 249,409,396 | $ 240,227,528 | | | | | | | |
| PFM Asset Management Investment Portfolio | $ 281,807,003 | $ 270,469,593 | $ 271,357,416 | $ 273,147,693 | $ 276,597,488 | | | | | | | |
| **Total Ending Balance** | **$ 521,938,658** | **$ 528,639,108** | **$ 536,751,338** | **$ 546,351,364** | **$ 543,874,204** | | | | | | | |

**Return On Investments:**

| Annual % Yield | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| River City Bank Accounts | 4.58% | 4.58% | 4.55% | 4.53% | 4.42% | | | | | | | |
| California Asset Management Program (CAMP) | 5.03% | 4.87% | 4.73% | 4.55% | 4.51% | | | | | | | |
| PFM Asset Management Investment Portfolio * | 4.45% | 4.45% | 4.45% | 4.40% | 4.33% | | | | | | | |
| **Average Return On Investments:** | **4.69%** | **4.64%** | **4.57%** | **4.47%** | **4.41%** | | | | | | | |

* Yield to Maturity at Market.

| Accounting Returns | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| River City Bank Accounts | $ 14,385 | $ 26,036 | $ 36,682 | $ 38,759 | $ 20,782 | | | | | | | |
| California Asset Management Program (CAMP) | $ 908,552 | $ 839,926 | $ 900,114 | $ 901,457 | $ 818,132 | | | | | | | |
| Other Interest Income | $ 4,447 | $ 2,470 | $ 2,313 | $ 2,322 | $ 2,242 | | | | | | | |
| PFM Asset Management Investment Portfolio * | $ (498,690) | $ 844,234 | $ 803,202 | $ 1,159,987 | $ 1,715,130 | | | | | | | |
| **Total Interest and Investment Gains** | **$ 428,694** | **$ 1,712,666** | **$ 1,742,311** | **$ 2,102,525** | **$ 2,556,286** | | | | | | | |

* Includes change in current market value (month over month), accrued interest and money market dividends (as per US GAAP).

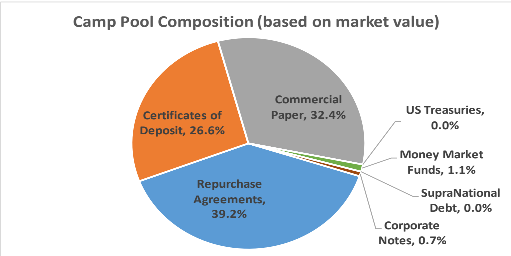
| Actual and Accrued Cash Basis Returns | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| River City Bank Accounts | $ 14,385 | $ 26,036 | $ 36,682 | $ 38,759 | $ 20,782 | | | | | | | |
| Camp Pool Composition (based on market value): | $ 908,552 | $ 839,926 | $ 900,114 | $ 901,457 | $ 818,132 | | | | | | | |
| Other Interest Income | $ 4,447 | $ 2,470 | $ 2,313 | $ 2,322 | $ 2,242 | | | | | | | |
| PFM Asset Management Investment Portfolio * | $ 945,927 | $ 954,874 | $ 1,046,439 | $ 1,048,124 | $ 1,144,192 | | | | | | | |
| **Total Interest and Investment Gains** | **$ 1,873,311** | **$ 1,823,305** | **$ 1,985,548** | **$ 1,990,662** | **$ 1,985,349** | | | | | | | |

* Includes interest/dividends/coupons received, net realized gains/losses and monthly change in accrued interest.

**CAMP Portfolio Statistics**

*As of February 28, 2025*

| | |
|---|---|
| **Beginning of the Month Market Value** | $ 249,409,396 |
| **Ending of The Month Market Value** | $ 240,227,528 |
| | |
| **Monthly Distribution Yield** | 4.51% |
| **Weighted Average Maturity (days)** | 40 |

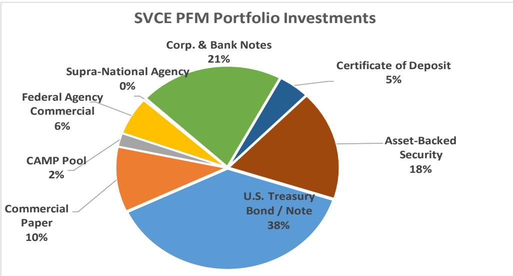


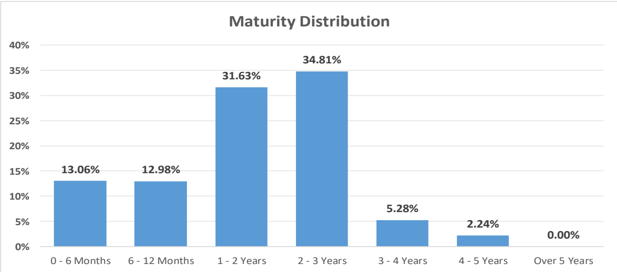

**PFM Portfolio Statistics**

*As of February 28, 2025*

| | |
|---|---|
| **Portfolio Par Value** | $ 275,144,165 |
| **Portfolio Market Value** (icl. Accrued Interest) | $ 276,597,488 |
| | |
| **Yield to Maturity at Cost** | 4.58% |
| **Yield to Maturity at Market** | 4.33% |
| **Benchmark Yield*** | 4.02% |
| **Portfolio Effective Duration** (years) | 1.35 |
| **Weighted Average Maturity** (days) | 658 |

*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

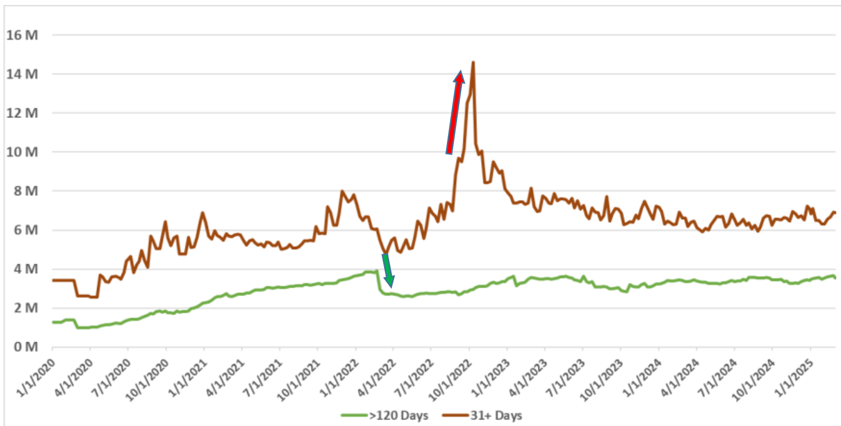
**SILICON VALLEY CLEAN ENERGY AUTHORITY**
**RETAIL SALES, CUSTOMER ACCOUNTS AND AGING REPORT**

| | October | November | December | January | February | March | April | May | June | July | August | September | YTD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Retail Sales Actual (GWh)** | **338.0** | **306.3** | **334.6** | **341.1** | **312.1** | | | | | | | | **1,632** |
| **Retail Sales MY Budget (GWh)** | **338.0** | **306.3** | **334.6** | **363.3** | **341.8** | **326.0** | **310.5** | **310.3** | **323.6** | **342.9** | **348.8** | **344.1** | **1,684** |
| *Load deviation from the Budget* | *0.0%* | *0.0%* | *0.0%* | *-6.1%* | *-8.7%* | | | | | | | | ***-3.1%*** |
| Customer Participation Rate Res | 96.1% | 96.1% | 96.2% | 96.1% | 96.2% | | | | | | | | |
| Customer Participation Rate Com | 96.5% | 96.5% | 96.4% | 96.5% | 96.2% | | | | | | | | |
| Total Accounts | 281,658 | 282,096 | 281,927 | 281,940 | 282,098 | | | | | | | | **282,098** |
| Opt-Out Accounts | 41 | 25 | 31 | 66 | 42 | | | | | | | | **205** |
| Opt-Up Accounts | -7 | 17 | -23 | -9 | 8 | | | | | | | | **-14** |

**Age Summary (as of 3/1/2025)**

| | |
|---|---|
| <30 days | $31,793,047 |
| <60 days | $2,104,084 |
| <90 days | $764,029 |
| <120 days | $484,738 |
| Older | $3,540,922 |

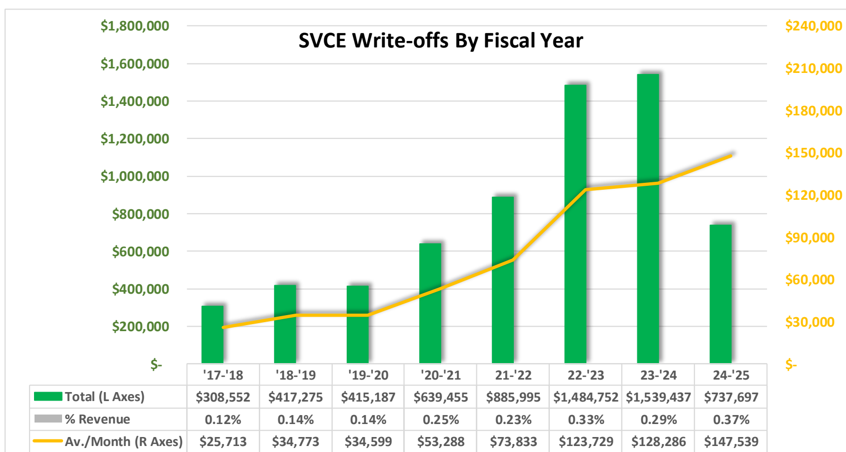
**SVCE Arrearager Total for customers 31+ days late and 120+ days late**




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

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

| Accounts Receivable Days |
|---|
| **27 Days** |
| **$38,686,820** |
| **TOTAL DUE** |




| Bad Debt % (*Budget*) |
|---|
| **0.75%** |

| Bad Debt % (Actual) |
|---|
| February 2025 FYTD |
| **0.37%** |

Silicon Valley Clean Energy | February 28, 2025

## Certificate of Compliance

During the reporting period for the month ended February 28, 2025, 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, a division of U.S. Bancorp Asset Management, Inc.*

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

## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

**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** | | | | | | | | | | |
| 01/31/25 | 02/05/25 | FHMS KJ28 A2 DTD 02/01/2020 2.308% 10/01/2027 | 3137FREE7 | 1,663,128.53 | (1,601,866.15) | (426.50) | (1,602,292.65) | | | |
| 02/03/25 | 02/06/25 | US TREASURY N/B DTD 01/15/2025 4.250% 01/15/2028 | 91282CMF5 | 1,250,000.00 | (1,249,462.89) | (3,228.59) | (1,252,691.48) | | | |
| 02/04/25 | 02/11/25 | HAROT 2025-1 A2 DTD 02/11/2025 4.530% 08/23/2027 | 43814VAB3 | 2,700,000.00 | (2,699,882.55) | 0.00 | (2,699,882.55) | | | |
| 02/04/25 | 02/11/25 | AMXCA 2025-1 A DTD 02/11/2025 4.560% 12/25/2029 | 02582JKM1 | 1,615,000.00 | (1,614,641.31) | 0.00 | (1,614,641.31) | | | |
| 02/04/25 | 02/12/25 | BMWOT 2025-A A2A DTD 02/12/2025 4.430% 10/25/2027 | 096924AB1 | 925,000.00 | (924,929.24) | 0.00 | (924,929.24) | | | |
| 02/05/25 | 02/07/25 | PEPSICO INC DTD 02/07/2025 4.400% 02/07/2027 | 713448GD4 | 590,000.00 | (589,988.20) | 0.00 | (589,988.20) | | | |
| 02/10/25 | 02/12/25 | ELI LILLY & CO (CALLABLE) DTD 02/12/2025 4.550% 02/12/2028 | 532457CU0 | 560,000.00 | (559,641.60) | 0.00 | (559,641.60) | | | |
| 02/11/25 | 02/19/25 | KCOT 2025-1A A2 DTD 02/19/2025 4.610% 12/15/2027 | 50117FAB7 | 635,000.00 | (634,920.63) | 0.00 | (634,920.63) | | | |
| 02/18/25 | 02/20/25 | JOHNSON & JOHNSON DTD 02/20/2025 4.500% 03/01/2027 | 478160DG6 | 1,980,000.00 | (1,980,000.00) | 0.00 | (1,980,000.00) | | | |
| 02/18/25 | 02/27/25 | MASTERCARD INC (CALLABLE) DTD 02/27/2025 4.550% 03/15/2028 | 57636QBF0 | 600,000.00 | (599,544.00) | 0.00 | (599,544.00) | | | |
| 02/19/25 | 02/24/25 | HERSHEY COMPANY (CALLABLE) DTD 02/24/2025 4.550% 02/24/2028 | 427866BK3 | 410,000.00 | (409,717.10) | 0.00 | (409,717.10) | | | |
| 02/19/25 | 02/24/25 | CISCO SYSTEMS INC (CALLABLE) DTD 02/24/2025 4.550% 02/24/2028 | 17275RBW1 | 310,000.00 | (309,665.20) | 0.00 | (309,665.20) | | | |
| **02/20/25** | **03/03/25** | **PACCAR FINANCIAL CORP DTD 03/03/2025 4.550% 03/03/2028** | **69371RT63** | **1,500,000.00** | **(1,499,085.00)** | **0.00** | **(1,499,085.00)** | | | |
| **02/27/25** | **03/04/25** | **FHMS K074 A2 DTD 03/01/2018 3.600% 01/01/2028** | **3137F4D41** | **1,000,000.00** | **(978,554.69)** | **(300.00)** | **(978,854.69)** | | | |
| **Transaction Type Sub-Total** | | | | **15,738,128.53** | **(15,651,898.56)** | **(3,955.09)** | **(15,655,853.65)** | | | |
| **CALL** | | | | | | | | | | |

## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **CALL** | | | | | | | | | | |
| 02/18/25 | 02/18/25 | MORGAN STANLEY (CALLABLE) DTD 02/18/2022 2.630% 02/18/2026 | 61747YEM3 | 400,000.00 | 400,000.00 | 0.00 | 400,000.00 | 19,708.00 | 0.00 | |
| **Transaction Type Sub-Total** | | | | **400,000.00** | **400,000.00** | **0.00** | **400,000.00** | **19,708.00** | **0.00** | |
| **INTEREST** | | | | | | | | | | |
| 02/01/25 | 02/01/25 | INTER-AMERICAN DEVEL BK DTD 12/12/2023 4.375% 02/01/2027 | 4581X0EM6 | | 0.00 | 18,593.75 | 18,593.75 | | | |
| 02/01/25 | 02/25/25 | FHMS K054 A2 DTD 04/01/2016 2.745% 01/01/2026 | 3137BNGT5 | | 0.00 | 2,378.75 | 2,378.75 | | | |
| 02/01/25 | 02/25/25 | FHMS K065 A1 DTD 07/01/2017 2.864% 10/01/2026 | 3137F1G36 | | 0.00 | 1,188.10 | 1,188.10 | | | |
| 02/01/25 | 02/25/25 | FHMS K068 A2 DTD 10/01/2017 3.244% 08/01/2027 | 3137FBBX3 | | 0.00 | 2,297.83 | 2,297.83 | | | |
| 02/01/25 | 02/25/25 | FHMS K063 A2 DTD 03/01/2017 3.430% 01/01/2027 | 3137BVZ82 | | 0.00 | 6,359.79 | 6,359.79 | | | |
| 02/01/25 | 02/25/25 | FHMS K059 A2 DTD 11/01/2016 3.120% 09/01/2026 | 3137BSRE5 | | 0.00 | 1,820.00 | 1,820.00 | | | |
| 02/01/25 | 02/25/25 | FHMS K069 A2 DTD 11/01/2017 3.187% 09/01/2027 | 3137FBU79 | | 0.00 | 1,971.75 | 1,971.75 | | | |
| 02/01/25 | 02/25/25 | FHMS K057 A2 DTD 09/01/2016 2.570% 07/01/2026 | 3137BRQJ7 | | 0.00 | 2,516.46 | 2,516.46 | | | |
| 02/01/25 | 02/25/25 | FHMS K739 A2 DTD 11/01/2020 1.336% 09/01/2027 | 3137F64P9 | | 0.00 | 2,672.00 | 2,672.00 | | | |
| 02/01/25 | 02/25/25 | FHMS K737 A2 DTD 01/01/2020 2.525% 10/01/2026 | 3137FQXJ7 | | 0.00 | 2,209.37 | 2,209.37 | | | |
| 02/01/25 | 02/25/25 | FNA 2024-M6 A2 DTD 11/01/2024 2.908% 07/01/2027 | 3136BTGM9 | | 0.00 | 4,846.35 | 4,846.35 | | | |
| 02/01/25 | 02/25/25 | FHMS K736 A2 DTD 09/01/2019 2.282% 07/01/2026 | 3137FNWX4 | | 0.00 | 1,419.41 | 1,419.41 | | | |
| 02/01/25 | 02/25/25 | FNA 2015-M11 A2 DTD 07/01/2015 2.852% 04/01/2025 | 3136APSZ6 | | 0.00 | 686.49 | 686.49 | | | |
| 02/01/25 | 02/25/25 | FHMS K733 A2 DTD 11/01/2018 3.750% 08/01/2025 | 3137FJXQ7 | | 0.00 | 1,666.47 | 1,666.47 | | | |

## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

### 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **INTEREST** | | | | | | | | | | |
| 02/01/25 | 02/25/25 | FHMS K058 A1 DTD 11/01/2016 2.340% 07/01/2026 | 3137BSP64 | | 0.00 | 620.84 | 620.84 | | | |
| 02/03/25 | 02/03/25 | STATE STREET CORP (CALLABLE) DTD 08/03/2023 5.272% 08/03/2026 | 857477CD3 | | 0.00 | 10,544.00 | 10,544.00 | | | |
| 02/05/25 | 02/05/25 | NATIONAL RURAL UTIL COOP (CALLABLE) DTD 02/05/2024 4.800% 02/05/2027 | 63743HFM9 | | 0.00 | 12,000.00 | 12,000.00 | | | |
| 02/05/25 | 02/05/25 | CREDIT AGRICOLE CIB NY DTD 02/05/2024 4.760% 02/01/2027 | 22536DWD6 | | 0.00 | 41,134.33 | 41,134.33 | | | |
| 02/07/25 | 02/07/25 | TOYOTA MOTOR CREDIT CORP DTD 08/09/2024 4.550% 08/07/2026 | 89236TMJ1 | | 0.00 | 2,812.15 | 2,812.15 | | | |
| 02/08/25 | 02/08/25 | TEXAS INSTRUMENTS INC (CALLABLE) DTD 02/08/2024 4.600% 02/08/2027 | 882508CE2 | | 0.00 | 11,500.00 | 11,500.00 | | | |
| 02/09/25 | 02/09/25 | ELI LILLY & CO (CALLABLE) DTD 02/09/2024 4.500% 02/09/2027 | 532457CJ5 | | 0.00 | 12,487.50 | 12,487.50 | | | |
| 02/11/25 | 02/11/25 | BMW US CAPITAL LLC DTD 08/11/2023 5.300% 08/11/2025 | 05565ECC7 | | 0.00 | 13,250.00 | 13,250.00 | | | |
| 02/12/25 | 02/12/25 | UNILEVER CAPITAL CORP (CALLABLE) DTD 08/12/2024 4.250% 08/12/2027 | 904764BU0 | | 0.00 | 3,612.50 | 3,612.50 | | | |
| 02/13/25 | 02/13/25 | BMW US CAPITAL LLC DTD 08/13/2024 4.650% 08/13/2026 | 05565ECP8 | | 0.00 | 19,762.50 | 19,762.50 | | | |
| 02/14/25 | 02/14/25 | ELI LILLY & CO (CALLABLE) DTD 08/14/2024 4.150% 08/14/2027 | 532457CP1 | | 0.00 | 6,640.00 | 6,640.00 | | | |
| 02/15/25 | 02/15/25 | COPAR 2024-1 A2A DTD 11/26/2024 4.610% 10/15/2027 | 14043NAB5 | | 0.00 | 1,536.67 | 1,536.67 | | | |
| 02/15/25 | 02/15/25 | FORDO 2024-C A2A DTD 09/20/2024 4.320% 08/15/2027 | 34532UAB5 | | 0.00 | 2,322.00 | 2,322.00 | | | |
| 02/15/25 | 02/15/25 | ALLYA 2023-1 A3 DTD 07/19/2023 5.460% 05/15/2028 | 02007WAC2 | | 0.00 | 2,275.00 | 2,275.00 | | | |
| 02/15/25 | 02/15/25 | HDMOT 2023-B A3 DTD 09/27/2023 5.690% 08/15/2028 | 41285YAC9 | | 0.00 | 4,433.46 | 4,433.46 | | | |
| 02/15/25 | 02/15/25 | WFCIT 2024-A1 A DTD 03/01/2024 4.940% 02/15/2029 | 92970QAA3 | | 0.00 | 3,807.92 | 3,807.92 | | | |

## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

### 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **INTEREST** | | | | | | | | | | |
| 02/15/25 | 02/15/25 | TAOT 2023-D A3 DTD 11/14/2023 5.540% 08/15/2028 | 89239FAD4 | | 0.00 | 1,108.00 | 1,108.00 | | | |
| 02/15/25 | 02/15/25 | HAROT 2024-1 A2 DTD 02/21/2024 5.360% 09/15/2026 | 437918AB1 | | 0.00 | 3,102.99 | 3,102.99 | | | |
| 02/15/25 | 02/15/25 | TAOT 2024-C A2A DTD 07/30/2024 5.160% 05/17/2027 | 89237QAB6 | | 0.00 | 1,416.45 | 1,416.45 | | | |
| 02/15/25 | 02/15/25 | US TREASURY N/B DTD 08/15/2023 4.375% 08/15/2026 | 91282CHU8 | | 0.00 | 37,187.50 | 37,187.50 | | | |
| 02/15/25 | 02/15/25 | BAAT 2023-2A A3 DTD 11/21/2023 5.740% 06/15/2028 | 06054YAC1 | | 0.00 | 4,018.00 | 4,018.00 | | | |
| 02/15/25 | 02/15/25 | MBART 2025-1 A2A DTD 01/23/2025 4.500% 02/15/2028 | 58773DAB0 | | 0.00 | 5,568.75 | 5,568.75 | | | |
| 02/15/25 | 02/15/25 | MBART 2023-2 A2 DTD 10/25/2023 5.920% 11/16/2026 | 58769FAB1 | | 0.00 | 520.96 | 520.96 | | | |
| 02/15/25 | 02/15/25 | FORDO 2024-B A2A DTD 06/24/2024 5.400% 04/15/2027 | 34531QAB5 | | 0.00 | 7,047.61 | 7,047.61 | | | |
| 02/15/25 | 02/15/25 | NAROT 2024-A A2A DTD 05/22/2024 5.470% 12/15/2026 | 65479UAB4 | | 0.00 | 2,652.52 | 2,652.52 | | | |
| 02/15/25 | 02/15/25 | HART 2023-C A2A DTD 11/13/2023 5.800% 01/15/2027 | 44918CAB8 | | 0.00 | 1,405.64 | 1,405.64 | | | |
| 02/15/25 | 02/15/25 | COMET 2024-A1 A DTD 09/24/2024 3.920% 09/15/2029 | 14041NGE5 | | 0.00 | 4,736.67 | 4,736.67 | | | |
| 02/15/25 | 02/15/25 | TAOT 2024-B A2A DTD 04/30/2024 5.410% 03/15/2027 | 89237NAB3 | | 0.00 | 2,073.20 | 2,073.20 | | | |
| 02/15/25 | 02/15/25 | WOART 2024-C A2A DTD 08/20/2024 4.780% 01/18/2028 | 98164NAB1 | | 0.00 | 4,040.23 | 4,040.23 | | | |
| 02/15/25 | 02/15/25 | HART 2024-B A2A DTD 07/24/2024 5.150% 06/15/2027 | 44934QAB7 | | 0.00 | 2,364.81 | 2,364.81 | | | |
| 02/15/25 | 02/15/25 | US TREASURY N/B DTD 02/15/2023 4.000% 02/15/2026 | 91282CGL9 | | 0.00 | 85,500.00 | 85,500.00 | | | |
| 02/15/25 | 02/15/25 | ALLYA 2024-1 A3 DTD 03/13/2024 5.080% 12/15/2028 | 02008FAC8 | | 0.00 | 1,629.83 | 1,629.83 | | | |
| 02/15/25 | 02/15/25 | TAOT 2024-D A2A DTD 10/17/2024 4.550% 08/16/2027 | 89239TAB8 | | 0.00 | 2,312.92 | 2,312.92 | | | |

CAMP®

## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

### 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **INTEREST** | | | | | | | | | | |
| 02/15/25 | 02/15/25 | CHAIT 2023-A1 A<br>DTD 09/15/2023 5.160% 09/15/2028 | 161571HT4 | | 0.00 | 3,461.50 | 3,461.50 | | | |
| 02/15/25 | 02/15/25 | WOART 2024-A A2A<br>DTD 02/14/2024 5.050% 04/15/2027 | 98164RAB2 | | 0.00 | 857.90 | 857.90 | | | |
| 02/15/25 | 02/15/25 | NAROT 2023-B A2A<br>DTD 10/25/2023 5.950% 05/15/2026 | 65480MAB9 | | 0.00 | 1,834.11 | 1,834.11 | | | |
| 02/15/25 | 02/15/25 | BACCT 2023-A2 A2<br>DTD 12/14/2023 4.980% 11/15/2028 | 05522RDH8 | | 0.00 | 1,473.25 | 1,473.25 | | | |
| 02/15/25 | 02/15/25 | FORDO 2023-C A3<br>DTD 11/21/2023 5.530% 09/15/2028 | 344940AD3 | | 0.00 | 1,566.83 | 1,566.83 | | | |
| 02/15/25 | 02/15/25 | WOART 2024-B A2A<br>DTD 05/22/2024 5.480% 09/15/2027 | 98164HAB4 | | 0.00 | 1,460.63 | 1,460.63 | | | |
| 02/15/25 | 02/15/25 | FORDO 2024-A A2A<br>DTD 03/19/2024 5.320% 01/15/2027 | 34535EAB8 | | 0.00 | 1,287.75 | 1,287.75 | | | |
| 02/15/25 | 02/15/25 | WFCIT 2024-A2 A<br>DTD 10/24/2024 4.290% 10/15/2029 | 92970QAE5 | | 0.00 | 2,341.63 | 2,341.63 | | | |
| 02/15/25 | 02/15/25 | US TREASURY N/B<br>DTD 08/15/2024 3.750% 08/15/2027 | 91282CLG4 | | 0.00 | 65,625.00 | 65,625.00 | | | |
| 02/15/25 | 02/15/25 | AMXCA 2024-1 A<br>DTD 04/23/2024 5.230% 04/16/2029 | 02582JKH2 | | 0.00 | 3,116.21 | 3,116.21 | | | |
| 02/15/25 | 02/15/25 | WOART 2025-A A2A<br>DTD 01/29/2025 4.730% 04/17/2028 | 98164YAB7 | | 0.00 | 2,294.89 | 2,294.89 | | | |
| 02/15/25 | 02/15/25 | FORDO 2024-D A2A<br>DTD 11/22/2024 4.590% 10/15/2027 | 34535VAB0 | | 0.00 | 1,969.88 | 1,969.88 | | | |
| 02/15/25 | 02/15/25 | KCOT 2024-1A A2<br>DTD 02/21/2024 5.390% 01/15/2027 | 50117BAB6 | | 0.00 | 3,033.50 | 3,033.50 | | | |
| 02/15/25 | 02/15/25 | CARMX 2022-2 A3<br>DTD 04/28/2022 3.490% 02/16/2027 | 14317HAC5 | | 0.00 | 787.97 | 787.97 | | | |
| 02/15/25 | 02/15/25 | TAOT 2025-A A2A<br>DTD 01/29/2025 4.480% 11/15/2027 | 89240JAB7 | | 0.00 | 3,524.27 | 3,524.27 | | | |
| 02/15/25 | 02/15/25 | USAOT 2024-A A2<br>DTD 07/30/2024 5.250% 03/15/2027 | 90327VAB4 | | 0.00 | 4,987.50 | 4,987.50 | | | |
| 02/15/25 | 02/15/25 | AMXCA 2023-3 A<br>DTD 09/19/2023 5.230% 09/15/2028 | 02582JKD1 | | 0.00 | 3,595.62 | 3,595.62 | | | |

## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **INTEREST** | | | | | | | | | | |
| 02/15/25 | 02/15/25 | WOART 2023-D A2A DTD 11/08/2023 5.910% 02/16/2027 | 98164DAB3 | | 0.00 | 725.67 | 725.67 | | | |
| 02/15/25 | 02/15/25 | HART 2022-C A3 DTD 11/09/2022 5.390% 06/15/2027 | 44933DAD3 | | 0.00 | 1,788.19 | 1,788.19 | | | |
| 02/15/25 | 02/15/25 | BACCT 2024-A1 A DTD 06/13/2024 4.930% 05/15/2029 | 05522RDJ4 | | 0.00 | 4,231.58 | 4,231.58 | | | |
| 02/15/25 | 02/15/25 | ALLYA 2024-2 A3 DTD 09/27/2024 4.140% 07/16/2029 | 02007NAC2 | | 0.00 | 2,277.00 | 2,277.00 | | | |
| 02/15/25 | 02/15/25 | BAAT 2024-1A A3 DTD 05/22/2024 5.350% 11/15/2028 | 09709AAC6 | | 0.00 | 557.29 | 557.29 | | | |
| 02/15/25 | 02/15/25 | TAOT 2024-A A3 DTD 01/30/2024 4.830% 10/16/2028 | 89238DAD0 | | 0.00 | 1,348.38 | 1,348.38 | | | |
| 02/15/25 | 02/15/25 | HAROT 2024-4 A2 DTD 10/24/2024 4.560% 03/15/2027 | 43816DAB1 | | 0.00 | 5,966.00 | 5,966.00 | | | |
| 02/15/25 | 02/15/25 | NAROT 2024-B A2A DTD 10/23/2024 4.510% 06/15/2027 | 65479WAB0 | | 0.00 | 3,965.04 | 3,965.04 | | | |
| 02/15/25 | 02/15/25 | COPAR 2023-2 A2A DTD 10/11/2023 5.910% 10/15/2026 | 14044EAB4 | | 0.00 | 1,892.11 | 1,892.11 | | | |
| 02/15/25 | 02/15/25 | KCOT 2024-2A A2 DTD 06/25/2024 5.450% 04/15/2027 | 50117DAB2 | | 0.00 | 1,362.50 | 1,362.50 | | | |
| 02/15/25 | 02/15/25 | DCENT 2023-A1 A DTD 04/11/2023 4.310% 03/15/2028 | 254683CY9 | | 0.00 | 4,669.17 | 4,669.17 | | | |
| 02/15/25 | 02/15/25 | CHAIT 2024-A1 A DTD 01/31/2024 4.600% 01/16/2029 | 161571HV9 | | 0.00 | 2,664.17 | 2,664.17 | | | |
| 02/15/25 | 02/15/25 | HART 2024-C A2A DTD 10/16/2024 4.530% 09/15/2027 | 448976AB6 | | 0.00 | 3,340.88 | 3,340.88 | | | |
| 02/16/25 | 02/16/25 | GMCAR 2024-4 A2A DTD 10/16/2024 4.530% 10/18/2027 | 38014AAB7 | | 0.00 | 2,472.63 | 2,472.63 | | | |
| 02/16/25 | 02/16/25 | GMCAR 2024-2 A2A DTD 04/10/2024 5.330% 03/16/2027 | 379931AB4 | | 0.00 | 809.25 | 809.25 | | | |
| 02/16/25 | 02/16/25 | GMCAR 2024-1 A3 DTD 01/17/2024 4.850% 12/18/2028 | 36268GAD7 | | 0.00 | 444.58 | 444.58 | | | |
| 02/16/25 | 02/16/25 | GMCAR 2024-3 A2A DTD 07/10/2024 5.350% 06/16/2027 | 38013KAB6 | | 0.00 | 2,986.29 | 2,986.29 | | | |

## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

### 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **INTEREST** | | | | | | | | | | |
| 02/16/25 | 02/16/25 | GMCAR 2025-1 A2A DTD 01/15/2025 4.440% 01/18/2028 | 362955AB2 | | 0.00 | 5,921.85 | 5,921.85 | | | |
| 02/16/25 | 02/16/25 | GMCAR 2023-4 A3 DTD 10/11/2023 5.780% 08/16/2028 | 379930AD2 | | 0.00 | 2,263.83 | 2,263.83 | | | |
| 02/18/25 | 02/18/25 | BANK OF AMERICA NA (CALLABLE) DTD 08/18/2023 5.650% 08/18/2025 | 06428CAC8 | | 0.00 | 24,012.50 | 24,012.50 | | | |
| 02/18/25 | 02/18/25 | MORGAN STANLEY (CALLABLE) DTD 02/18/2022 2.630% 02/18/2026 | 61747YEM3 | | 0.00 | 5,260.00 | 5,260.00 | | | |
| 02/20/25 | 02/20/25 | VALET 2024-1 A2A DTD 11/26/2024 4.650% 11/22/2027 | 92868RAB4 | | 0.00 | 5,134.38 | 5,134.38 | | | |
| 02/20/25 | 02/20/25 | VALET 2023-2 A2A DTD 11/21/2023 5.720% 03/22/2027 | 92867YAB0 | | 0.00 | 1,252.45 | 1,252.45 | | | |
| 02/20/25 | 02/20/25 | BRISTOL-MYERS SQUIBB CO DTD 02/22/2024 4.950% 02/20/2026 | 110122ED6 | | 0.00 | 5,692.50 | 5,692.50 | | | |
| 02/21/25 | 02/21/25 | HAROT 2023-4 A3 DTD 11/08/2023 5.670% 06/21/2028 | 438123AC5 | | 0.00 | 921.38 | 921.38 | | | |
| 02/21/25 | 02/21/25 | HAROT 2024-3 A2 DTD 08/21/2024 4.890% 02/22/2027 | 43813YAB8 | | 0.00 | 3,341.50 | 3,341.50 | | | |
| 02/22/25 | 02/22/25 | AMAZON.COM INC (CALLABLE) DTD 06/06/2018 3.150% 08/22/2027 | 023135BC9 | | 0.00 | 9,450.00 | 9,450.00 | | | |
| 02/22/25 | 02/22/25 | PFAST 2024-1A A2A DTD 12/13/2024 4.450% 01/24/2028 | 73328EAB7 | | 0.00 | 2,484.58 | 2,484.58 | | | |
| 02/22/25 | 02/22/25 | PFAST 2023-2A A2A DTD 11/10/2023 5.880% 11/23/2026 | 732916AB7 | | 0.00 | 573.10 | 573.10 | | | |
| 02/25/25 | 02/25/25 | CHAOT 2024-4A A2 DTD 07/30/2024 5.250% 09/27/2027 | 16144YAB4 | | 0.00 | 2,045.14 | 2,045.14 | | | |
| 02/25/25 | 02/25/25 | BMWOT 2024-A A3 DTD 06/11/2024 5.180% 02/26/2029 | 096919AD7 | | 0.00 | 3,086.42 | 3,086.42 | | | |
| 02/25/25 | 02/25/25 | CHAOT 2024-1A A2 DTD 03/27/2024 5.480% 04/26/2027 | 16144BAB4 | | 0.00 | 497.51 | 497.51 | | | |
| 02/25/25 | 02/25/25 | GOLDMAN SACHS GROUP INC (CALLABLE) DTD 02/25/2016 3.750% 02/25/2026 | 38143U8H7 | | 0.00 | 7,500.00 | 7,500.00 | | | |

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## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

### 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **INTEREST** | | | | | | | | | | |
| 02/25/25 | 02/25/25 | CHAOT 2024-2A A2 DTD 04/25/2024 5.660% 05/26/2027 | 16144CAB2 | | 0.00 | 2,059.39 | 2,059.39 | | | |
| 02/25/25 | 02/25/25 | CHAOT 2024-5A A2 DTD 09/24/2024 4.400% 11/26/2027 | 16144QAB1 | | 0.00 | 1,100.00 | 1,100.00 | | | |
| 02/25/25 | 02/25/25 | CHAOT 2024-3A A2 DTD 06/27/2024 5.530% 09/27/2027 | 16144LAB2 | | 0.00 | 3,068.82 | 3,068.82 | | | |
| 02/26/25 | 02/26/25 | ASTRAZENECA FINANCE LLC (CALLABLE) DTD 02/26/2024 4.800% 02/26/2027 | 04636NAK9 | | 0.00 | 9,480.00 | 9,480.00 | | | |
| 02/26/25 | 02/26/25 | CISCO SYSTEMS INC DTD 02/26/2024 4.900% 02/26/2026 | 17275RBP6 | | 0.00 | 8,452.50 | 8,452.50 | | | |
| 02/28/25 | 02/28/25 | US TREASURY N/B DTD 02/28/2022 1.875% 02/28/2027 | 91282CEC1 | | 0.00 | 46,875.00 | 46,875.00 | | | |
| 02/28/25 | 02/28/25 | US TREASURY N/B DTD 09/03/2024 3.750% 08/31/2026 | 91282CLH2 | | 0.00 | 37,500.00 | 37,500.00 | | | |
| **Transaction Type Sub-Total** | | | | | **0.00** | **698,743.49** | **698,743.49** | | | |
| **MATURITY** | | | | | | | | | | |
| 02/14/25 | 02/14/25 | ROYAL BANK OF CANADA NY DTD 05/20/2024 0.000% 02/14/2025 | 78015CPE6 | 3,300,000.00 | 3,300,000.00 | 0.00 | 3,300,000.00 | 128,716.50 | 0.00 | |
| 02/14/25 | 02/14/25 | CREDIT AGRICOLE CIB NY DTD 05/20/2024 0.000% 02/14/2025 | 22533TPE0 | 800,000.00 | 800,000.00 | 0.00 | 800,000.00 | 31,383.33 | 0.00 | |
| 02/14/25 | 02/14/25 | BNP PARIBAS NY BRANCH DTD 04/07/2023 0.000% 02/14/2025 | 09659BPE4 | 750,000.00 | 750,000.00 | 0.00 | 750,000.00 | 29,309.79 | 0.00 | |
| 02/24/25 | 02/24/25 | NATIXIS NY BRANCH DTD 07/18/2024 0.000% 02/24/2025 | 63873JPQ7 | 2,500,000.00 | 2,500,000.00 | 0.00 | 2,500,000.00 | 38,013.89 | 0.00 | |
| **Transaction Type Sub-Total** | | | | **7,350,000.00** | **7,350,000.00** | **0.00** | **7,350,000.00** | **227,423.51** | **0.00** | |
| **PAYDOWNS** | | | | | | | | | | |
| 02/01/25 | 02/25/25 | FHMS K736 A2 DTD 09/01/2019 2.282% 07/01/2026 | 3137FNWX4 | 1,028.60 | 1,028.60 | 0.00 | 1,028.60 | 74.22 | 39.48 | |
| 02/01/25 | 02/25/25 | FHMS K733 A2 DTD 11/01/2018 3.750% 08/01/2025 | 3137FJXQ7 | 245.19 | 245.19 | 0.00 | 245.19 | 8.06 | 2.47 | |

**Managed Account Security Transactions & Interest**

For the Month Ending **February 28, 2025**

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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **PAYDOWNS** | | | | | | | | | | |
| 02/01/25 | 02/25/25 | FHMS K069 A2 DTD 11/01/2017 3.187% 09/01/2027 | 3137FBU79 | 1,205.75 | 1,205.75 | 0.00 | 1,205.75 | 58.30 | 48.11 | |
| 02/01/25 | 02/25/25 | FHMS K058 A1 DTD 11/01/2016 2.340% 07/01/2026 | 3137BSP64 | 13,627.53 | 13,627.53 | 0.00 | 13,627.53 | 698.41 | 357.23 | |
| 02/01/25 | 02/25/25 | FHMS K054 A2 DTD 04/01/2016 2.745% 01/01/2026 | 3137BNGT5 | 1,941.45 | 1,941.45 | 0.00 | 1,941.45 | 98.21 | 43.90 | |
| 02/01/25 | 02/25/25 | FNA 2015-M11 A2 DTD 07/01/2015 2.852% 04/01/2025 | 3136APSZ6 | 46,784.96 | 46,784.96 | 0.00 | 46,784.96 | 1,829.37 | 311.10 | |
| 02/01/25 | 02/25/25 | FHMS K065 A1 DTD 07/01/2017 2.864% 10/01/2026 | 3137F1G36 | 21,958.28 | 21,958.28 | 0.00 | 21,958.28 | 947.81 | 566.50 | |
| 02/15/25 | 02/15/25 | HART 2022-C A3 DTD 11/09/2022 5.390% 06/15/2027 | 44933DAD3 | 32,378.32 | 32,378.32 | 0.00 | 32,378.32 | 249.16 | 159.89 | |
| 02/15/25 | 02/15/25 | CARMX 2022-2 A3 DTD 04/28/2022 3.490% 02/16/2027 | 14317HAC5 | 30,872.16 | 30,872.16 | 0.00 | 30,872.16 | 801.95 | 463.68 | |
| 02/15/25 | 02/15/25 | FORDO 2024-A A2A DTD 03/19/2024 5.320% 01/15/2027 | 34535EAB8 | 32,339.77 | 32,339.77 | 0.00 | 32,339.77 | 1.13 | 0.76 | |
| 02/15/25 | 02/15/25 | MBART 2023-2 A2 DTD 10/25/2023 5.920% 11/16/2026 | 58769FAB1 | 22,717.15 | 22,717.15 | 0.00 | 22,717.15 | 1.01 | 0.60 | |
| 02/15/25 | 02/15/25 | WOART 2024-A A2A DTD 02/14/2024 5.050% 04/15/2027 | 98164RAB2 | 26,978.10 | 26,978.10 | 0.00 | 26,978.10 | 2.11 | 1.44 | |
| 02/15/25 | 02/15/25 | USAOT 2024-A A2 DTD 07/30/2024 5.250% 03/15/2027 | 90327VAB4 | 132,518.01 | 132,518.01 | 0.00 | 132,518.01 | 8.57 | 6.79 | |
| 02/15/25 | 02/15/25 | TAOT 2024-B A2A DTD 04/30/2024 5.410% 03/15/2027 | 89237NAB3 | 47,211.50 | 47,211.50 | 0.00 | 47,211.50 | 3.39 | 2.50 | |
| 02/15/25 | 02/15/25 | WOART 2024-B A2A DTD 05/22/2024 5.480% 09/15/2027 | 98164HAB4 | 35,450.23 | 35,450.23 | 0.00 | 35,450.23 | 3.57 | 2.81 | |
| 02/15/25 | 02/15/25 | TAOT 2024-C A2A DTD 07/30/2024 5.160% 05/17/2027 | 89237QAB6 | 28,473.03 | 28,473.03 | 0.00 | 28,473.03 | 0.27 | 0.18 | |
| 02/15/25 | 02/15/25 | KCOT 2024-1A A2 DTD 02/21/2024 5.390% 01/15/2027 | 50117BAB6 | 53,432.55 | 53,432.55 | 0.00 | 53,432.55 | 0.70 | 0.39 | |
| 02/15/25 | 02/15/25 | HART 2023-C A2A DTD 11/13/2023 5.800% 01/15/2027 | 44918CAB8 | 42,078.36 | 42,078.36 | 0.00 | 42,078.36 | 1.97 | 1.22 | |
| 02/15/25 | 02/15/25 | WOART 2023-D A2A DTD 11/08/2023 5.910% 02/16/2027 | 98164DAB3 | 22,685.27 | 22,685.27 | 0.00 | 22,685.27 | 1.91 | 1.19 | |

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## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **PAYDOWNS** | | | | | | | | | | |
| 02/15/25 | 02/15/25 | NAROT 2024-A A2A DTD 05/22/2024 5.470% 12/15/2026 | 65479UAB4 | 60,019.56 | 60,019.56 | 0.00 | 60,019.56 | 0.63 | 0.42 | |
| 02/15/25 | 02/15/25 | WOART 2024-C A2A DTD 08/20/2024 4.780% 01/18/2028 | 98164NAB1 | 76,138.84 | 76,138.84 | 0.00 | 76,138.84 | 1.63 | 1.25 | |
| 02/15/25 | 02/15/25 | FORDO 2024-B A2A DTD 06/24/2024 5.400% 04/15/2027 | 34531QAB5 | 131,782.96 | 131,782.96 | 0.00 | 131,782.96 | 9.86 | 7.53 | |
| 02/15/25 | 02/15/25 | HART 2024-B A2A DTD 07/24/2024 5.150% 06/15/2027 | 44934QAB7 | 42,176.85 | 42,176.85 | 0.00 | 42,176.85 | 1.71 | 1.39 | |
| 02/15/25 | 02/15/25 | COPAR 2023-2 A2A DTD 10/11/2023 5.910% 10/15/2026 | 14044EAB4 | 71,761.13 | 71,761.13 | 0.00 | 71,761.13 | 6.34 | 3.64 | |
| 02/15/25 | 02/15/25 | HAROT 2024-1 A2 DTD 02/21/2024 5.360% 09/15/2026 | 437918AB1 | 92,702.96 | 92,702.96 | 0.00 | 92,702.96 | 8.56 | 5.34 | |
| 02/15/25 | 02/15/25 | NAROT 2023-B A2A DTD 10/25/2023 5.950% 05/15/2026 | 65480MAB9 | 75,277.87 | 75,277.87 | 0.00 | 75,277.87 | 1.10 | 0.54 | |
| 02/16/25 | 02/16/25 | GMCAR 2024-2 A2A DTD 04/10/2024 5.330% 03/16/2027 | 379931AB4 | 21,002.96 | 21,002.96 | 0.00 | 21,002.96 | 1.39 | 0.99 | |
| 02/16/25 | 02/16/25 | GMCAR 2024-3 A2A DTD 07/10/2024 5.350% 06/16/2027 | 38013KAB6 | 61,275.22 | 61,275.22 | 0.00 | 61,275.22 | 0.15 | 0.00 | |
| 02/20/25 | 02/20/25 | VALET 2023-2 A2A DTD 11/21/2023 5.720% 03/22/2027 | 92867YAB0 | 30,036.90 | 30,036.90 | 0.00 | 30,036.90 | 1.75 | 1.12 | |
| 02/22/25 | 02/22/25 | PFAST 2023-2A A2A DTD 11/10/2023 5.880% 11/23/2026 | 732916AB7 | 79,287.98 | 79,287.98 | 0.00 | 79,287.98 | 2.43 | 1.45 | |
| 02/25/25 | 02/25/25 | CHAOT 2024-1A A2 DTD 03/27/2024 5.480% 04/26/2027 | 16144BAB4 | 14,501.42 | 14,501.42 | 0.00 | 14,501.42 | 1.21 | 0.85 | |
| 02/25/25 | 02/25/25 | CHAOT 2024-2A A2 DTD 04/25/2024 5.660% 05/26/2027 | 16144CAB2 | 53,101.51 | 53,101.51 | 0.00 | 53,101.51 | 1.92 | 1.92 | |
| 02/25/25 | 02/25/25 | CHAOT 2024-3A A2 DTD 06/27/2024 5.530% 09/27/2027 | 16144LAB2 | 63,984.18 | 63,984.18 | 0.00 | 63,984.18 | 0.55 | 0.31 | |
| 02/25/25 | 02/25/25 | CHAOT 2024-5A A2 DTD 09/24/2024 4.400% 11/26/2027 | 16144QAB1 | 9,881.78 | 9,881.78 | 0.00 | 9,881.78 | 0.88 | 0.77 | |
| 02/25/25 | 02/25/25 | CHAOT 2024-4A A2 DTD 07/30/2024 5.250% 09/27/2027 | 16144YAB4 | 44,651.07 | 44,651.07 | 0.00 | 44,651.07 | 4.18 | 3.45 | |
| **Transaction Type Sub-Total** | | | | **1,521,509.40** | **1,521,509.40** | **0.00** | **1,521,509.40** | **4,834.41** | **2,041.21** | |

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## Managed Account Security Transactions & Interest

For the Month Ending **February 28, 2025**

### 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| **SELL** | | | | | | | | | | |
| 01/31/25 | 02/05/25 | US TREASURY N/B DTD 08/15/2023 4.375% 08/15/2026 | 91282CHU8 | 800,000.00 | 801,687.50 | 16,548.91 | 818,236.41 | 8,906.25 | 5,393.52 | FIFO |
| 01/31/25 | 02/05/25 | US TREASURY N/B DTD 12/15/2022 4.000% 12/15/2025 | 91282CGA3 | 75,000.00 | 74,856.45 | 428.57 | 75,285.02 | 1,312.50 | 399.00 | FIFO |
| 02/04/25 | 02/05/25 | US TREASURY N/B DTD 12/15/2022 4.000% 12/15/2025 | 91282CGA3 | 75,000.00 | 74,859.38 | 428.57 | 75,287.95 | 1,315.43 | 401.93 | FIFO |
| 02/04/25 | 02/06/25 | US TREASURY N/B DTD 12/15/2022 4.000% 12/15/2025 | 91282CGA3 | 1,250,000.00 | 1,247,656.25 | 7,280.22 | 1,254,936.47 | 21,923.83 | 6,669.92 | FIFO |
| 02/05/25 | 02/06/25 | US TREASURY N/B DTD 01/17/2023 3.875% 01/15/2026 | 91282CGE5 | 2,000,000.00 | 1,994,062.50 | 4,709.94 | 1,998,772.44 | 3,671.87 | 1,688.42 | FIFO |
| 02/05/25 | 02/06/25 | US TREASURY N/B DTD 12/15/2022 4.000% 12/15/2025 | 91282CGA3 | 1,100,000.00 | 1,098,066.41 | 6,406.59 | 1,104,473.00 | 19,421.88 | 5,998.44 | FIFO |
| 02/10/25 | 02/11/25 | US TREASURY N/B DTD 01/17/2023 3.875% 01/15/2026 | 91282CGE5 | 1,400,000.00 | 1,395,132.81 | 4,046.27 | 1,399,179.08 | 1,859.37 | 393.34 | FIFO |
| 02/10/25 | 02/11/25 | US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026 | 91282CJV4 | 1,300,000.00 | 1,299,441.41 | 1,678.87 | 1,301,120.28 | (355.47) | (400.99) | FIFO |
| 02/11/25 | 02/12/25 | US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026 | 91282CJV4 | 525,000.00 | 524,712.89 | 739.64 | 525,452.53 | (205.08) | (223.64) | FIFO |
| **Transaction Type Sub-Total** | | | | **8,525,000.00** | **8,510,475.60** | **42,267.58** | **8,552,743.18** | **57,850.58** | **20,319.94** | |
| **Managed Account Sub-Total** | | | | | **2,130,086.44** | **737,055.98** | **2,867,142.42** | **309,816.50** | **22,361.15** | |
| **Total Security Transactions** | | | | | **$2,130,086.44** | **$737,055.98** | **$2,867,142.42** | **$309,816.50** | **$22,361.15** | |

Bolded items are forward settling trades.

**Staff Report – Item 1c**

| | |
|---|---|
| **Item 1c:** | **Authorize the Chief Executive Officer to Execute a Contract Amendment with School of Thought for Marketing and Advertising Services to Add $230,000 for a New Not-to-Exceed Amount of $530,000** |
| From: | Monica Padilla, CEO |
| Prepared by: | Justin Zagunis, Director of Customer Success<br>Pamela Leonard, Deputy Director of Marketing & Communications |
| Date: | 4/9/2025 |

## RECOMMENDATION

Staff recommends the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) authorize the Chief Executive Officer to execute a contract amendment with School of Thought to add $230,000 for a new not-to-exceed (NTE) amount of $530,000 for marketing and advertising services.

The amendment is needed to allow for sufficient budget to cover current expenses and to continue to receive services to promote customer bill payment, energy efficiency and other affordability resources.

## BACKGROUND

In February 2024, the Board approved a two-year agreement with School of Thought, a respected Oakland-based creative marketing agency. The service agreement covers marketing and advertising services to promote customer electrification awareness, the SVCE eHub and other programs, such as home rebates for electric heat pump equipment.

SVCE has engaged School of Thought to create and run marketing campaigns since 2020. The most recent contract was initiated following a competitive request for proposals (RFP) conducted by SVCE staff in 2022. School of Thought has a proven track record of providing strategic messaging and user experience services for the first iteration of the SVCE eHub. School of Thought was also the agency of record that developed the Building Decarbonization Coalition's Switch Is On electrification awareness campaign, of which SVCE was also a founding member. This has resulted in School of Thought applying its industry expertise to campaigns that creatively educate customers about topics such as heat pumps, electric vehicles and whole-home electrification.

School of Thought has orchestrated highly effective campaigns such as "Don't Homecrastinate" for eHub, "Pays to be in the know," and "Match" for the SVCE Home Rebate program. Notably, the rebate-focused campaigns significantly increased web traffic to the Home Rebates webpage, and campaign results show a correlation between web traffic and applicant submissions during the time the ads were running. Additionally, School of Thought helped develop creative campaigns for other SVCE initiatives, such as the agency's first-ever Department of Motor Vehicle ads to promote the GridShift EV Charging app and a video that showcases the partnership behind building the SVCE Dream Home.

To date, the School of Thought advertising campaigns have delivered higher results than industry benchmarks for the number of impressions and clicks for digital ads. The videos have a high completion rate, meaning that customers are viewing them, and not skipping past them. The creative team behind School of Thought has decades of experience in the advertising industry and helps guide the SVCE marketing and communications efforts to capture customers' attention and deliver results for each campaign’s distinct goals of increasing program awareness or driving action with program applications. Pairing School of Thought’s creativity and innovation with SVCE’s deep knowledge of its community and electric technologies has led to these striking and impactful ads that resonate with customers of all types.

The current agreement expires in February 2026 and has a not-to-exceed amount of $300,000.

**ANALYSIS & DISCUSSION**

There are three main drivers for the recommendation to amend the contract with School of Thought to increase the budget.

**Driver #1**

The first need to increase the budget is to account for the increased use of the School of Thought’s support as the scale and number of live SVCE programs and initiatives have increased. This has affected the volume of projects that staff has used School of Thought to support, resulting in $190,507.50 being spent on creative services as of March 2025. Given the slightly accelerated spend rate due to a higher volume of programs than originally anticipated, staff sees a need to add another $15,000 to provide full support through February 2026.

**Driver #2**

Staff leveraged School of Thought to purchase two media buys (i.e., paying for space where customers will see the ads, on digital networks like news websites and on Meta platforms) for a total of $155,000. SVCE typically pays for media buys directly as part of the Board-approved marketing budget. Having School of Thought pay directly resulted in costs exceeding the NTE contract amount by $45,508. The media buy costs are a passthrough expense and should have been billed directly to SVCE outside of the School of Thought contract, however staff recommends paying them as part of the contract and increasing the NTE by a corresponding amount.

**Driver #3**

Amending the contract with School of Thought to add additional funds will allow staff to implement public information campaigns focused on affordability, a Strategic Focus Area for the organization this fiscal year.

The two desired campaigns to support affordability are:

1. Payment Assistance and Efficiency Resources—Spring 2025: This campaign promotes CARE/FERA rate discount programs and other payment and efficiency resources to eligible customers. It will include out-of-home ads at transit shelters, two billboards in the SVCE service area, and targeted digital ads. This campaign was already under development before the issue with tracking the media buys was flagged. The work performed to date is about $30,000, a typical cost for campaign creative development.
2. Rate Education—Late summer/Fall 2025: The campaign will focus on helping customers optimize their energy use with time-of-use rates, which can help lower bills. No work has commenced on this campaign, but adding funds will ensure this important public information can be dispersed to customers during the time of year when bills are highest. Another $25,000 is needed to support this campaign.

Adding funds to support these two affordability campaigns will mean that staff does not need to pull funds away from the ongoing and planned program marketing.

**Final recommendation**

Given the specifics discussed above, staff recommends increasing the contract NTE amount by $230,000 to reflect the two media buys that already occurred, increased spending due to additional program marketing, and the need for more support for the campaigns focused on affordability resources. Increasing the contract total will best enable staff to move quickly and reach wider customer audiences.

| Task | Budget | Current Spend | Recommendation to Add | Rationale |
|---|---|---|---|---|
| Standard marketing campaign support | $300,000 | $190,507.50 | $15,000 | Currently spending more rapidly than forecasted due to more programs |
| Two media buys | - | $155,000 | $155,000 | This spend is already captured in SVCE's operating budget, but not in this contract not-to-exceed |
| Affordability campaigns (x2) | - | $30,000 | $60,000 | To support the new Strategic Focus Area, want to run new, dedicated campaigns |
| **TOTAL to add** | | | **$230,000** | |

## STRATEGIC PLAN

There are several goals in the SVCE Board-adopted Strategic Plan that marketing and advertising services for awareness of payment assistance, efficiency resources and rate education touch upon, including:

- Strategic Focus Area #1 – Expand Affordability Efforts: Expand rate-related education, legislative and regulatory advocacy, and rate-setting principles to support all-electric as the most affordable and competitive option for customers.

- Goal #7: Support all SVCE communities to decarbonize through local investments that reduce barriers and demonstrate sensible, scalable, and equitable solutions.

- Goal #8: Engage customers and community stakeholders to build trust of SVCE and advance decarbonization.

## ALTERNATIVE

Do not approve the contract amendment with School of Thought. Staff will let the current contract expire and explore other creative agency options via an RFP process in spring 2025. This would hurt the momentum of existing efforts and remove a resource that staff has been counting on for upcoming campaigns. If SVCE were to take on all advertising work internally, staff efforts would have to be redirected away from launching new programs and spending more time on existing ones. This would hinder new initiatives in progress that are planned to support SVCE and member agency decarbonization policy programs.

Additionally, while the School of Thought contract includes standard language indicating that work performed in excess of the contract limit will have no cost to SVCE, staff would prefer to increase the budget to cover the cost of those two media buys and make the vendor whole. This will allow staff to keep using School of Thought for the more valuable creative support through the end of the contract.

## FISCAL IMPACT

The contract amendment allocates $230,000 for a new contract not to exceed amount of $530,000 through February 2026. The dollars that will be spent under this amendment were already allocated by the Board for operations and programs marketing as approved in the Fiscal Year 24-25 board-adopted budget, so there is no additional fiscal impact from this item.

## ATTACHMENT

1. Amended Agreement with School of Thought
2. Existing Agreement with School of Thought

# FIRST AMENDMENT TO AGREEMENT WITH SCHOOL OF THOUGHT

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency ("Authority"), and SCHOOL OF THOUGHT entered into that certain agreement entitled MARKETING AND ADVERTISING SERVICES, effective on March 1, 2024, hereinafter referred to as "Original Agreement"; and

WHEREAS, Authority and SCHOOL OF THOUGHT have determined it is in their mutual interest to amend certain terms of the Original Agreement by adding $230,000 to the NTE and adding tasks to the scope of services.

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

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

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed five hundred and thirty-thousand dollars and no/100 ($530,000.00) dollars based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

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

Add to current Scope of Services

- **Ad Development and Production**
  - Consultant will provide creative services such as messaging development, artwork, video production and any other needs to help develop compelling ads that furthers payment assistance, efficiency resources and rate education.

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

| **Task 1 – Advertising Services** | **Begin** | **Complete** |
|---|---|---|
| D) Program Specific Campaign | April 2025 | February 2026 |
| E) Payment assistance and efficiency resources | March 2025 | June 2025 |
| F) Rate education | July 2025 | October 2025 |

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of five hundred and thirty-thousand dollars and no/100 ($530,000.00) Click here to enter dollar amount in words.as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

| **Task** | **Estimated Budget** |
|---|---|
| Task 1 D – Program Specific Campaign<br>- Assistance with creative on specific program marketing campaigns, such as Home Rebates, eHub or Home Upgrades<br>- Quarterly big-picture working sessions to establish goals<br>- Study and analyze research<br>- Creative Strategy: Identify campaign or activation themes (at least 3 distinct themes)<br>- Messaging: Create distinctive messaging to be used in different channels<br>- Production of at least 3-4 executions for each of the below:<br>o Digital display ads<br>o Social media ads for Facebook and Instagram<br>o Out-of-home ads for buses or bus shelters<br>o At least two videos of varying lengths for different platforms, 1 min., 30 sec., and 15 sec. versions<br>o 1 radio ad<br>- Out of pocket expenses (at cost + 5%): stock imagery, film crews, retouching, HTML banner coding | $15,000 |
| Task 1 E – Payment assistance and efficiency resources<br>- Quarterly big-picture working sessions to establish goals<br>- Study and analyze research<br>- Creative Strategy: Identify campaign or activation themes (at least 3 distinct themes)<br>Messaging: Create distinctive messaging to be used in different channels<br>- Production of at least 3-4 executions for each of the below:<br>o Digital display ads<br>o Social media ads for Facebook and Instagram<br>o Out-of-home ads for buses or bus shelters<br>o At least two videos of varying lengths for different platforms, 1 min., 30 sec., and 15 sec. versions<br>o 1 radio ad<br>- Out-of-pocket expenses (at cost + 5%): stock imagery, film crews, retouching, HTML banner coding | $30,000 |
| Task 1 F – Rate education<br>- Quarterly big-picture working sessions to establish goals<br>- Study and analyze research | $30,000 |

| | |
|---|---|
| - Creative Strategy: Identify campaign or activation themes (at least 3 distinct themes)<br>- Messaging: Create distinctive messaging to be used in different channels<br>- Production of at least 3-4 executions for each of the below:<br>    o Digital display ads<br>    o Social media ads for Facebook and Instagram<br>    o Out-of-home ads for buses or bus shelters<br>    o At least two videos of varying lengths for different platforms, 1 min., 30 sec., and 15 sec. versions<br>    o 1 radio ad<br>- Out of pocket expenses (at cost + 5%): stock imagery, film crews, retouching, HTML banner coding | |
| Reimbursable Expenses<br>- Payment for ad buys not covered under previous agreement | $155,000 |
| **Total new money** | **$230,0000** |
| **Original approved nte** | **$300,000** |
| **Total new nte (original + amendment)** | **$530,000** |

5. This Amendment shall be effective on April 10, 2025

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

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

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

RECOMMENDED FOR APPROVAL

____________________________________
Justin Zagunis, Director of Customer Success

CONSULTANT NAME
SCHOOL OF THOUGHT

By: ____________________________
Name: Tom Geary
Title: ___________________________
Date: ____________________________
SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

By: _____________________________
Name: Monica Padilla
Title: Chief Executive Officer
Date: ____________________________

APPROVED AS TO FORM:

_________________________
Counsel for Authority

ATTEST:

_______________________
Authority Clerk

# AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND SCHOOL OF THOUGHT FOR MARKETING AND ADVERTISING SERVICES

THIS AGREEMENT, is entered into this 1st day of March 2024, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and School of Thought, a California corporation whose address is 544 60th Street, Oakland, CA, 94609 (hereinafter referred to as "Consultant") (collectively referred to as the “Parties” and individually as a “Party”).

RECITALS:

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

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

C. Authority and Consultant desire to enter into an agreement for marketing and advertising services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on March 1, 2024, and shall terminate on February 28, 2026, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

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

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed Three hundred thousand dollars and no/100 ($300,000.00) dollars based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

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

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

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

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

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

8. **NON-DISCRIMINATION**

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

9. **HOLD HARMLESS AND INDEMNIFICATION**

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

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

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

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

10. **INSURANCE**

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

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

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

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

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

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

11. **CONFLICT OF INTEREST**

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

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

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

14. **REPORTS**

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

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

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

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

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

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

15. **RECORDS**

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

16. **PARTY REPRESENTATIVES**

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

17. **INFORMATION AND DOCUMENTS**

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

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

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

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

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

18. **NOTICES**

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

TO AUTHORITY:

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

TO CONSULTANT:

Tom Geary
School of Thought
544 60th Street
Oakland, CA, 94609

19. **TERMINATION**

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

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

20. **COMPLIANCE WITH LAWS**

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

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

21. **CONFLICT OF LAW**

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

22. **ADVERTISEMENT**

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

23. **WAIVER**

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

24. **INTEGRATED CONTRACT**

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

25. **AUTHORITY**

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

26. **INSERTED PROVISIONS**

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

27. **CAPTIONS AND TERMS**

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

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

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

29. **EXHIBITS**

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

30. **FORCE MAJEURE**

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

31. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**

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

32. **ATTORNEY FEES**

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

33. **SEVERABILITY**

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

34. **SUCCESSORS AND ASSIGNS**

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

35. **NO THIRD PARTY BENEFICIARIES INTENDED**

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

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

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

37. **DRAFTING PARTY**

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

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

RECOMMENDED FOR APPROVAL

DocuSigned by:
1FC10ED0FA9E499...
Adam Selvin, Director of Energy Services & Community Relations

RECOMMENDED FOR APPROVAL

DocuSigned by:
A88F1DE92E8F467...
Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
SCHOOL OF THOUGHT

DocuSigned by:
By: Tom Geary
F79C26275D6B47F...
Name: Tom Geary
Title: Founder, CEO
Date: 2/23/2024

SILICON VALLEY CLEAN ENERGY AUTHORITY
A Joint Powers Authority

DocuSigned by:
By: Girish Balachandran
5CA64B9AC4C24C3...
Name: Girish Balachandran
Title: Chief Executive Officer
Date: 2/23/2024

APPROVED AS TO FORM:

DocuSigned by:
Trisha Ortiz
60CEDB7661684C2...

Counsel for Authority

ATTEST:

DocuSigned by:
Andrea Pizano
8BC3564ACEA848D...

Authority Clerk

# Exhibit A
# Scope of Services

**Task 1 - Advertising Services for Electrification Campaigns (Tasks 1, A – D)**

- **Ad Development and Production**
  - Consultant will provide creative services such as messaging development, artwork, video production and any other needs to help develop compelling ads that furthers electrification awareness and SVCE customer program enrollment.
  - Consultant will collaborate with SVCE staff on messaging and creative strategy sessions to co-create campaigns and identify campaign goals.
  - Consultant will provide translated and accessible materials as appropriate for various advertising platforms. This includes enlisting multicultural marketing expertise or subcontractors, as needed.
  - Annually, consultant will develop at least two annual marketing campaigns:
    - A) Promote electrification awareness and education 2024
    - B) Promote a specific SVCE electrification program, (FutureFit Homes rebates) 2024
    - C) Promote electrification awareness via the SVCE eHub in 2025
    - D) Promote a specific SVCE electrification program in 2025 (e.g., Go Electric Advisor, FutureFit Fundamentals Contractor Training, new rebates TBD).
  - Ongoing advertising needs will support other customer programs, or general agency business. These campaigns are to-be-determined.

- **Media Planning and Buying**
  - Consultant will assist SVCE in developing advertising strategies that help deliver on pre-defined campaign goals. This includes advising on placements for digital, print, out-of-home, video, streaming services, broadcast, and others.
  - Consultant will negotiate rates on behalf of SVCE and secure placements.
  - Consultant will assist SVCE with ad placements for local efforts as directed by SVCE staff.

**Marketing Services (Tasks 2, A – B)**

- Separate from the advertising services listed in Task 1, marketing services includes a broader range of activities that the Consultant will perform to support the SVCE communications and marketing goals.
  - These services include experiential market activations that assist with customer outreach and events and may be related to specific program initiatives or may serve broader electrification and agency awareness.
  - Examples of these types of projects range from developing community outreach materials, conference or event booth materials and displays.

**Exhibit B**
**Schedule of Performance**

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

| **Task 1 – Advertising Services** | **Begin** | **Complete** |
|---|---|---|
| A) Electrification awareness/education campaign 2024 | March 2024 | December 2024 |
| B) Rebate program campaign 2024 | March 2024 | December 2024 |
| C) Electrification awareness eHub campaign 2025 | January 2025 | December 2025 |
| D) Electrification program campaign 202 | June 2023 | February 2024 |
| | | |
| **Task 2 – Marketing Services** | **Begin** | **Complete** |
| A) General marketing support 2024 | March 2024 | December 2024 |
| B) General marketing support 2025 | January 2025 | February 2026 |

# Exhibit C
# Compensation

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit "A" and reimbursable expenses shall not exceed a total of **Three-hundred thousand dollars and no/100 ($300,000.00)**, as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

| **Task** | **Estimated Budget** |
|---|---|
| Task 1 A – Electrification awareness campaign 2024<br><br>- Quarterly big-picture working sessions to establish goals<br>- Study and analyze research<br>- Creative Strategy: Identify campaign or activation themes (at least 3 distinct themes)<br>Messaging: Create distinctive messaging to be used in different channels<br>- Production of at least 3-4 executions for each of the below:<br>o Digital display ads<br>o Social media ads for Facebook and Instagram<br>o Out-of-home ads for buses or bus shelters<br>o At least two videos of varying lengths for different platforms, 1 min., 30 sec., and 15 sec. versions<br>o 1 radio ad<br>- Out-of-pocket expenses (at cost + 5%): stock imagery, film crews, retouching, HTML banner coding | $50,000 |
| Task 1 B – Rebate program campaign 2024<br><br>- Quarterly big-picture working sessions to establish goals<br>- Study and analyze research<br>- Creative Strategy: Identify campaign or activation themes (at least 3 distinct themes)<br>- Messaging: Create distinctive messaging to be used in different channels<br>- Production of at least 3-4 executions for each of the below:<br>o Digital display ads<br>o Social media ads for Facebook and Instagram<br>o Out-of-home ads for buses or bus shelters | $50,000 |

| | |
|---|---|
| o At least two videos of varying lengths for different platforms, 1 min., 30 sec., and 15 sec. versions<br>o 1 radio ad<br>- Out of pocket expenses (at cost + 5%): stock imagery, film crews, retouching, HTML banner coding | |
| Task 1 C – Electrification awareness campaign 2025 (associated with launch of eHub 2.0)<br><br>- Quarterly big-picture working sessions to establish goals<br>- Study and analyze research<br>- Creative Strategy: Identify campaign or activation themes (at least 3 distinct themes)<br>Messaging: Create distinctive messaging to be used in different channels<br>- Production of at least 3-4 executions for each of the below:<br>o Digital display ads<br>o Social media ads for Facebook and Instagram<br>o Out-of-home ads for buses or bus shelters<br>o At least two videos of varying lengths for different platforms, 1 min., 30 sec., and 15 sec. versions<br>o 1 radio ad<br>- Out of pocket expenses (at cost + 5%): stock imagery, film crews, retouching, HTML banner coding | $50,000 |
| Task 1 D – Program-specific campaign 2025<br><br>- Quarterly big-picture working sessions to establish goals<br>- Study and analyze research<br>- Creative Strategy: Identify campaign or activation themes (at least 3 distinct themes)<br>Messaging: Create distinctive messaging to be used in different channels<br>- Production of at least 3-4 executions for each of the below:<br>o Digital display ads<br>o Social media ads for Facebook and Instagram<br>o Out-of-home ads for buses or bus shelters<br>o At least two videos of varying lengths for different platforms, 1 min., 30 sec., and 15 sec. versions<br>o 1 radio ad<br>- Out of pocket expenses (at cost + 5%): stock imagery, film crews, retouching, HTML banner coding | $50,000 |

| | |
|---|---|
| Task 2 A (2022)<br>- Additional projects will be billed on a time and materials basis.<br>- Additional concepting ideas and production oversight and management | $50,000 |
| Task 2 B (2023)<br>- Additional projects will be billed on a time and materials basis.<br>- Additional concepting ideas and production oversight and management | $50,000 |
| **Total** | $300,000 |

Rates

| **Personnel** | **Title** | **Hourly** |
|---|---|---|
| Tom Geary | Executive Creative Director | $180 |
| John Buscaglia | Senior Editor | $180 |
| | | |
| Ashley Villarreal | Senior Writer & Researcher | $180 |
| Will Geary | Writer | $180 |
| Cory Pierce | Strategist | $180 |
| Maxine Nisse | Media Director | $180 |

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

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

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

# Exhibit D
# Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE**:

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

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

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

**Staff Report – Item 1d**

| | |
|---|---|
| **Item 1d:** | **Authorize the Chief Executive Officer to Approve the CalCCA Annual Budget and Payment of Dues and Fees in an Amount Not to Exceed $750,000 per CalCCA's Fiscal Year** |
| From: | Monica Padilla, CEO |
| Prepared by: | Maren Wenzel, Director of Regulatory, Policy and Planning |
| Date: | 4/9/2025 |

## RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) authorize the Chief Executive Officer (CEO) to approve California Community Choice Association's ("CalCCA") annual budget and payment of dues and fees starting with CalCCA's next Fiscal Year (July 1, 2025-June 30, 2026) in an amount not to exceed $750,000 per year. This budget enables SVCE to continue its long-standing membership as a part of CalCCA.

## EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee met March 28, 2025 and unanimously supported staff's recommendation for the Chief Executive Officer (CEO) to be authorized to approve CalCCA's annual budget and dues in an amount not to exceed $750,000 for CalCCA's fiscal year.

## BACKGROUND

SVCE has been a member of CalCCA since January of 2017, when the Board of Director's authorized its membership[1]. CalCCA is the Community Choice Aggregator ("CCA") trade association in California. It facilitates cooperation among CCAs and advocates on behalf of CCAs before the California legislature and regulatory bodies. SVCE's CEO, Monica Padilla, serves on the CalCCA Board of Directors and is a member of their Executive Committee.

At CalCCA's March 2025 board meeting a preliminary budget of $520,000 was approved, conditioned on individual members obtaining approval from their respective governing bodies.

In addition to general membership dues, CCAs participate in Special Assessments for regulatory cases which are of specific interest to a subset of members. These are generally cases which are specific to the CCA's incumbent IOU. The primary proceedings these efforts have focused on are PG&E's General Rate Case (GRC) and Energy Resource Recovery Account (ERRA) proceedings. Centralizing these services creates an opportunity to significantly reduce the costs of the legal services by avoiding redundant parallel services offered to each CCA individually. By participating in these cases SVCE is able to monitor PG&E spending and advocate for the interests of our customers to ensure reasonable and fair costs are incurred.

CalCCA is an integral part of SVCE's advocacy activities with both the state legislature and regulatory agencies. The roughly one dozen CalCCA employees dedicated to advocacy issues work on behalf of members

[1] See SVCE Board of Directors, Agenda Item 6 (Authorize CEO to Approve Membership of CalCCA), October 12, 2016.

to advance CCA priorities throughout California electricity policy forums. This is done through a variety of duties including developing comments and letters, meeting with key staff members, legislators and commissioners, and representing CCA members in public hearings and workshops. Given the broad set of shared interests amongst CCAs, the trade organization can use its economies of scale to advocate for, and achieve, significant benefits for its member CCAs. Additionally, as a collective, CalCCA members represent over 20% of California ratepayers and are represented by the majority of the state legislators meaning that the combined voice of CalCCA is stronger than any one CCA on its own.

In addition to its primary function as an advocacy agency, CalCCA supports coordination amongst CCAs on a wide range of issues through more than a dozen committees and discussion groups including marketing, programs, power procurement, risk management, analytics and compliance functions. The ability to coordinate and share learnings across CCAs benefits SVCE staff across all departments and roles.

## ANALYSIS & DISCUSSION

The staff recommendation includes approving CalCCA's Board-approved annual budget of $520,000 payments for the CalCCA starting with CalCCA's 2025-2026 fiscal year costs. These costs primarily consist of staff, consultant and legal counsel fees and administrative costs.

The overall budget for fiscal year 2025-2026 is approximately 13% higher than the prior fiscal year budget. Key changes relative to fiscal year 2024 include adding additional staff and bringing more administrative functions in house. CalCCA has also made minor adjustments to the allocation of costs amongst CCA members.

CalCCA adopts a budget on an annual basis and beyond their fiscal year 2025-26 they anticipate small increases due to cost of living and inflation. SVCE staff's recommendation is to allow the CEO to approve and pay up to $750,000 per CalCCA's fiscal year to cover additional increases in cost and/or special projects carried out through CalCCA on behalf of a subset of its members. Costs beyond $750,000 per year will be brought back to the SVCE Board for approval.

## STRATEGIC PLAN

Given the broad nature of CalCCA's advocacy work at both the legislature and regulatory bodies, continued membership in the organization will support multiple Strategic Goals. These include "Expand Affordability Efforts", "Expand Clean and Reliable Grid Actions" and "Prepare Region for Electrification at Scale".

## ALTERNATIVE

Not funding CalCCA membership would require that SVCE withdraw from CalCCA. SVCE would have to add additional staff and/or consultants to provide the legislative and regulatory work currently performed by CalCCA staff. In lieu of adding additional staff, SVCE would have to reduce its monitoring and engagement in regulatory and legislative activities that have significant impacts on the organization. Neither alternative is recommended due to impacts on current operations.

Also, the Board could direct staff to return annually for authorization to pay CalCCA's annual budget and authorize payments.

## FISCAL IMPACT

CalCCA members pay dues on a quarterly basis, starting on July 1, the beginning of CalCCA's fiscal year. Given the misalignment with SVCE's fiscal year this means approval of the 2025-2026 CalCCA dues will be partially paid in SVCE's 2025 fiscal year ($260,000) and the remainder paid in fiscal year 2026 ($260,000). Invoices will also include amounts for Special Assessments, which SVCE's Board of Directors approved at the February 2025 meeting[2].

[2] See SVCE Board of Directors, Agenda Item 1e (Approve Increase to SVCE's Payments to California Choice Association in the Amount of $200,000 for Special Assessments), February 12, 2025)

Going forward, staff will include as part of SVCE's annual budget process an estimate of the expected CalCCA budget obligation.

**Staff Report – Item 1e**

| | |
|---|---|
| **Item 1e:** | **Adopt Resolution Establishing Administrative Claims Procedure** |
| From: | Monica Padilla, CEO |
| Prepared by: | Michael Callahan, General Counsel |
| Date: | 4/9/2025 |

## RECOMMENDATION
Staff recommends the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) adopt Resolution No. 2025-09 establishing a claim presentation procedure pursuant to Government Code Section 935.

## BACKGROUND
California Government Code Section 935 grants authority to a public entity to institute a claims procedure for claims for money or damages against the entity that are otherwise exempt from the general claim filing requirements under California Government Code 905. The purpose of the statute is to allow public entities to set up a process by which the entity can thoroughly investigate claims, facilitate efficient settlement of meritorious claims, engage in fiscal planning, and avoid future liability.

## ANALYSIS & DISCUSSION
An administrative claims procedure would allow SVCE to adjudicate (and possibly settle) claims against it without the cost of civil litigation.

Through this Resolution, all claims shall be submitted to the Board or Chief Executive Officer ("CEO") for approval or rejection. The Resolution proposes to delegate to the CEO the authority to settle or compromise a claim up to $50,000.

## STRATEGIC PLAN
Establishing a claims procedure supports Goal 9 of the SVCE Strategic Plan to,"Implement industry best practices to enable data-driven decision making across the organization; enhance systems, standards and procedures to streamline business processes and improve operational effectiveness and reliability (aka SVCE 3.0)".

## ALTERNATIVE
N/A

## FISCAL IMPACT
No fiscal impact to establish this procedure.

## ATTACHMENT
1. Resolution No. 2025-09 establishing a claim presentation procedure pursuant to Government Code Section 935

# SILICON VALLEY CLEAN ENERGY AUTHORITY
# RESOLUTION NO. 2025-09

## A RESOLUTION OF THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY ESTABLISHING A CLAIM PRESENTATION PROCEDURE PURSUANT TO GOVERNMENT CODE SECTION 935

**WHEREAS,** the Government Claims Act (Government Code Section 900 et seq.) (the "Act") sets forth the general procedure for the presentation of claims as a prerequisite to commencement of actions for money or damages against local public entities; and

**WHEREAS,** the Act excepts certain claims against local public entities from the presentation procedures of the Act; and

**WHEREAS,** the Act also specifies that local public entities may adopt a procedure for claims excepted under the Act and which are not governed by any other statutes or regulations; and

**WHEREAS,** the procedure would provide Silicon Valley Clean Energy with sufficient information to adequately investigate claims and potentially avoid the expense of litigation; and

**WHEREAS,** the Board of Directors of Silicon Valley Clean Energy (the "Board") now desires to adopt a procedure to govern the presentation requirements of those excepted claims to establish a claims presentation procedure pursuant to Government Code Section 935.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF SILICON VALLEY CLEAN ENERGY AUTHORITY DOES HEREBY RESOLVE THAT:**

1. **Claims for money or damages.** All claims against Silicon Valley Clean Energy, for money or damages, which are excepted by Section 905 from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Title 1, Division 3.6, Part 3 of the California Government Code, and which are not governed by any other statute, ordinance, or regulation, shall be governed by the procedure prescribed in this Resolution, in accordance with Government Code Section 935, or any successors thereto.

2. **Claim prerequisite to suit.** No suit subject to this Resolution may be brought against Silicon Valley Clean Energy until a claim has been presented to and acted upon by the Board, pursuant to the provisions of Government Code Section 945.4, or any successor thereto. Any action brought against Silicon Valley Clean Energy on a claim after it has been presented to and acted upon by Silicon Valley Clean Energy shall be subject to the provisions of Government Code Sections 945.6 and 946, or any successor thereto.

3. **Time of presentation.** All claims must be presented to the Secretary of the Board within the time limitations prescribed by Government Code Section 911.2. For purposes of determining whether a claim is timely presented, a claim shall be considered presented to the Secretary on the date it is received at the mailing address for the Board.

4. **Form.** All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator, and shall be presented to the Secretary of the Board by the claimant or by a person acting on the claimant's behalf. All claims shall contain the information required by Government Code Sections 910 and 910.2, or

any successors thereto. No claims may be filed on behalf of a class of persons unless verified by every member of that class as required by this Section.

5. **Review of claims.** All claims shall be reviewed by the Secretary of the Board for sufficiency of information and submitted to the Board or the Executive Committee for approval or rejection. Pursuant to Government Code Section 935.4, the Board delegates to the Chief Executive Officer the authority to allow, compromise, or settle claims for an amount up to $50,000. Pursuant to Government Code Section 912.4, the Board or the Executive Committee shall act on a claim within 45 days after the claim has been presented. If a claim is amended, the Board or Executive Committee shall act on the amended claim within 45 days after the amended claim is presented. If the claim is not acted on within 45 days, it shall be deemed to have been rejected on the 45th day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement.

6. **Notice and effect.** This Resolution shall take effect upon adoption and approval by the Board.

**ADOPTED AND APPROVED this 9th day of April by the following vote:**

| | NAME | AYES | NOES | ABSTAIN | ABSENT |
|---|---|---|---|---|---|
| City of Campbell | Director Scozzola | | | | |
| City of Cupertino | Director Fruen | | | | |
| 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 Barbadillo | | | | |
| City of Monte Sereno | Director Mekechuk | | | | |
| City of Morgan Hill | Director Martinez Beltran | | | | |
| City of Mountain View | Director Showalter | | | | |
| County of Santa Clara | Director Lee | | | | |
| City of Saratoga | Director Walia | | | | |
| City of Sunnyvale | Director Klein | | | | |

________________________________________

CHAIR, Silicon Valley Clean Energy

**Attest:**

________________________________________

Andrea Pizano, Board Secretary, Silicon Valley Clean Energy

**Staff Report – Item 1f**

| | |
|---|---|
| **Item 1f:** | **Approve the Chief Executive Officer to Execute a 15-Year Power Purchase Agreement with Yellow Pine III, LLC for an Energy Storage Service Agreement, in Substantial Form and Any Necessary Ancillary Agreements and Documents** |
| From: | Monica Padilla, CEO |
| Prepared by: | Kris Van Vactor, Director of Power Resources |
| Date: | 4/9/2025 |

**RECOMMENDATION**

Staff recommends that the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) delegate authority to the Chief Executive Officer (CEO) to execute a long duration storage agreement with NextEra for the procurement of long duration storage capacity in substantial form and any necessary ancillary agreements and documents as follows:

1. **Yellow Pine Solar III, LLC, Long Duration Storage Energy Storage Service Agreement (ESSA) ("YP3 LDS BESS")**
   a. 9 MW, eight-hour standalone battery energy storage system (BESS).
   b. 15-year delivery term with expected commercial on-line date (COD) and term of June 1, 2028, through May 31, 2043.
   c. Dollar authority not to exceed $47,000,000.

The YP3 LDS BESS is needed to ensure SVCE meets California's Mid-Term Reliability procurement mandates and Resource Adequacy (RA) requirements.

**BACKGROUND**

In the fall of 2022, SVCE issued a Request for Offers (Joint RFO) for long-term clean resources. The goal of the RFO was to secure enough renewable energy and clean capacity to meet SVCE's Renewable Portfolio Standard (RPS) and carbon-free objectives as identified in SVCE's 2022 Integrated Resource Plan (IRP), 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 204 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.

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. 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.

**Agenda Item: 1f** **Agenda Date: 4/9/2025**

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, approved by the board at the November 2024 Board of Directors meeting (linked here: Item 4, SVCE November 13, 2024).

In support of SVCE's goals and mandates, SVCE has 9 long-term contracts for clean energy, capacity and/or reliability products totaling approximately $1.3 billion over the life of the contracts that are online. In addition, SVCE has executed 13 long-term contracts totaling approximately $2.5 billion that are in pre-construction or construction phases. Currently, nine resources are online and estimated to meet approximately 39% of SVCE's retail sales in 2024 with the following RPS mix: Solar + Storage: 20%, Geothermal: 11%, Wind: 8%.

When all resources are on-line in 2029, SVCE will have achieved a 79% RPS from long-term resources. Table 1 is a summary of PPAs executed to date that are online. Table 2 is a summary of PPAs executed to date that in pre-construction or construction states.

**Table 1: Board Authorized Clean Energy Contracts Online**

| | Seller | Project Name | Technology | Generation MW | Storage MW | Storage MWh | Term (years) | SVCE Board Approval |
|---|---|---|---|---|---|---|---|---|
| 1 | MN8 | Slate | Solar + Storage | 93 | 46.5 | 186 | 17 | Oct-18 |
| 2 | Ormat | Casa Diablo | Geothermal | 7 | | | 10 | Feb-20 |
| 3 | Atlantica | Coso | Geothermal | 43.8 | | | 15 | Mar-20 |
| 4 | Leeward | Rabbitbrush | Solar + Storage | 40 | 8 | 20 | 15 | Apr-20 |
| 5 | NextEra | Yellow Pine | Solar + Storage | 50 | 26 | 104 | 20 | May-20 |
| 6 | AES | Mountain View | Wind | 33.3 | | | 20 | Apr-21 |
| 7 | Clearway | Victory Pass | Solar + Storage | 100 | 25 | 100 | 15 | May-21 |
| 8 | Terra-Gen | Cameron Crest | Wind | 77.7 | | | 15 | May-21 |
| 9 | AES | Baldy Mesa (RA-only) | Storage | 0 | 75 | 300 | 10 | Sep-22 |

**Table 2: Board Authorized Clean Energy Contracts Executed**

| | Seller | Project Name | Technology | Generation MW | Storage MW | Storage MWh | Term (years) | SVCE Board Approval | Status |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Avantus | Aratina | Solar + Storage | 80 | 50 | 200 | 20 | Jun-20 | Pre-construction |
| 2 | 174 Power Global | Atlas | Solar | 50 | | | 10 | Jan-21 | Pre-construction |
| 3 | SB Energy | Angela | Solar + Storage | 20 | 10 | 40 | 15 | Mar-21 | Pre-construction |
| 4 | Origis | San Luis West | Solar + Storage | 62.5 | 15.625 | 62.5 | 15 | Apr-21 | Pre-construction |
| 5 | Rev Renewables | Tumbleed | Long Duration Storage | | 15.9375 | 127.5 | 15 | Feb-22 | Construction |
| 6 | Onward | Goal Line | Long Duration Storage | | 14.2 | 113.6 | 15 | Mar-22 | Pre-construction |
| 7 | Ormat | Geothermal Portfolio | Geothermal | 16.75 | | | 20 | Jun-22 | Pre-construction |
| 8 | OME | Fish Lake | Geothermal | 1.82 | | | 20 | Jun-22 | Pre-construction |
| 9 | Middle River Power | Hanford | Thermal + BESS | 99.4 | 131.4 | 131.4 | 12 | Apr-23 | Construction |
| 10 | NextEra | Grace | Solar | 120 | | | 15 | Aug-23 | Pre-construction |
| 11 | NextEra | Yellow Pine III | Storage | 0 | 115 | 460 | 15 | Aug-23 | Pre-construction |
| 12 | Pattern | SunZia | Wind | 100 | | | 15 | Nov-23 | Construction |
| 13 | VCI Energy | Glossy Garlic | Solar + Storage | 50 | 50 | 200 | 10 | Oct-24 | Pre-construction |

**ANALYSIS & DISCUSSION**

***1. Yellow Pine Solar III BESS ("YP3 LDS BESS")***

YP3 LDS BESS, is a 9 MW, eight-hour, 72 MWh new build lithium-ion BESS is an opportunity to ensure SVCEs compliance MTR procurement. YP3 LDS BESS is located adjacent to a solar PV facility which is contracted with a different off-taker. The agreement will enable SVCE to meet a portion of its RA requirements and meet its MTR Order obligations. Additionally, YP3 LDS BESS is expected to provide energy arbitrage value derived when the BESS is charged in lower priced hours and discharged in higher-priced hours. SVCE will pay for the rights to the capacity at a fixed price over the fifteen-year term of the agreement which is expected to come on-line on June 1, 2028. Yellow Pine III is in Clark County, Nevada and within the CAISO.

Yellow Pine Solar III, LLC is a subsidiary of NextEra Energy, Inc. ("NextEra") one of the largest developers and operators of clean energy in the United States. SVCE has an existing solar plus storage, Yellow Pine I, which achieved commercial operation in late July 2023.

**Table 3: Summary of Proposed Resources**

| | |
|---|---|
| **Counterparty** | Yellow Pine Solar III, LLC |
| **Parent Company** | NextEra Energy, Inc. |
| **Product** | New build Long Duration Storage BESS |
| **Need and/or Compliance Obligation** | Resource Adequacy and MTR Procurement Order |
| **Expected Delivery Term** | 15 years, June 1, 2028, through May 31, 2043 |
| **Contract Capacity** | 9 MW BESS, 72 MWh |
| **Location** | Clark County, NV |
| **Percentage of Retail Load Served/RPS** | N/A |

***Mid-term Reliability Procurement Order & Resource Adequacy Capacity***

SVCE has made significant progress towards meeting all tranches of procurement mandates per the MTR Order. SVCE is deficient in meeting its generic 2025, 2026 and 2027 requirements which orders the procurement of 1,100 MW of new clean energy capacity including standalone storage. YP3 LDS BESS, will contribute approximately 9 MW of qualifying capacity long duration storage, thus helping close SVCE's obligation starting in 2028. The actual amount of counting capacity is dependent on the CPUC's on-going assessment of LDS's ability to meet reliability requirements.

SVCE has an obligation to procure sufficient capacity to meet grid reliability as prescribed by the CPUC's RA Program. Resources such as YP3 LDS BESS 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 peak demands. Further, additional changes to the RA Program are being considered through two active workstreams in the RA proceeding at the CPUC (Rulemaking 21-10-002): the Implementation Track Phase 3 and the Phase 2 Reform Track. If the proposals currently being deliberated are adopted and implemented, the RA Program framework will become much more complex and complicate an LSE's ability to meet RA Program requirements in general.

Yellow Pine LDS III meets the conditions established in the MTR Order for LDS resources including the minimum eight-hour discharge duration, minimum ten-year contract term, start date by mid-2028 and ability to meet resource adequacy requirements. For SVCE, the long duration storage procurement mandate (or obligation) is 21 MW of MTR Effective Load Carrying Capacity. Since the percentage of ELCC varies by year of commercial operation start the actual nameplate must be higher by an additional 11 to 19%.

***Clean Energy and Capacity***

Since its inception SVCE has targeted 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.

In an effort to strategically retain large commercial load eligible for Direct Access (DA), in 2019 the Board approved Resolution No. 2019-12, linked here: SVCE Resolution 2019-12, authorizing the CEO to negotiate non-standard pricing agreements. SVCE may allocate a portion of clean energy and capacity benefits and cost obligations associated YP3 LDS BESS directly to a customer to fulfill obligations under the non-standard pricing agreement, provided that the direct allocation is consistent with the Board approved non-standard pricing policy.

## STRATEGIC PLAN

Execution of the YP3 LDS ESSA supports the goals of the Board adopted Fiscal Year 2024-25 Strategic Plan including:

- **Goal 4:** Acquire power supply resources in a cost-effective manner to meet legislative and regulatory obligations, Board directives and customer specific products.

## ALTERNATIVE

The Board may also elect not to approve YP3 LDS BESS and instead delay procurement of clean capacity needed to meet RA and MTR or decide not to abide by the MTR Order. Doing so may expose SVCE's ratepayers to significant cost in the form of "back-stop" procurement undertaken by a central procurement entity in addition to CPUC penalties imposed on SVCE.

## FISCAL IMPACT

Ultimate execution of the agreement will result in cost to SVCE starting in Fiscal Year (FY) 2028 for YP3 LDS BESS, 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 $47,000,000.

## ATTACHMENT

1. Yellow Pine Solar III Power Purchase Agreement – redacted version

**EXECUTION VERSION**

# AMENDED AND RESTATED ENERGY STORAGE SERVICE AGREEMENT (9MW-8hr.)

## COVER SHEET

**Seller**: Yellow Pine Solar III, LLC, a Delaware limited liability company

**Buyer**: Silicon Valley Clean Energy Authority, a California joint powers authority ("**SVCE**")

**Description of Facility**: A 9 $MW_{AC}$ / 72 MWh battery energy storage system, located in Clark County, Nevada, as further described in Exhibit A.

**Milestones**:

| Milestone | Date for Completion |
|---|---|
| **Evidence of Site Control** | Completed |
| **Executed Interconnection Agreement** | Completed |
| **Federal and State Discretionary Permits** | [redacted] |
| **Network Upgrades Completed** | [redacted] |
| **Guaranteed Construction Start Date** | [redacted] |
| **Initial Synchronization** | [redacted] |
| **Guaranteed Commercial Operation Date** | [redacted] |

**Delivery Term**: The period for Product delivery will be for fifteen (15) Contract Years.

**Guaranteed Capacity**: [redacted] $MW_{AC}$ of Installed Capacity

**Dedicated Interconnection Capacity**: [redacted] $MW_{AC}$

**Guaranteed Availability**: [redacted]

**Guaranteed Efficiency Rate**: 84.9% for Contract Year 1, degrading by 0.3% annually until the end of the Delivery Term

**Contract Price**:

| Contract Year | Contract Price |
|---|---|
| 1 – 15 | [redacted] |

| | |
|---|---|
| | [redacted] |

**Product**:

☒ Discharging Energy

☒ Installed Capacity and Effective Capacity

☒ Ancillary Services

☒ Capacity Attributes

**Scheduling Coordinator**: Seller or Seller's designated agent

**Security Amount**:

Development Security: [redacted]

Performance Security: [redacted]

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**Exhibits**:

**AMENDED AND RESTATED ENERGY STORAGE SERVICE AGREEMENT (9MW-8hr.)**

This Amended and Restated Energy Storage Service Agreement (9MW-8hr.) ("**Agreement**") is entered into as of April [__], 2025 (the "**Execution Date**") and effective as of August 9, 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**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

**RECITALS**

WHEREAS, the Parties previously entered into that certain Energy Storage Service Agreement dated as of August 9, 2023 (the "**Prior ESA**"), pursuant to which Seller agreed to sell, and Buyer agreed to purchase, on the terms and conditions set forth in the Prior ESA, certain product (as defined in the Prior ESA);

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

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

WHEREAS, the Parties desire to amend and restate in its entirely the Prior ESA in accordance with the terms and conditions set forth in (a) this Agreement, and (b) a separate energy storage service agreement for product from a separate 24 $MW_{AC}$ / 96 MWh battery energy storage system, also located in Clark County, Nevada, to be executed between the Parties contemporaneous with this Agreement (such separate agreement, the "**24MW-4hr. Amended and Restated ESA**").

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:

"**24MW-4hr. Amended and Restated ESA**" has the meaning set forth in the Recitals.

"**AC**" means alternating current.

"**Acceptable Issuer**" means a U.S. commercial bank, or a foreign bank with a U.S. branch, with such bank having at least [redacted] and having a Credit Rating [redacted]

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.8(b).

"**AD/CVD**" means antidumping and/or countervailing duty.

"**Additional Cycles Payment Amount**" has the meaning set forth in Exhibit Q.

"**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 Transfer" and "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. Notwithstanding the foregoing, with respect to Seller, Affiliate shall include any investment funds or publicly-traded vehicles for the ownership of operating power generation, storage, or transmission assets (such as a "yield co") controlled by Seller, NextEra Energy, Inc. or an Affiliate of NextEra Energy, Inc., XPLR Infrastructure, LP (f/k/a NextEra Energy Partners, LP) ("**NEP**"), XPLR Infrastructure Operating Partners, LP (f/k/a NextEra Energy Operating Partners, LP) ("**NEOP**"), and NextEra Energy Capital Holdings, Inc. ("**NEECH**"), and their respective direct or indirect subsidiaries.

"**After-Tax Basis**" means, with respect to any payment received, or deemed to have been received, by any Person, the amount of such payment (the "Base Payment"), supplemented by a further payment (the "Additional Payment") to such Person so that the sum of the Base Payment plus the Additional Payment will be equal to the Base Payment, after deduction of the amount of all taxes required to be paid by such Person in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account any current or previous credits or deductions arising from the underlying event giving rise to the payment, the Base Payment and the Additional Payment). Such calculations shall be made on the assumption that the recipient is subject to Federal income taxation at the statutory rate applicable to corporations under subchapter C of the Internal Revenue Code of 1986, as amended, and subject to the highest state and local income tax rate then in effect for corporations in the states in which the Person is subject to taxation during the applicable fiscal year, and shall take into account the deductibility, if applicable (for Federal income tax purposes), of state and local income taxes.

"**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.

"**Ancillary Services**" means frequency regulation, spinning reserve, non-spinning reserve, regulation up, regulation down, voltage support, and any other ancillary services, in each case that the Facility is capable of providing consistent with the Operating Restrictions set forth in Exhibit Q, as each is defined in the CAISO Tariff. For avoidance of doubt, the Ancillary Services do not include black start.

[redacted]

"**Automated Dispatch System**" or "**ADS**" has the meaning set forth in the CAISO Tariff.

"**Automatic Generation Control**" or "**AGC**" has the meaning set forth in the CAISO Tariff.

"**Availability Adjustment**" has the meaning set forth in Exhibit C.

"**Availability Notice**" has the meaning set forth in Section 4.10(b).

"**Availability Standards**" has the meaning set forth in the CAISO Tariff or such other similar term as modified and approved by FERC hereafter to be incorporated in the CAISO Tariff.

"**Available Capacity**" means the capacity of the Facility, expressed in whole MWs, that is mechanically available to charge and discharge Energy and provide Ancillary Services.

"**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.

[redacted]

"**Business Day**" means any day except a Saturday, Sunday, 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**" means Silicon Valley Clean Energy Authority, a California joint powers authority.

"**Buyer Default**" means a failure by Buyer (or its agents) to perform Buyer's obligations hereunder, and includes an Event of Default of Buyer.

"**Buyer Dispatched Test**" has the meaning in Section 4.4(c).

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

"**CAISO Approved Meter**" means a CAISO approved revenue quality meter or meters, metering scheme, CAISO approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time the quantity of Charging Energy and Discharging Energy and the provision of Ancillary Services.

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

"**CAISO Certification**" means the certification and testing requirements for a storage unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for all applicable Ancillary Services, PMAX, and PMIN.

"**CAISO Dispatch**" means any Charging Notice or Discharging Notice given by the CAISO to the Facility, whether through ADS, AGC or any successor communication protocol, communicating an Ancillary Service Award (as defined in the CAISO Tariff) or directing the Facility to charge or discharge at a specific $MW_{AC}$ rate for a specified period of time or amount of MWh.

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

"**CAISO Operating Order**" means the Operating Instruction or Dispatch Instruction, as each are 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 the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

"**Capacity Attribute**" means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the ability of the Facility to charge, discharge and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**Capacity Damages**" has the meaning set forth in Section 5 of Exhibit B.

"**Change in Law**" means the occurrence, after the Effective Date, of any of the following: (a) the adoption or implementation of any Law; (b) any change in any Law or in the administration, interpretation or application of any Law by any Governmental Authority; (c) any change to a Resource Adequacy Ruling; (d) any order, decision, resolution, rule, regulation, guidance document, or other determination of the CEC or the CPUC or its Energy Division, or (e) any change in the CAISO Tariff or any document included in the definition thereof whether or not approved by FERC.

"**Change of Control**" means, except in connection with public market transactions of equity interests or capital stock of Seller's Ultimate Parent, any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any cash equity or tax equity provider) shall be excluded from the total outstanding equity interests in Seller;

*provided*, *further*, that a Change of Control shall not be deemed to have occurred as a result of a Permitted Transfer.

"**Charging Energy**" means the Energy delivered to the Facility pursuant to a Charging Notice as measured at the Facility Metering Point by the Facility Meter, as such meter readings are adjusted by the CAISO for any applicable Electrical Losses and Station Use to the extent such Electrical Losses and Station Use are not already reflected in the Facility Meter measurements.

"**Charging Notice**" means the operating instruction, and any subsequent updates, given by Buyer or the CAISO to Seller, directing the Facility to charge at a specific $MW_{AC}$ rate for a specified period of time or amount of MWh; *provided*, any such operating instruction shall be in accordance with the Operating Restrictions. Any instruction to charge the Facility pursuant to a Buyer Dispatched Test shall be considered a Charging Notice. For avoidance of doubt, any reference in this Agreement to any Charging Notice provided by Buyer means a Charging Notice pursuant to the Standing Instructions during the Delivery Term.

"**Claim**" has the meaning set forth in Section 16.2.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**Collateral Assignment Agreement**" has the meaning set forth in Section 14.2 and substantially in the form attached as Exhibit S.

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

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

"**Commercial Operation Delay Damages**" means an amount equal [redacted]

"**Commercial Operation Storage Capacity Test**" means the Storage Capacity Test conducted in connection with Commercial Operation of the Facility, including any additional Storage Capacity Test for additional capacity installed after the Commercial Operation Date pursuant to Section 5 of Exhibit B.

"**Communications Protocols**" means certain Operating Restrictions developed by the Parties pursuant to Exhibit Q that involve procedures and protocols regarding communication with respect to the operation of the Facility pursuant to this Agreement.

"**Compliance Actions**" has the meaning set forth in Section 3.8(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.8.

"**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 Term**" has the meaning set forth in Section 2.1(a).

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

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

"**CPUC**" means the California Public Utilities Commission, or any successor agency performing similar statutory functions.

"**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 (for clarification purposes NextEra Energy Inc.'s guaranty of NEECH shall not be considered a third-party enhancement)) 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, Fitch or Moody's. If ratings by Fitch, S&P and Moody's are not equivalent, the two (2) highest ratings shall apply.

"**Cumulative Year-to-Date Storage Level**" has the meaning set forth in Exhibit Q.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(v).

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

(a) CAISO orders, directs, alerts, or provides notice to a Party or the SC, including a CAISO Operating Order, to curtail receipts of Charging Energy or deliveries of Discharging Energy 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 the 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 the Transmission Provider; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Transmission Provider or distribution operator.

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

"**Damage Payment**" [redacted]

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

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

"**Dedicated Interconnection Capacity**" means an instantaneous amount of Charging Energy and/or Discharging Energy, as applicable, that is permitted to be delivered from and/or to the Delivery Point under Seller's Interconnection Agreement, in the amount of MWs as set forth on the Cover Sheet.

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

"**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 both (a) a Guaranty and (b) a Letter of Credit, each in the amount set forth on the Cover Sheet. For avoidance of doubt, the Development Security shall be the sum of the amount of the Guaranty amount and the Letter of Credit amount.

"**Discharging Energy**" means the Energy delivered from the Facility to the Delivery Point pursuant to a Discharging Notice as measured at the Facility Metering Point by the Facility Meter, as such meter readings are adjusted by the CAISO for any applicable Electrical Losses and Station

Use to the extent such Electrical Losses and Station Use are not already reflected in the Facility Meter measurements.

"**Discharging Notice**" means the operating instruction, and any subsequent updates, given by Buyer or the CAISO to Seller, directing the Facility to discharge at a specific $MW_{AC}$ rate for a specified period of time or amount of MWh; *provided*, any such operating instruction shall be in accordance with the Operating Restrictions. Any instruction to discharge the Facility pursuant to a Buyer Dispatched Test shall be considered a Discharging Notice. For avoidance of doubt, any reference in this Agreement to any Discharging Notice provided by Buyer means a Discharging Notice pursuant to the Standing Instructions during the Delivery Term.

"**Disclosing Party**" has the meaning set forth in Section 18.1.

"**Dispatch Notice**" means any Charging Notice, Discharging Notice and any subsequent updates thereto, given by the CAISO or Buyer to Seller, directing the Facility to charge or discharge Energy; *provided*, any such operating instruction or updates shall be in accordance with the Operating Restrictions. For avoidance of doubt, any reference in this Agreement to any Dispatch Notice provided by Buyer means a Dispatch Notice pursuant to the Standing Instructions during the Delivery Term.

"**DOC**" means the U.S. Department of Commerce.

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

"**Effective Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for eight (8) hours of continuous discharge, as measured in $MW_{AC}$ at the Delivery Point (i.e., measured at the Facility Meter and adjusted for Electrical Losses to the Delivery Point to the extent such Electrical Losses are not already reflected in the Facility Meter measurements) as determined pursuant to the most recent Storage Capacity Test (including the Commercial Operation Storage Capacity Test), and as evidenced by a certificate substantially in the form attached as Exhibit I hereto, in either case (a) or (b) up to but not in excess of (i) the Guaranteed Capacity (with respect to a Commercial Operation Storage Capacity Test) or (ii) the Installed Capacity (with respect to any other Storage Capacity Test).

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

"**Effective Flexible Capacity**" or "**EFC**" has the meaning set forth in the CAISO Tariff.

"**Efficiency Rate**" means the tested rate calculated pursuant to Sections II.I(2) and III(A) of Exhibit O by dividing Discharging Energy by Charging Energy.

"**Efficiency Rate Liquidated Damages**" has the meaning set forth in Exhibit C.

"**Electrical Losses**" means all transmission or transformation losses (a) between the Delivery Point and the Facility associated with delivery of Charging Energy, and (b) between the Facility and the Delivery Point associated with delivery of Discharging Energy, each calculated in accordance with CAISO approved methodologies applicable to revenue metering.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy Management System**" or "**EMS**" means the Facility's energy management system.

"**Energy Only Deliverability Status**" has the meaning as such term is defined in the CAISO Tariff.

"**Estoppel Certificate**" has the meaning set forth in Section 14.2 and substantially in the form attached as Exhibit T.

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

"**Excused Event**" has the meaning set forth in Exhibit P.

"**Executed Interconnection Agreement Milestone**" means the date for completion of execution of the Interconnection Agreement by Seller (or Seller's Affiliate) and the PTO as set forth on the Cover Sheet.

"**Execution Date**" has the meaning set forth in the Preamble.

[redacted]



"**Facility**" means the storage facility described on the Cover Sheet and in Exhibit A, located at the Site and including mechanical equipment and associated facilities and equipment required to deliver Product (but excluding any Shared Facilities), as such storage facility may be expanded or otherwise modified from time to time in accordance with the terms hereof.

"**Facility Meter**" means the CAISO Approved Meter that will measure all Charging Energy and Discharging Energy.

"**Facility Metering Point**" means the location(s) of the Facility Meter shown in Exhibit R.

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

"**Fitch**" means Fitch Ratings Ltd., or its successor.

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

"**Flexible RAR**" means the flexible capacity requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**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 that prevents Seller from receiving Charging Energy or making Discharging Energy available at the Delivery Point and that is not the result of a Force Majeure Event.

"**Full Capacity Deliverability Status**" or "**FCDS**" has the meaning set forth in the CAISO Tariff.

"**Future Environmental Attributes**" shall mean, except to the extent set forth in the last sentence of this definition, any and all attributes (other than Incentives) 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 storage and discharge of electrical energy by the Facility. Future Environmental Attributes do not include Tax Benefits, including without limitation production tax credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

"**Gains**" means, with respect to any Non-Defaulting 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 Non-Defaulting 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 include the value of 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; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Guaranteed Availability**" means the minimum guaranteed Monthly Capacity Availability of the Facility in each month of the Delivery Term, as set forth on the Cover Sheet.

"**Guaranteed Capacity**" means the maximum dependable operating capability of the Facility to discharge electric energy, as measured in $MW_{AC}$ at the Delivery Point (i.e., measured at the Facility Meter as such meter readings at the Facility Meter are adjusted by the CAISO for any applicable Electrical Losses and Station Use to the extent such Electrical Losses and Station Use are not already reflected in the Facility Meter measurements) for eight (8) hours of continuous discharge, as set forth on the Cover Sheet.

"**Guaranteed Commercial Operation Date**" means the date set forth on the Cover Sheet, as such date may be extended pursuant to Exhibit B.

"**Guaranteed Construction Start Date**" means the date set forth on the Cover Sheet, as such date may be extended pursuant to Exhibit B.

"**Guaranteed Efficiency Rate**" means the minimum guaranteed Efficiency Rate of the Facility in each month of the Delivery Term, as set forth on the Cover Sheet.

"**Guaranteed Flexible Capacity**" means, [redacted]

"**Guaranteed Net Qualifying Capacity**" means, [redacted]

"**Guarantor**" means, with respect to Seller, (a) [redacted] (b) an Affiliate of Seller with an Investment Grade Credit Rating, or (c) any Person reasonably acceptable to Buyer, that (i) has an Investment Grade Credit Rating, (ii) has a tangible net worth of [redacted] (iii) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (iv) 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 L.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Charging Energy or Discharging Energy, as applicable, deviates from the amount of Scheduled Energy.

"**Incentives**" means: (a) all Tax Benefits and other federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including Production Tax Credits, ITCs, and other 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; and (c) any other form of incentive relating in any way to the Facility that is not any (a) Capacity Attribute, (b) Ancillary Services, or (c) Future Environmental Attributes.

"**Indemnifiable Loss(es)**" has the meaning set forth in Section 16.1(a).

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

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

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

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for eight (8) hours of continuous discharge, as measured in $MW_{AC}$ at the Facility Meter Point by the Facility Meter and adjusted for Electrical Losses to the Delivery Point (to the extent such Electrical Losses are not already reflected in the Facility Meter measurements), that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I hereto, as such capacity may be adjusted pursuant to Section 5 of Exhibit B, but in either case (a) or (b) up to but not in excess of the Guaranteed Capacity.



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

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

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

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

"**Interim Deliverability Status**" has the meaning set forth in the CAISO Tariff.

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

"**Investment Grade Credit Rating**" means a Credit Rating of [redacted] For avoidance of doubt, a Credit Rating from more than one credit agency is not necessary for a Party to demonstrate an Investment Grade Credit Rating.

"**ITC**" means the investment tax credit established pursuant to Section 48, 48E or other applicable provisions of the United States Internal Revenue Code of 1986, as in effect from time-to-time throughout the Delivery Term or any successor provision.

"**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.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**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 (including back-leverage debt), equity (including tax 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 or its Affiliates, and any trustee or agent or similar representative 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, issued by an Acceptable Issuer, in a form substantially similar to the letter of credit set forth in Exhibit K or in the form substantially similar to the letter of credit which Seller previously had issued to Buyer prior to the Execution Date with respect to the Prior ESA.

"**Licensed Professional Engineer**" means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California or Nevada.

"**Local Capacity Area Resources**" has the meaning set forth in the CAISO Tariff.

"**Local RAR**" means the local Resource Adequacy Requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority. "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.

"**Locational Marginal Price**" or "**LMP**" has the meaning set forth in the CAISO Tariff.

"**Losses**" means, with respect to the Non-Defaulting 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 Non-Defaulting 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, as applicable, and must include the value of Capacity Attributes and Incentives.

"**Major Project Development Milestone**" has the meaning set forth in in Exhibit B.

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

[redacted]

"**Maximum Charging Capacity**" means the highest level at which the Facility may be charged, expressed in $MW_{AC}$ and as set forth in Exhibit Q.

"**Maximum Discharging Capacity**" means the highest level at which the Facility may be discharged, expressed in $MW_{AC}$ and as set forth in Exhibit Q.

"**Meter Service Agreement**" has the meaning set forth in the CAISO Tariff.

"**Milestones**" means the development activities for significant permitting, interconnection, and construction milestones set forth on the Cover Sheet.

"**Monthly Capacity Availability**" has the meaning set forth in Exhibit P.

"**Monthly Capacity Payment**" means the payment required to be made by Buyer to Seller each month of the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C.

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

"**Must Offer Obligations**" means the obligations to offer the Net Qualifying Capacity in order to satisfy Resource Adequacy Requirements, including under Section 40.6 of the CAISO Tariff.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**NEECH**" has the meaning set forth in the definition of Affiliate.

"**NEER**" means NextEra Energy Resources, LLC.

"**NEOP**" has the meaning set forth in the definition of Affiliate.

"**NEP**" has the meaning set forth in the definition of Affiliate.

"**NEPA**" means the National Environmental Policy Act.

"**NERC**" means the North American Electric Reliability Corporation, or any successor entity performing similar functions.

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

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

[redacted]

[redacted]

[redacted]

[redacted]

"**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, next Business Day courier service, or electronic messaging (e-mail).

"**Notice of Claim**" has the meaning set forth in Section 16.2.

"**Notification Deadline**" in respect of a Showing Month shall be [redacted] before the relevant deadlines for the corresponding RA Compliance Showings for such Showing Month.

[redacted]

"**Operating Restrictions**" means those restrictions, rules, requirements, and procedures set forth in Exhibit Q.

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

"**Performance Guarantees**" has the meaning set forth in Section 4.3(b).

"**Performance Security**" means (a) cash or (b) a Letter of Credit or (c) a Guaranty in the amount set forth on the Cover Sheet.

"**Permitted Transfer**" means each of the following transactions:

(a) transactions among Affiliates of Seller, including any corporate reorganization, merger, combination or similar transaction or transfer of assets or ownership interests involving Seller or its Affiliates; *provided* (i)(A) Ultimate Parent retains the authority, directly or indirectly, to control Seller (or if applicable, the surviving entity), or (B) a wholly-owned, indirect subsidiary of Ultimate Parent operates the Facility, and (ii) if Seller is not the surviving entity, the transferee (A) executes and delivers to Buyer a written agreement under which the transferee assumes in writing all of Seller's duties and obligations under this Agreement and otherwise agrees to be bound by all of the terms and conditions of this Agreement, and (B) meets the Seller Security requirements;

[redacted]

[redacted]

[redacted]

(e) [redacted]



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

(a) A tangible net worth of not less than [redacted] a Credit Rating of [redacted] and

(b) At least two (2) years of experience in the ownership and operations of energy generation or storage facilities similar to the Facility or has retained a third-party with such experience to operate the Facility

(c) [redacted]

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.12(a).

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Facility.

"**PMIN**" means the applicable CAISO-certified minimum operating level of the Facility.

"**PNode**" has the meaning set forth in the CAISO Tariff.

"**Prior ESA**" has the meaning set forth in the Recitals.

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

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

"**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 industry during the relevant time period with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States, and (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 industry with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**Qualified Operator**" means Seller or an operator of integrated battery storage facilities that has sufficient experience and technical capability to perform for Seller's benefit the obligations of Seller under this Agreement related to the operation and maintenance of the Facility in accordance with the applicable requirements of this Agreement, as evidenced by such operator having operated two (2) or more solar battery storage facilities, each having a nameplate capacity rating of ten (10) MW or more, for not less than two (2) years.

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

"**RA Compliance Showing**" means the (a) System RAR compliance or advisory showings (or similar or successor showings) and (b) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month, as calculated in accordance with Section 3.5(b).

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

"**RA Penalties**" means the RA penalties assessed against load serving entities by the CPUC for RA deficiencies that are not replaced or cured, as established by the CPUC in the Resource Adequacy Rulings and subsequently incorporated into the annual Filing Guide for System, Local and Flexible Resource Adequacy Compliance Filings that is issued by the CPUC Energy Division, or any replacement or successor documentation established by the CPUC Energy Division to reflect RA penalties that are established by the CPUC and assessed against load serving entities for RA deficiencies.

[redacted]

"**RA Shortfall Month**" means any Showing Month during the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, during which either:

[redacted]

[redacted]

"**Receiving Party**" has the meaning set forth in Section 18.1.

"**Remedial Action Plan**" has the meaning in Section 2.4.

"**Replacement RA**" means Resource Adequacy Benefits, if any, (a) equivalent to those that would have been provided by the Facility with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, unless Buyer consents to accept Replacement RA from another facility that provides non-equivalent Resource Adequacy Benefits, and (b) located within the CAISO Balancing Authority Area.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's Resource Adequacy Requirements, as those obligations are set forth in any ruling issue by a Governmental Authority, including the Resource Adequacy Rulings, or the CAISO Tariff, and shall include Flexible Capacity, and any local, zonal or otherwise locational attributes associated with the Facility.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" shall have the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" 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, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-031, 20-06-028, 20-12-006 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by the CPUC or the CAISO, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**RETA**" has the meaning set forth in Section 13.5.

"**RETA Regulations**" has the meaning set forth in Section 13.5.

[redacted]

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

"**SCADA Systems**" means the standard supervisory control and data acquisition systems to be installed by Seller as part of the Facility, including those system components that enable Seller to receive ADS and AGC instructions from the CAISO.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the Charging Energy schedule or Discharging Energy schedule, as applicable, that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or CAISO dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**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.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller Initiated Test**" has the meaning set forth in Section 4.4(c).

"**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; *provided*, that the Parties agree that the value of Incentives are direct damages to be accounted for as specified in the definitions of Losses and Gains.

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

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

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Discharging Energy to the Delivery Point and delivery of Charging Energy from the Delivery Point, including the Interconnection Facilities and the Interconnection Agreement itself, if applicable, that are used in common with Affiliates and /or third parties or by Seller for electric generation or storage facilities owned by Seller other than the Facility.

"**Showing Month**" shall be a calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of a RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**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 J to Buyer; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates which approval shall not be unreasonably withheld, conditioned or delayed.

"**Site Control**" means that Seller, for the Contract Term starting on the Evidence of Site Control Date set forth on the Cover Sheet (or, prior to the Delivery Term, its Affiliate as of the Evidence of Site Control Date set forth on the Cover Sheet): (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.

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Standing Instructions**" has the meaning set forth in Exhibit D-2.

"**State of Charge**" or "**SOC**" means the ratio of (a) the Storage Level of the Facility to (b) the Effective Capacity multiplied by eight (8) hours, expressed as a percentage.

"**Station Use**" means the Energy that is used within the Facility to power certain lights, motors, temperature control systems, control systems and other ancillary electrical loads that are necessary for operation of the Facility (or as otherwise defined by the retail energy provider and CAISO Tariff) except during periods in which the Facility is charging or discharging pursuant to a Seller Initiated Test, a Charging Notice or Discharging Notice. Cost responsibility for Energy that is used during a Seller Initiated Test is addressed in Section 4.5(a).

"**Storage Capacity Test**" or "**SCT**" means any test or retest of the Facility to establish the Installed Capacity, Effective Capacity, and/or Efficiency Rate or any other test conducted pursuant to Exhibit O.

"**Storage Level**" means, at a particular time, the amount of electric Energy in the Facility available to be discharged as Discharging Energy, expressed in MWh.

"**Subsequent Purchaser**" means the purchaser or recipient of Product from Buyer in any conveyance, re-sale or remarketing of Product by Buyer.

"**Supplementary Storage Capacity Test Protocol**" has the meaning set forth in Exhibit O.

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

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or the 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.

"**System RAR**" means the Resource Adequacy Requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority, but excluding local and flexible Resource Adequacy Requirements. "System RAR" may also be known as system area reliability, system resource adequacy, system resource adequacy procurement requirements, or system capacity requirement in other regulatory proceedings or legislative actions.

"**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.

"**Tax Benefits**" means the PTC, ITC, RETA and any other state, local and/or federal tax benefit or incentive, including energy credits determined under Sections 38, 45, 45Y, 46,48 and 48E of the Internal Revenue Code of 1986, as amended, investment tax credits, production tax credits, depreciation, amortization, deduction, expense, exemption, preferential rate, and/or other tax benefit or incentive associated with the production, sale, or storage of renewable energy and/or the operation, construction, investments in or ownership of, the Facility (including any cash payment or grant).

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

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

[redacted]

[redacted]

"**Throughput**" means, for a day or Contract Year (as the context dictates), the cumulative amount of Discharging Energy from the Facility for such time period.

"**Trade FME Claims**" has the meaning set forth in Section 10.6.

"**Transmission Provider**" means any entity that owns, operates and maintains (or designates a third-party to operate or maintain on its behalf) transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities for the purpose of transmitting or transporting the Charging Energy to the Delivery Point and Discharging Energy from the Delivery Point.

"**Transmission System**" means the transmission facilities operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on the Transmission System, other than a System Emergency, that is not caused by Seller's actions or inactions and that prevents Buyer or the CAISO (as applicable) from receiving Discharging Energy onto the Transmission System or Seller from receiving Charging Energy from the Transmission System.

[redacted]

[redacted]

"**Ultimate Parent**" means NextEra Energy, Inc., NEER, NEP, NEOP, or NEECH, and includes any combination thereof.

"**Unplanned Outage**" means a period during which the Facility is not capable of providing service due to the need to maintain or repair a component thereof, which period is not a Planned Outage.

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 Article, 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 means 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 terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such terms 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;

(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 set forth herein ("**Contract Term**"); *provided*, *however*, that Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(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 indemnity and audit rights shall remain in full force and effect for two (2) years following the termination of this Agreement. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for three (3) years following the termination of this Agreement.

2.2 **Conditions Precedent**. The Delivery Term shall not commence until Seller completes each of the following conditions and delivers to Buyer an attestation from an authorized representative of Seller that such conditions have been satisfied, which Buyer shall review and either confirm or provide notice to Seller of any deficiencies with three (3) Business Days of Seller's provision of required information; *provided*, Buyer shall be deemed to confirm such attestation of Seller if Buyer does not provide notice to Seller of any deficiencies within such three (3) Business Day period:

(a) Seller has delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I setting forth the Installed Capacity and Efficiency Rate on the Commercial Operation Date;

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO 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 or Seller's Affiliate 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) The Facility has obtained CAISO Certification;

(e) All applicable regulatory authorizations, approvals and permits required for the operation of the Facility have been obtained and all required conditions thereof that are required to be satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(f) Seller has provided Buyer with a copy of written notice from CAISO that the Facility has achieved Full Capacity Deliverability Status or has Interim Deliverability Status for 100% of the Installed Capacity;

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

(h) Seller has paid Buyer for all amounts owing under this Agreement as of the Commercial Operation Date [redacted]; and

(i) The Commercial Operation Date is on or after [redacted] unless an earlier date is agreed to by each Party.

2.3 **Development; Construction; Progress Reports**. Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and shall hold regularly scheduled meetings (i.e., quarterly or monthly, as applicable) between representatives of Buyer and Seller to review such monthly reports and discuss Seller's construction progress, such meeting to be held in person or by teleconference as agreed between the Parties. The form of the Progress Report is set forth in Exhibit E and shall include such additional information as may be reasonably requested by Buyer from time to time. Seller shall also provide Buyer with any reasonable requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. For the avoidance of doubt, as between Seller and Buyer, Seller is solely responsible for the design and construction of the Facility, including the location of the Site, obtaining all permits and approvals to build the Facility, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

2.4 **Remedial Action Plan**. If Seller (a) misses the Guaranteed Construction Start Date, (b) misses three (3) or more Milestones, or (c) misses any one (1) Milestone (other than the Guaranteed Construction Start Date) by more than ninety (90) days, except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days after the occurrence of (a), (b) or (c), 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, if known (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's reasonably detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones; *provided*, that 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 in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

2.5 **Pre-Commercial Operation Actions**. Prior to the Commercial Operation Date, Seller shall (a) have exclusive right to operate the Facility, (b) be entitled to all Product, if any, available from the Facility, (c) be entitled to all related revenues, and (d) shall be responsible for all related costs, including all such CAISO revenues and costs. The Parties acknowledge that the Seller will be operating the Facility on a commercial basis under the CAISO tariff (i.e., not just for test purposes under the CAISO tariff) on a merchant basis for Seller's benefit prior to the Commercial Operation Date, including for all periods of time in which the Facility is operating commercially, but has Energy Only Deliverability Status, as well as any time periods in which the Facility is operating commercially and has Full Capacity Deliverability Status or Interim Deliverability Status prior to April 1, 2028 (unless the Parties agree that the Commercial Operation Date can occur prior to such April 1, 2028 date). The Parties shall cooperate with each other in order for Buyer to be able to dispatch the Facility on the Commercial Operation Date. The Parties agree that, in order for Seller to dispatch the Facility as the Scheduling Coordinator commencing on the Commercial Operation Date consistent with Buyer's objectives, the Operating Restrictions, and applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market or real time basis, the Parties will have to perform certain of their Delivery Term obligations in advance of the Commercial Operation Date, including, without limitation, cooperation on the development (but not the implementation) of a set of Standing Instructions.

[redacted]

[redacted]

[redacted]

(b) [redacted]

## ARTICLE 3
## PURCHASE AND SALE

3.1 **Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall have the exclusive right to, and shall purchase at the Contract Price in accordance with Exhibit C, the Installed Capacity and Effective Capacity, as applicable, and all Product associated therewith. During the Delivery Term, Seller shall operate the Facility and make available, charge (subject to Buyer's obligation for avoidance of doubt to provide the Charging Energy) and discharge, deliver, and sell the Product therefrom to Buyer when and as the Facility is available, subject to the terms and conditions of this Agreement, including the Operating Restrictions. Seller represents and warrants that it will deliver the Product to Buyer free and clear of all liens, security interests, claims and encumbrances. During the Delivery Term, Seller shall not substitute or purchase any energy storage capacity, Energy, Ancillary Services or Capacity Attributes from any other energy storage resource or the market for delivery hereunder except as otherwise provided herein, nor shall Seller sell, assign or otherwise transfer any Product, or any portion thereof, to any third party other than to Buyer or the CAISO pursuant to this Agreement or as otherwise required by Law.

3.2 **Discharging Energy**. Subject to the terms and conditions of this Agreement, Seller commits to make available the Discharging Energy to Buyer during the Delivery Term, and Buyer shall have the exclusive rights to all such Discharging Energy during the Delivery Term. During the Delivery Term, title to and risk of loss related to the Discharging Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

3.3 **Capacity Attributes**.

**(a)** Prior to the Delivery Term, Seller shall request Full Capacity Deliverability Status for the Facility's Guaranteed Capacity in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

**(b)** Prior to the Delivery Term, Seller will request that the Net Qualifying Capacity of the Facility be included in the "RA Master Resource Database" in accordance with Decision 23-04-010 and shall promptly comply with all related requests for information from the CPUC in connection with Seller's request for such inclusion. Buyer shall promptly comply with all related requests for information from the CPUC in connection with Seller's request for such inclusion.

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

(d) Throughout the Delivery Term, Seller shall use commercially reasonable efforts to maintain eligibility for Full Capacity Deliverability Status or Interim Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits, including Flexible Capacity, to Buyer. Throughout the Delivery Term, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits from the Facility to Buyer.

(e) 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 all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement.

3.4 **Ancillary Services**. Buyer shall have the exclusive rights to all Ancillary Services that the Facility is capable of providing during the Delivery Term consistent with the Operating Restrictions, with characteristics and quantities determined in accordance with the CAISO Tariff. Seller shall operate and maintain the Facility throughout the Delivery Term so as to be able to provide Ancillary Services in accordance with the specifications set forth in the Facility's initial CAISO Certification associated with the Installed Capacity, adjusted to reflect the Effective Capacity. Upon Buyer's reasonable request, Seller shall submit the Facility for additional CAISO Certification so that the Facility may provide additional Ancillary Services (but not black start) that the Facility is, at the relevant time, actually physically capable of providing consistent with the definition of Ancillary Services herein and without modification of the Facility or its operations, *provided* that Buyer has agreed to reimburse Seller for any costs Seller incurs in connection with conducting such additional CAISO Certification.

3.5 **Resource Adequacy Failure**.

(a) RA Deficiency Determination. For each RA Shortfall Month, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as set forth in Section 3.5(b), and/or provide Replacement RA, as set forth in Section 3.5(c), as the sole and exclusive remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. For each RA Shortfall Month, Seller shall pay to Buyer an amount (the "**RA Deficiency Amount**") equal to the product of:

(i) [redacted]

(A) the difference, expressed in kW, of the then applicable Guaranteed Net Qualifying Capacity of the Facility, minus the then applicable Net Qualifying Capacity of the Facility that may be included in Supply Plans for Buyer (excluding reductions, if any, due to Buyer's actions or inactions), which shall be deemed to be zero (0) MW if the Net Qualifying Capacity has not been established with the CPUC and CAISO by the Notification Deadline for such RA Shortfall Month, plus any Replacement RA that was able to be included in Supply Plans for the Showing Month for Buyer; and

(B) the difference, expressed in kW, of the then applicable Guaranteed Flexible Capacity of the Facility, minus the then applicable Effective Flexible Capacity of the Facility that may be included in Supply Plans for Buyer (excluding reductions, if any, due to Buyer's actions or inactions), which shall be deemed to be zero (0) MW if the Effective Flexible Capacity has not been established with the CPUC and CAISO by the Notification Deadline for such RA Shortfall Month, plus any Effective Flexible Capacity that was provided as Replacement RA that was able to be included in Supply Plans in the Showing Month for Buyer;

(ii) multiplied by [redacted]

(c) If Seller anticipates that it will have an RA Shortfall Month, Seller may, provide Replacement RA in the amount of (i) the Guaranteed Net Qualifying Capacity and/or Guaranteed Flexible Capacity, as applicable, of the Facility with respect to such Showing Month, minus (ii) the expected Net Qualifying Capacity and/or Effective Flexible Capacity, as applicable, of the Facility with respect to such Showing Month; *provided*, any Replacement RA shall be communicated by Seller to Buyer in a Notice substantially in the form of Exhibit M at least sixty (60) days before the RA Shortfall Month.

3.6 **Buyer's Re-Sale of Product**. After Seller's sale of the Product to Buyer, Buyer shall have the exclusive right in its sole discretion to convey, use, market, or re-sell the Product, or any part of the Product, to any Subsequent Purchaser; *provided* that any such conveyance, use, marketing, or re-sale must not increase or modify Seller's obligations hereunder other than as set forth in this Section 3.6; and Buyer shall have the right to all revenues generated from the conveyance, use, re-sale or remarketing of the Product, or any part of the Product. For any such a resale of Resource Adequacy, the Supply Plan of Buyer as used herein will refer to the Supply Plan of Subsequent Buyer. If the CAISO or CPUC develops a centralized capacity market, Buyer shall have the exclusive right to offer, bid, or otherwise submit the Capacity Attributes for re-sale into such market, and Buyer shall retain and receive all revenues from such re-sale. Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow Subsequent Purchasers to use such resold Product consistent with Seller's obligations under this Agreement and in the same manner as Buyer's rights under this Agreement, but without increasing Seller's obligations or liabilities under this Agreement if Buyer had not resold any such Product. If Buyer incurs any liability to a Subsequent Purchaser due to the failure of Seller to comply with this Section 3.6, Seller shall be liable to Buyer for the amounts Seller would have owed Buyer under this Agreement if Buyer had not resold the Product. Seller's obligations shall only be to Buyer in accordance with the terms of this Agreement, and Seller shall not owe any obligation or liability to any Subsequent Purchaser, other than obligations set forth in this Section 3.6 which shall be owed exclusively to Buyer. Buyer shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than ten (10) Business Days before the Compliance Showing deadline for each Showing Month for which Buyer has resold the Product. Notwithstanding anything to the contrary in this Section 3.6 or elsewhere in this Agreement, no such re-sale shall relieve Buyer of any obligations under this Agreement.

3.7 **Intentionally Omitted**.



3.8 **Compliance Expenditure Cap**. If a Change in Law occurring after the Effective Date has increased Seller's known or reasonably expected costs to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Product pursuant to Sections 3.1 - 3.5, then the Parties agree that the maximum aggregate amount of costs and expenses ("**Compliance Costs**") Seller shall be required to bear during the Contract Term to comply with all of such obligations shall be capped [redacted] ("**Compliance Expenditure Cap**"). [redacted]

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

(b) If Seller reasonably anticipates the need to incur Compliance Costs in excess of the Compliance Expenditure Cap in order to take any Compliance Action, Seller shall provide Notice to Buyer of such anticipated Compliance Costs. 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 Compliance Costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller.

(c) 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 the Parties 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.

(d) If Buyer does not respond to a Notice given by Seller under this Section 3.8 within sixty (60) days, or if Buyer does not timely pay the costs and expenses in excess of the Accepted Compliance Costs, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability or obligation under this Agreement for any failure to take, such Compliance Actions.

(e) If a Change in Law prevents Seller from complying with its obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Product pursuant to Sections 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, or 3.7, and it is not possible to overcome the Change in Law through Compliance Actions or the expenditure of money, then, except as otherwise provided or contemplated in this Agreement with respect to how a Change in Law will be addressed, including without limitation with respect to the Guaranteed Flexible Capacity and the Guaranteed Net Qualifying Capacity, Seller shall provide Notice to Buyer of such Change in Law and the consequences for Seller's performance hereunder, the Parties shall enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered consistent with such Change in Law, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date, *provided* that if no such agreement is achieved resolution shall be determined in accordance with Article 15.



3.9 **Ownership of Incentives**. Seller shall have all right, title and interest in and to all Incentives. Buyer acknowledges that any Incentives belong to Seller. If any Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such 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 Incentives.

3.10 **Future Environmental Attributes**.

(a) The Parties acknowledge and agree that as of the Effective Date, no environmental attributes are being sold under this Agreement; *however*, if, after the Effective Date the Facility is able to provide Future Environmental Attributes for any reason, including due to a change in market conditions or Law, Buyer shall have the exclusive right to such Future Environmental Attributes after the Commercial Operation Date and there shall be no increase in the Contract Price; *provided*, *however*, that such right shall be subject to the final sentence of this Section 3.10(a) and Section 3.10(b) and Buyer shall bear all costs and risks associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to bear any costs, losses or liability, or alter the Facility or the operation of the Facility, unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.10(a), Seller agrees to work with Buyer in good faith to provide reasonably requested documentation and execute reasonable documentation necessary to effectuate the transfer and registration 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 to Buyer, as set forth above (in any event subject to Section 3.8); *provided*, that the Parties acknowledge and agree such terms shall not alter the other material terms of this Agreement.

## ARTICLE 4
## OBLIGATIONS AND DELIVERIES

4.1 **Delivery**. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product at the Delivery Point in accordance with the terms of this Agreement. Seller shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Discharging Energy to the Delivery Point, including any operation and maintenance charges imposed on Seller by the Transmission Provider directly relating to the Facility's operations. Prior to the Commercial Operation Date, Seller shall be responsible for all costs, charges and penalties, if any, imposed in connection with the delivery of Charging Energy to the Delivery Point (including the cost of Charging Energy itself) and delivery of Discharging Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. During the Delivery Term, Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with the delivery of Charging Energy to the Delivery Point (including the cost of Charging Energy itself) and delivery of Discharging Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. The Charging Energy and Discharging Energy will be scheduled to the CAISO by Seller (or Seller's designated Scheduling Coordinator), and during the Delivery Term, such scheduling shall be done in accordance with Exhibit D-1.

4.2 **Interconnection**. Seller shall be responsible for all costs of interconnecting the Facility to the Interconnection Point. During the Delivery Term, Seller shall maintain the Dedicated Interconnection Capacity for the Facility's sole use.

4.3 **Performance Guarantees**.

(a) During the Delivery Term, the Facility shall maintain a Monthly Capacity Availability during each month of no less than the Guaranteed Availability, which Monthly Capacity Availability shall be calculated in accordance with Exhibit P.

(b) During the Delivery Term, the Facility shall maintain an Efficiency Rate of no less than Guaranteed Efficiency Rate, which Efficiency Rate shall be calculated in accordance with Exhibit O. The Guaranteed Availability and Guaranteed Efficiency Rate are collectively the "**Performance Guarantees**".

(c) Buyer's sole and exclusive remedies for Seller's failure to achieve the Performance Guarantees are: (i) for the Guaranteed Availability, (A) the Availability Adjustment to the Monthly Capacity Payment, as set forth in Exhibit C, and (B) the Seller Event of Default as set forth in Section 11.1(b)(v) and the applicable remedies set forth in Article 11; and (ii) for the Guaranteed Efficiency Rate, (A) the Efficiency Rate Liquidated Damages as set forth in Exhibit C, and (B) the Seller Event of Default as set forth in Section 11.1(b)(vi) and the applicable remedies set forth in Article 11.

4.4 **Facility Testing**.

(a) Storage Capacity Tests. No more than thirty (30) days prior to the Commercial Operation Date, Seller shall schedule and complete a Commercial Operation Storage Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Storage Capacity Tests in accordance with Exhibit O.

(i) Buyer shall have the right to send one or more representative(s) to witness all Storage Capacity Tests.

(ii) Following each Storage Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity or efficiency rate determined pursuant to a Storage Capacity Test varies from the then-current Effective Capacity and/or Efficiency Rate, as applicable, then the actual capacity and/or efficiency rate determined pursuant to such Storage Capacity Test shall become the new Effective Capacity and/or Efficiency Rate, as applicable, at the beginning of the day following the completion of the test for all purposes under this Agreement until a revised Effective Capacity and/or Efficiency Rate, as applicable, is determined pursuant to a subsequent Storage Capacity Test.

(b) Additional Testing. Seller shall conduct such additional testing as necessary to ensure the Facility is functioning properly and the Facility is able to respond to Dispatch Notices pursuant to Section 4.6(b).

(c) Any testing of the Facility requested by Buyer after the Commercial Operation Storage Capacity Tests shall be deemed Buyer-instructed dispatches of the Facility ("**Buyer Dispatched Test**"). Any test of the Facility that is not a Buyer Dispatched Test, including all tests conducted prior to Commercial Operation, any Commercial Operation Storage Capacity Test, all required annual tests pursuant to Exhibit O, any Storage Capacity Test conducted if the Effective Capacity immediately prior to such Storage Capacity Test is [redacted] of the Installed Capacity, and other Seller-requested discretionary tests or dispatches, at times and for durations reasonably agreed to by Buyer, that Seller deems necessary for purposes of reliably operating or maintaining the Facility or for re-performing a required test within a reasonable number of days of the initial required test (considering the circumstances that led to the need for a retest) shall be deemed a "**Seller Initiated Test**".

(i) For any Seller Initiated Test other than a Storage Capacity Test required by Exhibit O for which there is a stated notice requirement, Seller shall notify Buyer no later than twenty-four (24) hours prior thereto (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practices); *provided*, *however*, when these requests occur during off-peak hours, notice by Seller to Buyer is reduced to seventy-five (75) minutes and Buyer's cooperation for Seller to perform such tests shall not be unreasonably withheld.

(ii) No Dispatch Notices shall be issued during any Seller Initiated Test. Dispatch Notices may be issued during a Buyer Dispatched Test as reasonably necessary to implement the applicable test. The Facility shall be deemed unavailable during any Seller Initiated Test. Any Buyer Dispatched Test shall be deemed an Excused Event for the purposes of calculating the Monthly Capacity Availability.

4.5 **Testing Costs and Revenues**.

(a) Seller shall be responsible for paying for all Energy to charge the Facility and shall be entitled to all CAISO revenues associated with a Seller Initiated Test.

(b) Buyer shall be responsible for paying for all Energy to charge the Facility and shall be entitled to all CAISO revenues associated with a Buyer Dispatched Test.

(c) Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Facility test.



(d) Except as set forth in Sections 4.5(a)-(c), all other costs of any testing of the Facility shall be borne by Seller.

4.6 **Facility Operations**.

(a) Seller shall operate the Facility in accordance with Prudent Operating Practices.

(b) During the Delivery Term, Seller shall maintain SCADA Systems, communications links, and other equipment necessary to receive automated Dispatch Notices consistent with CAISO protocols and practice ("**Automated Dispatches**"). In the event of the failure or inability of the Facility to receive Automated Dispatches, Seller shall use all commercially reasonable efforts to repair or replace the applicable components as soon as reasonably possible. During any period during which the Facility is not capable of receiving or implementing Automated Dispatches, Seller shall implement back-up procedures consistent with the CAISO Tariff and CAISO protocols to enable Seller to receive and implement non-automated Dispatch Notices ("**Alternative Dispatches**").

4.7 **Dispatch Notices**. During the Delivery Term, Buyer shall have the right to provide Standing Instructions to the Seller as Scheduling Coordinator which provides for dispatch of the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), subject to availability of the Facility and the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Subject to the Operating Restrictions, the Standing Instructions shall be effective unless and until such Standing Instructions are modified by the

CAISO or Buyer.

4.8 **Facility Unavailability to Receive Dispatch Notices**. During the Delivery Term, to the extent the Facility is unable to receive or respond to Dispatch Notices either through Automated Dispatches or Alternative Dispatches during any Settlement Interval or Settlement Period, then as an exclusive remedy, the time period corresponding to such Settlement Interval or Settlement Period shall be deemed unavailable for purposes of calculating the Monthly Capacity Availability except to the extent that the Facility is unable to receive or respond to Dispatch Notices due to any circumstances at the high-voltage side of the Delivery Point or beyond that point, including any failure of CAISO or Buyer.

4.9 **Energy Management**.

(a) Charging Generally. Upon receipt of a Charging Notice during the Delivery Term, Seller shall take all action necessary to deliver the Charging Energy to the Facility from the Delivery Point. Seller shall maintain, repair or replace equipment in Seller's possession or control used to deliver the Charging Energy from the Delivery Point to the Facility. Except as otherwise expressly set forth in this Agreement, Buyer shall be responsible for paying all costs and charges of delivering the Charging Energy to the Delivery Point, including all CAISO costs and charges associated with procuring Charging Energy.

(b) Charging Notices. Buyer shall have the right to charge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays) during the Delivery Term, by causing Charging Notices to be issued, subject to availability of the Facility and the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Charging Notice issued in accordance with this Agreement shall be effective unless and until Buyer or the CAISO modifies such Charging Notice by providing Seller with an updated Charging Notice. Seller (or its Scheduling Coordinator) shall be responsible for issuing all Charging Notices necessary or required in connection with the Must Offer Obligations and all CAISO charges and penalties for failing to comply with the Must Offer Obligation.

(c) No Unauthorized Charging. Seller shall not charge the Facility during the Delivery Term other than pursuant to a Charging Notice (it being understood that Seller may adjust a Charging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. If, during the Delivery Term, Seller charges the Facility (i) to a Storage Level greater than the Storage Level provided for in a Charging Notice, or (ii) in violation of the first sentence of this Section 4.9(c), then (i) Seller shall pay to Buyer all Energy costs associated with such charging of the Facility, and (ii) Buyer shall be entitled to discharge such Energy and shall be entitled to all of the benefits (including Product) associated with such discharge.

(d) Discharging Notices. Buyer shall have the right to discharge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays) during the Delivery Term, by causing Discharging Notices to be issued, subject to availability of the Facility and the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Discharging Notice issued in accordance with this Agreement shall be effective unless and until Buyer or the CAISO modifies such Discharging Notice by providing the Facility with an updated Discharging Notice. Seller (or its Scheduling Coordinator) shall be responsible for issuing all Discharging Notices necessary or required in connection with the Must Offer Obligations and all CAISO charges and penalties for failing to comply with the Must Offer Obligation.

(e) No Unauthorized Discharging. Seller shall not discharge the Facility during the Delivery Term other than pursuant to a Discharging Notice (it being understood that Seller may adjust a Discharging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority.

(f) Unauthorized Charges and Discharges. During the Delivery Term, if Seller or any third party charges, discharges or otherwise uses the Facility other than as permitted hereunder, or as is expressly addressed in this Section 4.9, Seller [redacted]

(g) CAISO Dispatches. During the Delivery Term, CAISO Dispatches shall have priority over any Charging Notice or Discharging Notice issued by Buyer, and Seller shall have no liability for violation of this Section 4.9 or any Charging Notice or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any CAISO Dispatch. During any time interval during the Delivery Term in which the Facility is capable of responding to a CAISO Dispatch, but the Facility deviates from a CAISO Dispatch or Seller negligently or intentionally fails to accurately communicate to Buyer the Facility's availability, Seller shall be responsible for all CAISO charges and penalties resulting from such deviations (in addition to any Buyer remedy related to overcharging of the Facility as set forth in Section 4.9(c)).

(h) Pre-Commercial Operation Date Period. Prior to the Commercial Operation Date, Buyer shall have no rights to issue or cause to be issued Charging Notices or Discharging Notices, and Seller shall have exclusive rights to charge and discharge the Facility.

(i) Curtailments. Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, Curtailment Orders applicable to such Settlement Interval shall have priority over any Dispatch Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Agreement or any Dispatch Notice if and to the extent such violation is caused by Seller's compliance with any Curtailment Order or other instruction or direction from a Governmental Authority or the Transmission Provider. Buyer shall have the right, but not the obligation, to provide Seller with updated Dispatch Notices during any Curtailment Order, subject to availability of the Facility and the requirements and limitations set forth in this Agreement, including the Operating Restrictions.

(j) Station Use. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) Seller is responsible for providing all Energy to serve Station Use (including paying the cost of any Energy used to serve Station Use during periods in which the

Facility is not charging or discharging pursuant to a Charging Notice or Discharging Notice), (ii) Energy supplied from Charging Energy or Discharging Energy during periods in which the Facility is charging or discharging pursuant to a Charging Notice or Discharging Notice shall not be considered Station Use, (iii) Station Use may be supplied over the same circuit as Charging Energy and Discharging Energy, and (iv) Seller shall indemnify and hold harmless Buyer from any and all costs, penalties or charges for Energy supplied for Station Use by any means other than retail service from the applicable utility, and shall take any additional measures to ensure Station Use (other than that supplied from Charging Energy or Discharging Energy as provided in clause (ii) or over the same circuit as Charging Energy and Discharging Energy as provided in clause (iii)) is supplied by the applicable utility's retail service if necessary to avoid any such costs, penalties or charges.

4.10 **Capacity Availability Notice**.

(a) No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly expected Available Capacity for each day of the following month in a form substantially similar to Exhibit F ("**Monthly Forecast**").

(b) During the Delivery Term, no later than 5:30 a.m. Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, Seller shall provide Buyer with an hourly schedule of the Available Capacity that the Facility is expected to have for each hour of such schedule day (the "**Availability Notice**"). Seller shall provide Availability Notices (including updated Availability Notices) using the form attached in Exhibit G, or other form as reasonably requested by Buyer, by (in order of preference) electronic mail or telephonically to Buyer personnel designated to receive such communications.

(c) During the Delivery Term, Seller shall notify Buyer as soon as practicable with an updated Availability Notice, as applicable, if the Available Capacity of the Facility changes or is expected to change by [redacted] after Buyer's receipt of an Availability Notice.

4.11 **Scheduling Coordination**. The Parties agree to coordinate with respect to the receipt of Charging Energy and the dispatch of Discharging Energy from the Facility on a periodic basis during the Delivery Term. The Parties further agree to update Sections 4.6 to 4.10 or Exhibit D-2 as needed by mutual written agreement.

4.12 **Reduction in Delivery Obligation**. For the avoidance of doubt, and in no way limiting Exhibit P or the protections afforded under Section 10.2, during the Delivery Term:

(a) Facility Maintenance. Subject to providing Buyer sixty (60) days' prior Notice, Seller shall be permitted to limit Buyer's ability to issue Dispatch Notices for the full Effective Capacity as necessary during any period of scheduled maintenance on the Facility, *provided*, that (i) no notice is required for scheduled maintenance or any changes or extensions thereto which [redacted] and (ii) Seller may adjust the dates of any scheduled maintenance so long as (X) Seller makes its request more than three (3) days prior to the expected start date of such scheduled maintenance and (Y) the requested alternate date is acceptable to Buyer in its reasonable discretion not to be unreasonably withheld, conditioned or delayed. To the extent notice is not already required under the terms hereof, Seller shall notify Buyer as soon as practicable of any extensions to scheduled maintenance and expected end dates thereof. Between [redacted] Seller shall not schedule non-emergency maintenance that reduces the Effective Capacity of the Facility by [redacted] unless (i) such outage is required to avoid an emergency or damage to the Facility, (ii) such maintenance is necessary to maintain equipment warranties and cannot be scheduled outside the period of [redacted] (iii) such outage is required in accordance with Prudent Operating Practices, (iv) such outage is in connection with Force Majeure events, (v) such outage is required by Law, the requirements of CAISO or the interconnecting utility, and/or other applicable Governmental Authority, or (vi) the Parties agree otherwise in writing (each scheduled maintenance permitted under this clause (a) and each of the foregoing outages described in foregoing clauses (a)(i) – (a)(vi), a "**Planned Outage**"). Seller shall reimburse Buyer for any cost Buyer incurs in connection with any replacement Capacity Attributes, if and to the extent, required by the CAISO. Seller shall provide Buyer with information pertaining to any Planned Outage to the extent required by Buyer to comply with any CAISO requirements or applicable Law.

(b) Forced Facility Outage. Seller shall be permitted to limit Buyer's ability to issue Dispatch Notices for the full Effective Capacity as necessary during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage. Seller shall provide Buyer with information pertaining to any Forced Facility Outage to the extent required by Buyer to comply with any CAISO requirements or applicable Law.



(c) System Emergencies and other Interconnection Events. Seller shall be permitted to limit Buyer's ability to issue Dispatch Notices for the full Effective Capacity as necessary during any period of System Emergency or Curtailment Order pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff.

(d) Force Majeure Event. Seller shall be permitted to limit Buyer's ability to issue Dispatch Notices for the full Effective Capacity as necessary during any Force Majeure Event.

(e) Health and Safety. Seller shall be permitted to limit Buyer's ability to issue Dispatch Notices for the full Effective Capacity as necessary to maintain health and safety pursuant to Section 6.2.

## 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 making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Buyer's income, revenue, receipts or employees). Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees) and on Charging Energy prior to its delivery to Seller. 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, Buyer shall provide Seller with all necessary documentation within thirty (30) days after the Effective Date to evidence such exemption or exclusion. If Buyer does not provide such documentation, then Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes from which Buyer 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*, 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 Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

## ARTICLE 6
## MAINTENANCE OF THE FACILITY



6.1 **Maintenance of the Facility**. Seller shall, as between Seller and Buyer, be solely responsible for the operation, inspection, maintenance and repair of the Facility, and any portion thereof, in accordance with applicable Law and Prudent Operating Practices.

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 Notice to Buyer's emergency contact identified in Exhibit N of such condition. Such action may include disconnecting and removing all or a portion of the Facility or suspending the supply of Discharging Energy to the Delivery Point.

6.3 **Shared Facilities**. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties pursuant to which certain Shared Facilities and Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; *provided* that such agreements (i) shall permit Seller to perform or satisfy, and shall not purport to limit, Seller's obligations hereunder, including providing interconnection capacity for the Facility in an amount not less than the Guaranteed Capacity for Buyer's sole use, (ii) provide for separate metering of the Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource ID, and (iv) provide that in the event of any curtailment that is not specific to the Facility's CAISO

Resource ID of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility more than its pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities.

# ARTICLE 7
# METERING

7.1 **Metering**.

(a) The Facility shall have a single CAISO Resource ID. Seller shall measure the amount of Charging Energy and Discharging Energy using the Facility Meter, which will be subject to adjustment in accordance with applicable CAISO meter requirements and Prudent Operating Practices, including to account for Electrical Losses. Seller shall either (i) separately meter; or (ii) use a separate channel within the Facility Meter for, all Station Use. The Facility Meter shall be operated pursuant to applicable CAISO-approved calculation methodologies and maintained at Seller's cost. If Seller elects to submit a SQMD Plan for the Facility, then the Facility Meter will be programmed, operated and maintained pursuant to the applicable CAISO-approved SQMD Plan for the Facility, at Seller's cost, throughout the period to which the SQMD Plan applies. Seller shall provide to Buyer a copy of any CAISO-approved SQMD Plan and any modifications thereto and notice of any termination or withdrawal thereof. Subject to meeting any applicable CAISO requirements, the Facility Meter shall be programmed to adjust for Electrical Losses and Station Use from the Facility to the Delivery Point in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. Seller shall obtain and maintain a single CAISO resource ID dedicated exclusively to the Facility. Seller shall not obtain additional CAISO resource IDs for the Facility without the prior written consent of Buyer, which shall not be unreasonably withheld. Metering shall be consistent with the Metering Diagram set forth as Exhibit R, as may be revised to be consistent with any CAISO-approved Plan, a final version of which shall be provided to Buyer at least thirty (30) days before the Commercial Operation Date. Each 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 Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports, to the extent such meter data and related meters are not the subject of a CAISO-approved SQMD Plan for the Facility. Seller and Buyer, or Seller's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRI-S) (or its successor) or directly from the CAISO meter(s) at the Facility, to the extent such meter data and related meters are not the subject of a CAISO-approved SQMD Plan for the Facility.

(b) Section 7.1(a) is based on the Parties' mutual understanding as of the Effective Date that the CAISO requires the configuration of the Facility to include as the sole meter for the Facility, the Facility Meter, and (ii) the CAISO requires the Facility Meter to be programmed for Electrical Losses as set forth in the definition of Electrical Losses in this Agreement. If any of the foregoing mutual understandings in (i) or (ii) between the Parties become incorrect during the Delivery Term, the Parties shall cooperate in good faith to make any amendments and modifications to the Facility and this Agreement as are reasonably necessary to conform this Agreement to the CAISO Tariff and avoid, to the maximum extent practicable, any CAISO charges, costs or penalties that may be imposed on either Party due to non-conformance with the CAISO Tariff, such agreement not to be unreasonably delayed, conditioned or withheld.

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 at least 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.

## ARTICLE 8
## INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall make good faith efforts to deliver an invoice to Buyer for Product within fifteen (15) Business Days after the end of the prior monthly billing period. Each invoice shall reflect (a) records of metered data, including, to the extent the available, (i) CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month of the Delivery Term and any other payment amounts under this Agreement, including the amount of Charging Energy and the amount of Discharging Energy, in each case as read by the Facility Meter, and the amount of Replacement RA delivered to Buyer (if any), and the LMP prices at the Delivery Point for each Settlement Period and (ii) data showing a calculation of the Monthly Capacity Payment and other relevant data for the prior month; and the Contract Price applicable to such Product in accordance with Exhibit C; (b) any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (c) be in a format reasonably specified by Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Beginning on the Commercial Operation Date, Seller shall, and shall cause its Scheduling Coordinator to, provide Buyer with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Buyer to verify the accuracy of all invoices; *provided*, *however*, the Parties acknowledge and agree that CAISO metering and transaction data showing the amount of Product delivered by the Facility for any Settlement Period during the prior month may not be available or be final at the time each monthly invoice is delivered pursuant to this Section 8.1 and that the monthly invoice will be based on such data as are available at the time. When CAISO metering and transaction data showing the amount of Product delivered by the Facility for any Settlement Period during the applicable month, including the amount of Charging Energy and the amount of Discharging Energy, in each case as read by the Facility Meter, and the amount of Replacement RA delivered to Buyer (if any) becomes available, Seller will true up such invoices to reflect any differences between Seller's records and the data received from CAISO, and an appropriate credit or charge will be added to the next monthly invoice.

8.2 **Payment**. Buyer shall make payment to Seller of Monthly Capacity Payments for Product (and any other amounts due) by wire transfer or ACH payment to the bank account designated by Seller in Exhibit N, which may be updated by Seller by Notice hereunder. Buyer shall pay undisputed invoice amounts within thirty (30) days after receipt of the invoice or the end of the prior monthly billing period, whichever is later. 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 with respect to this Agreement 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 [redacted] (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 ten (10) Business Days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds Ten Thousand Dollars ($10,000).

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 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO; *provided, however,* that there shall be no adjustments to prior invoices based upon meter inaccuracies except to the extent that such meter adjustments are accepted by CAISO for revenue purposes. If the required adjustment is in favor of Buyer, Buyer's next 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 adjusted amount should have been due.

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 five (5) 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 via adjustments in accordance with Section 8.4. 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 **<u>Netting of Payments</u>**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other with respect to this Agreement on the same date through netting, in which case all 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 <u>Exhibits B</u> and <u>P</u>, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **<u>Seller's Development Security</u>**. Seller previously timely provided pursuant to the Prior ESA Development Security to Buyer in the amount of [redacted] Upon the earlier of (i) Seller's delivery of the Performance Security, or (ii) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating specified in the definition of Acceptable Issuer, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit in the amount of the Development Security and that otherwise meets the requirements set forth in the definition of Development Security. Seller may at its option change the issuer of the Letter of Credit for the Development Security.

8.8 **<u>Seller's Performance Security</u>**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. If the Performance Security is not in the form of cash or Letter of Credit, it shall be substantially in the form of Guaranty set forth in <u>Exhibit L</u>. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller then due and payable 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. If the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating set forth in the definition of Acceptable Issuer, (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 by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Performance Security. Seller may at its option exchange one permitted form of Performance Security for another permitted form of Performance Security, as well as change the issuer of Letter of Credit for any such Performance Security.

8.9 **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 ("**Security Interest**") in, and lien on (and right to net against), and assignment of the Development Security, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 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 and continuation 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 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, 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; 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.

8.10 **Financial Statements**.

(a) From the Effective Date, Buyer shall provide to Seller unaudited monthly financial statements within ninety (90) days of end of each month and audited financial statements within one hundred twenty (120) days after the end of each fiscal year; *provided*, *however*, that this requirement shall be satisfied if such financial statements are publicly available on Buyer's website. Buyer's annual financial statements shall have been prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) In the event 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 or Guarantor's ultimate parent (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, and, if applicable, as posted on the website of the Guarantor's ultimate parent or the Securities Exchange Commission.

## ARTICLE 9
## NOTICES

9.1 **Addresses for the Delivery of Notices**. Except as provided in Exhibit D-1, any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth on Exhibit N 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 next Business Day 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 electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm prevailing Pacific Time, on the next Business Day, *provided* that notice by electronic communication will not be deemed effective until confirmed by return electronic communication from the recipient; 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.

## ARTICLE 10
## FORCE MAJEURE

10.1 **Definition**.

(a) "**Force Majeure Event**" means any act or event 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) and any quarantine related to any such epidemic or pandemic); any temporary restraint or restriction imposed by applicable Law or any directive from a governmental authority; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below; or a one-time failure of the Facility's final step-up transformer so long as it is maintained by Seller in accordance with Prudent Operating Practice.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (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; (iv) a Curtailment Order; (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) any equipment failure except if such equipment failure is caused by a Force Majeure Event or as relates to the one-time failure of the Facility's final step-up transformer as set forth above in Section 10.1(b); or (vii) Seller's inability to achieve Construction Start of the Facility following the Guaranteed Construction Start Date or achieve Commercial Operation of the Facility following the Guaranteed Commercial Operation Date unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; it being understood and agreed, for the avoidance of doubt, that the occurrence of a Force Majeure Event may give rise to a Development Cure Period.

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. 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 Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed, *provided* the suspension of performance due to a claim of Force Majeure Event shall include any reasonable time period for mobilization/re-mobilization. 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 Guaranteed Construction Start Date or the Guaranteed Commercial Operation Date beyond the extensions provided in Exhibit B, or (c) limit Buyer's right to declare an Event of Default pursuant to Section 11.1(b)(ii), subject to Section 4 of Exhibit B, and receive a Damage Payment upon exercise of Buyer's 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 after becoming aware of the event and that the event will have an impact on the Facility, notify the other Party in writing of the nature, cause, estimated date of commencement thereof, and 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 Party; *provided*, *however*, that a Party's failure to give timely Notice 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. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take reasonable actions.

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 wholly unable to perform its obligations hereunder and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then either Party may terminate this Agreement upon written Notice to the other Party; [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

**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 ten (10) 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 such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) day period despite exercising commercially reasonable efforts);

(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 set forth in this Section 11.1; and except for failures to achieve the Performance Guarantees that do not trigger the provisions of Section 11.1(b)(v) or (vi), the exclusive remedies for which are set forth in Section 4.3(c) and Exhibit C; and except if the Facility is unable to receive or respond to Dispatch Notices, the exclusive remedy for which is set forth in Section 4.8), and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional ninety (90) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) days period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable; or

(vi) 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 to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party other than in compliance with other provisions of this Agreement.



(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time during the Delivery Term, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not discharged by the Facility;

(ii) the failure by Seller to achieve Commercial Operation [redacted]

(iii) Intentionally omitted;

(iv) Intentionally omitted;

[redacted]

[redacted]

[redacted] [redacted]

(vii) [redacted]

(viii) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 after Notice and expiration of the cure periods set forth therein, including the failure to replenish the Development Security or Performance Security amount to the extent and in accordance with this Agreement in the event Buyer draws against the Development Security or Performance Security for any reason other than to satisfy a Damage Payment or a Termination Payment;

(ix) 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 Acceptable Issuer, 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 default is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required;

(C) the Guarantor becomes Bankrupt;

(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; or

(x) 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 substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Acceptable Issuer, 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 [redacted];

(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.



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 Delivery Term (to the extent the Delivery Term has already commenced), 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, including an Event of Default under Section 11.1(b)(ii), subject to the limitations in Section 11.7), or (ii) the Termination Payment, calculated in accordance with Section 11.3 below (in the case of any other Event of Default by either Party);

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; or

(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*, 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, and *further provided*, promptly upon Buyer's receipt of the Damage Payment or Termination Payment, as applicable, Buyer shall return to Seller the Development Security or the Performance Security to the extent either of them, as applicable, did not comprise (i.e., was not used as) the Damage Payment or the Termination Payment, as applicable.

11.3 **Termination Payment**. The "**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 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. 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 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 11.2 or this Section 11.3 (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (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 Damage Payment or 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 Damage Payment or Termination Payment, as applicable, and whether the Damage Payment or Termination Payment, as applicable, is due to or from 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 Damage Payment or Termination Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Damage Payment or Termination Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Damage Payment or the Termination Payment, as applicable, in whole or in part, the Defaulting Party shall, within ten (10) Business Days of receipt of the Non-Defaulting Party's calculation of the Damage Payment or the Termination Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Damage Payment or Termination Payment, as applicable, shall be determined in accordance with Article 15.

11.6 **<u>Rights And Remedies Are Cumulative</u>**. Except where an express and exclusive remedy or measure of liquidated damages is provided, 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. Any Non-Defaulting Party shall be obligated to mitigate its Costs, Losses and damages resulting from or arising out of any Event of Default of the other Party under this Agreement.

[redacted]

[redacted]

## ARTICLE 12
## LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **<u>No Consequential Damages</u>**. EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, OR INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR ARISING FROM FRAUD OR INTENTIONAL MISREPRESENTATION, 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.

12.2 **Waiver and Exclusion of Other Damages**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. 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 SELLER'S 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.

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 LOSS OR RECAPTURE OF ANY 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 2.6, 3.5, 4.3(c), 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C SECTIONS (b) AND (c), AND EXHIBIT G 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.

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; COVENANTS

13.1 **Seller's Representations and Warranties**. As of the Execution 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 the state of California and 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 (subject to potential management, board, or board committee approvals as and when required for the applicable performance obligations) perform this Agreement and is not prohibited from entering into this Agreement or discharging and (subject to the foregoing parenthetical) 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 (subject to the foregoing parenthetical) performance of this Agreement by Seller has been duly authorized by all necessary limited liability company 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.

(e) The Facility is located in the State of Nevada.

(f) Seller will be responsible for obtaining all permits necessary to construct and operate the Facility.

(g) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of the Facility or the delivery of materials necessary to complete the Facility, in each case that would cause the Construction Start Date to be later than the Guaranteed Construction Start Date or the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date. Notwithstanding anything to the contrary in this Agreement, Buyer's only remedy for any breach of this representation by Seller shall be that Seller may not claim relief under Article 10 for a Force Majeure Event or Section 4 of Exhibit B for a Development Cure Period on the basis of such delays. Notwithstanding the foregoing, this

Section 13.1(g) shall not restrict Seller's ability to seek relief under Article 10 to the extent a Force Majeure Event occurs after the Effective Date (including, for the avoidance of doubt, any impact from the COVID-19 pandemic that otherwise satisfies the requirements for a Force Majeure Event under this Agreement).

(h) Seller shall maintain Site Control throughout the Delivery Term.

13.2 **Buyer's Representations and Warranties**. As of the Execution 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 the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body 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 (provided that such court is located within a venue permitted in law and under the Agreement), (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; *provided*, *however*, that nothing in this Agreement shall waive the obligations or rights set forth in the California Tort Claims Act (Government Code Section 810 et seq.).

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.3 **General Covenants**. Each Party covenants that commencing on the Execution Date and continuing throughout the Contract Term:

(a) 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 California and each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations, approvals and permits necessary for the operation of the Facility and for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 **Prevailing Wage**. Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and orders and decrees of any courts or administrative bodies or tribunals, including without limitation employment discrimination laws and prevailing wage laws. In addition, Seller shall use 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 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 Nevada law, if any ("**Prevailing Wage Requirement**"). [redacted]

13.5 **RETA Regulations**. The Parties acknowledge that the Facility is located on federal land and that Seller may choose not to apply for a State of Nevada Renewable Energy Tax Abatement ("**RETA**") agreement pursuant to NRS 701A.300-.390, *inclusive*, and NAC 701A.500-660, *inclusive* (the "**RETA Regulations**"). Notwithstanding the prior sentence, should Seller apply for and receive a RETA agreement, and to the extent not inconsistent with the requirements of Section 13.4, Seller shall comply with the requirements of the RETA Regulations, including the requirements of having a construction workforce comprised of no less than 50% Nevada residents, paying the construction workforce no less than 175% of the statewide average annual wage (as that phrase is defined in the RETA Regulations), and providing a health insurance plan satisfying the applicable requirements of the RETA Regulations.

## ARTICLE 14
## ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Any purported assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Buyer will have no obligation to provide any consent, or enter into any agreement, that materially and adversely affects any of Buyer's rights, benefits, risks or obligations under this Agreement, or to modify the Agreement, except as set forth below. Seller shall be responsible for Buyer's reasonable third-party costs, including reasonable attorneys' fees, associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by Seller. Buyer shall cooperate with Seller or any Lender or other financing party to execute or arrange for the delivery of any consents, estoppels, and other documents reasonably requested by Seller, Lender, or such other financing party, including the Collateral Assignment Agreement and Estoppel Certificate as provided in Section 14.2, to consummate any financing or refinancing, including in connection with a financing in which the membership interests of Seller or its direct or indirect parent are collaterally assigned in lieu of an assignment of this Agreement.



14.2 **Collateral Assignment; Financing Cooperation**. 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, upon request of Seller, Buyer shall in good faith work with Seller and Lender to agree upon, execute, and deliver to Seller and Lender (i) a consent to collateral assignment of this Agreement in a form substantially similar to the consent to collateral assignment set forth in Exhibit S ("**Collateral Assignment Agreement**") and (ii) an estoppel certificate in a form substantially similar to the estoppel certificate set forth in Exhibit T ("**Estoppel Certificate**").

14.3 **Permitted Assignment by Seller**. Seller may without the prior written consent of Buyer: (a) assign this Agreement to an Affiliate of Seller, including to NEOP, NEP and NEECH; (b) assign, collaterally assign, or pledge its interest hereunder and/or in the Facility to a Lender or any other financing party; or (c) make any Permitted Transfer or otherwise assign this Agreement pursuant to or in connection with any Permitted Transfer. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided*, Buyer's consent shall not be required if: (a) such Change of Control is, or is a result of, a direct or indirect Change of Control of NEOP or NEP; or (b) the entity that is the Seller at the conclusion of the Change of Control is a Permitted Transferee. For avoidance of doubt, (i) a Change of Control shall not be deemed to have occurred as a result of a Permitted Transfer, and no consent is required under this Agreement with respect to a Permitted Transfer, and (ii) Seller may, without the prior written consent of Buyer, finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities utilizing debt financing, equity financing (including tax equity), lease financing, or any other form of financing or any combination thereof, including pursuant to a portfolio financing of multiple energy generation, storage, and transmission facilities and other assets of Seller or Seller's Affiliates (which may include cross-collateralization or similar arrangements).

## ARTICLE 15
## 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 laws. **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.**

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 the courts of the State of California sitting in Santa Clara County, California.

15.3 **Dispute Resolution**. In the event of any dispute arising under this Agreement, 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 the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, the Parties shall submit the dispute to mediation prior to seeking any and all remedies available to it at Law in or equity. The Parties will cooperate in selecting a qualified neutral mediator selected from a panel of neutrals and in scheduling the time and place of the mediation as soon as reasonably possible, but in no event later than thirty (30) days after the request for mediation is made. The Parties agree to participate in the mediation in good faith and to share the costs of the mediation, including the mediator's fee, equally, but such shared costs shall not include each Party's own attorneys' fees and costs, which shall be borne solely by such Party. Unless agreed to in writing by each Party, the mediation shall be concluded within the earlier of (a) sixty (60) days after the mediator is selected, and (b) ninety (90) days of the date the dispute is submitted to mediation. If the mediation is unsuccessful, 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 Agreement.

## ARTICLE 16
## INDEMNIFICATION

16.1 **Mutual Indemnity**.

(a) Each Party (the "**Indemnifying Party**") agrees to defend, indemnify and hold harmless, the other Party, its Affiliates, directors, officers, agents, attorneys, employees and representatives (each an "**Indemnified Party**" and collectively, the "**Indemnified Group**") from and against all third party claims, demands, losses, liabilities, penalties, and expenses, including reasonable attorneys' and expert witness fees, for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees or agents (collectively, "**Indemnifiable Losse**s").

(b) Nothing in this Section 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 from its sole negligence, intentional acts, or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligations to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Notice of Claim**. Subject to the terms of this Agreement and upon obtaining knowledge of an Indemnifiable Loss for which it is entitled to indemnity under this Article 16, the Indemnified Party will promptly Notify the Indemnifying Party in writing of any damage, claim, loss, liability or expense which Indemnified Party has determined has given or could give rise to an Indemnifiable Loss under Section 16.1 ("**Claim**"). The Notice is referred to as a "**Notice of Claim**". A Notice of Claim will specify, in reasonable detail, the facts known to Indemnified Party regarding the Indemnifiable Loss.

16.3 **Failure to Provide Notice**. A failure to give timely Notice or to include any specified information in any Notice as provided in this Section 16.3 will not affect the rights or obligations of any Party hereunder except and only to the extent that, as a result of such failure, any Party which was entitled to receive such Notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise materially damaged as a direct result of such failure and, *provided, further*, Indemnifying Party is not obligated to indemnify any member of the Indemnified Group for the increased amount of any Indemnifiable Loss which would otherwise have been payable to the extent that the increase resulted from the failure to deliver timely a Notice of Claim.



16.4 **Defense of Claims**. If, within ten (10) Business Days after giving a Notice of Claim regarding a Claim to Indemnifying Party pursuant to Section 16.2, Indemnified Party receives Notice from Indemnifying Party that Indemnifying Party has elected to assume the defense of such Claim, Indemnifying Party will not be liable for any legal expenses subsequently incurred by Indemnified Party in connection with the defense thereof; *provided, however*, that if Indemnifying Party fails to take reasonable steps necessary to defend diligently such Claim within ten (10) Business Days after receiving Notice from Indemnifying Party that Indemnifying Party believes Indemnifying Party has failed to take such steps, or if Indemnifying Party has not undertaken fully to indemnify Indemnified Party in respect of all Indemnifiable Losses relating to the matter, Indemnified Party may assume its own defense, and Indemnifying Party will be liable for all reasonable costs or expenses, including attorneys' fees, paid or incurred in connection therewith. Without the prior written consent of Indemnified Party, Indemnifying Party will not enter into any settlement of any Claim which would lead to liability or create any financial or other obligation on the part of Indemnified Party for which Indemnified Party is not entitled to indemnification hereunder; *provided*, *however*, that Indemnifying Party may accept any settlement without the consent of Indemnified Party if such settlement provides a full release to Indemnified Party and no requirement that Indemnified Party acknowledge fault or culpability. If a firm offer is made to settle a Claim without leading to liability or the creation of a financial or other obligation on the part of Indemnified Party for which Indemnified Party is not entitled to indemnification hereunder and Indemnifying Party desires to accept and agrees to such offer, Indemnifying Party will give Notice to Indemnified Party to that effect. If Indemnified Party fails to consent to such firm offer within ten (10) calendar days after its receipt of such Notice, Indemnified Party may continue to contest or defend such Claim and, in such event, the maximum liability of Indemnifying Party to such Claim will be the amount of such settlement offer, plus reasonable costs and expenses paid or incurred by Indemnified Party up to the date of such Notice.

16.5 **Subrogation of Rights**. Upon making any indemnity payment, Indemnifying Party will, to the extent of such indemnity payment, be subrogated to all rights of Indemnified Party against any Third Party in respect of the Indemnifiable Loss to which the indemnity payment relates; *provided* that until Indemnified Party recovers full payment of its Indemnifiable Loss, any and all claims of Indemnifying Party against any such Third Party on account of said indemnity payment are hereby made expressly subordinated and subjected in right of payment to Indemnified Party's rights against such Third Party. Without limiting the generality or effect of any other provision hereof, Buyer and Seller shall execute upon request all instruments reasonably necessary to evidence and perfect the above-described subrogation and subordination rights.

16.6 **Rights and Remedies are Cumulative**. Except for express remedies already provided in this Agreement, the rights and remedies of a Party pursuant to this Article 16 are cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

## 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, including products and completed operations and personal injury insurance, With a minimum amount of [redacted] endorsed to provide contractual liability in said amount, specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured but only to the extent of the liabilities assumed hereunder by Seller; and (ii) an umbrella insurance policy in a minimum amount of liability of [redacted] Insurance may be evidenced through primary and excess policies.

(b) Employer's Liability Insurance. Employers' Liability insurance shall be [redacted] for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the [redacted] policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with applicable requirements of Nevada Law.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of [redacted] per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.

(e) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility, but only after major electrical generating equipment as arrived at the Facility, prior to the date that Seller has obtained CAISO Certification for the Facility (except for Ancillary Services which shall not be required as a condition for the end date of this insurance), construction all-risk form property insurance covering the Facility during such construction periods, and naming the Seller (and Lender if any) as the loss payee.

(f) Pollution Legal Liability. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the date that Seller has obtained CAISO Certification for the Facility (except for Ancillary Services which shall not be required as a condition for the end date of this insurance), Pollution Legal Liability Insurance in the amount of [redacted], naming the Seller (and Lender if any) as additional named insured. Insurance may be evidenced through primary and excess policies.

(g) Subcontractor Insurance. Seller shall require all of its subcontractors to carry the same levels of insurance as Seller. All subcontractors shall include Seller as an additional insured to (i) comprehensive general liability insurance; (ii) workers' compensation insurance and employers' liability coverage; and (iii) business auto insurance for bodily injury and property damage. All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(f).

(h) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. These certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Buyer. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(i) Waiver of Subrogation. Each party agrees that with respect to any losses covered by, or required to be covered by, property insurance under the terms of this agreement, other than those losses caused by the other Party's gross negligence or intentional acts, each party hereby waives and releases the other, its officers, directors, employees, and agents, from any and all claims and liability or responsibility with respect to such losses, including losses arising out of the inability to conduct business. Each party further agrees that its insurance companies shall have no right of subrogation against the other on account of this release.

## ARTICLE 18
## CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered or conveyed by one Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**"): (a) 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**. Upon receiving or learning of Confidential Information, the Receiving Party will: (a) treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third party except as set forth in this Article 18; (b) restrict access to such Confidential Information to only those of its Affiliates and its and their customers, employees, officers, directors, advisors (including legal and accounting advisors), agents, contractors, subcontractors, actual and potential lenders, equity investors (including tax equity), and other financing parties (including Lenders), and actual and potential acquirors and assignees, in each case who reasonably need to know it and are bound by confidentiality provisions no less stringent than those in this Article 18; and (c) use such Confidential Information for purposes of administering this Agreement and, in cases where Seller is the Receiving Party, for the purpose of developing, financing, owning, and operating the Facility. Confidential Information will retain its character as Confidential Information but may be disclosed by 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 this Agreement; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. 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 request or rule) to disclose any Confidential Information of 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. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party is not required to defend against such request and shall be permitted to disclose such Confidential Information of the Disclosing Party, with no liability for any damages that arise from such disclosure. Each Party hereto acknowledges and agrees that information and documentation provided in connection with this Agreement may be subject to the California Public Records Act (Government Code Section 6250 et seq.) and that any request made thereunder may be subject to an exception from disclosure.

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 would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth in this Article 18. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available except as otherwise limited under this Agreement, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Article 18 or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Disclosure to Lenders, Etc.**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by Seller to any actual or potential Lender or investor or any of their Affiliates, and Seller's actual or potential agents, consultants, contractors, or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions no less stringent than those in this Article 18.

18.5 **Public Announcements**. Except as may otherwise be required by applicable Law, neither Party will, nor will it allow its affiliates, contractors and vendors to, make any public announcement, press release or statement regarding this Agreement unless the public announcement, press release or statement is approved in advance by the other Party, in its sole discretion.

## 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 (including the Prior ESA), which are of no further force or effect; provided, however, for avoidance of doubt the Parties acknowledge and agree that nothing in this Agreement shall impair the effectiveness of the separate 24MW-4hr. Amended and Restated ESA being contemporaneously executed by the Parties. 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 Party 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*, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

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 seller and energy purchaser, 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, and to the extent set forth herein, any Lender and/or Indemnified Party).

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; Electronic Signatures**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original. The Parties may rely on electronic or scanned signatures as originals.



19.8 **Electronic Delivery**. Delivery of an executed signature page of this Agreement by electronic format (including portable document format (.pdf)) shall be the same as delivery of an original executed signature page.

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 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 **Forward Contract; Inapplicability/Waiver of Bankruptcy Code Section 366**.

(a) Each Party acknowledges, intends, and to the extent applicable agrees that (i) this Agreement and the transactions contemplated by this Agreement constitute a "forward contract" and at least one of the Parties is a "forward contract merchant" within the meaning of the United States Bankruptcy Code; (ii) all payments made or to be made by a Party pursuant to this Agreement, including the application by a Party of Performance Security to any amounts due and owing to such Party, constitute "settlement payments" within the meaning of the United States Bankruptcy Code; and (iii) its rights under Section 11.2 of this Agreement constitute a "contractual right to liquidate, terminate or accelerate" or offset under a forward contract within the meaning of §§556, 561 of the Bankruptcy Code.

(b) Each Party acknowledges and agrees that, upon a Party becoming Bankrupt, the other Party shall be entitled to exercise its rights and remedies under this Agreement in accordance with the safe harbor provisions of the Bankruptcy Code set forth in, inter alia, Sections 362(b)(6), 362(b)(17), 362(b)(27), 546(e), 548(d)(2), 556, and 561 thereof.

(c) Each Party acknowledge and agrees that, for all purposes of this Agreement, that the provisions of 11 U.S.C. § 366 in any bankruptcy case or proceeding wherein such Party is a debtor are inapplicable, or if found to be applicable each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any bankruptcy case or proceeding wherein such Party is a debtor. In any such bankruptcy case or proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or any other provision of 11 U.S.C. § 101-1532.

19.12 **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.



19.13 **Change in Electric Market Design**. 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, within sixty (60) days 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. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

*[Signatures on following page]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Execution Date, effective as of the Effective Date.

**Yellow Pine Solar III, LLC, a Delaware limited liability company**

By: ______________________________
Name: ______________________________
Title: ______________________________

**Silicon Valley Clean Energy Authority, a California joint powers authority**

By: ______________________________
Name: ______________________________
Title: ______________________________

*Approved as to form*:

By: ______________________________
Name: ______________________________
Title: ______________________________

# EXHIBIT A

## FACILITY DESCRIPTION

**Site Name:** Yellow Pine III – SVCE 9MW-8hr. ESA (for clarification, the Facility will comprise only a portion of the Yellow Pine III energy complex)

**Site includes all or some of the following APNs:** Seller to provide at least sixty (60) days prior to the Guaranteed Construction Start Date

**County**: Clark County, Nevada

**Latitude and Longitude**: [redacted]

**NEPA Lead Agency**: BLM

**Type of Storage Facility**: Electrochemical battery energy storage facility

**Delivery Point**: Facility PNode

**Interconnection Point**: The Facility shall interconnect at the PNode

**Storage Facility Meter Locations**: See Exhibit R

**Facility PNode**: To be established prior to the Commercial Operation Date. Seller shall promptly notify Buyer following establishment of the PNode.

**Transmission Provider:** GridLiance

**Site Diagram**: Preliminary Site Plan to be provided within 90 days of Effective Date and to be updated no later than 60 days prior to the Commercial Operation Date.

# EXHIBIT B

## MAJOR PROJECT DEVELOPMENT MILESTONES AND COMMERCIAL OPERATION

1. **Major Project Development Milestones**.

a. "**Construction Start**" will occur upon Seller's execution of an engineering, procurement, and construction contract (or similar agreement) and issuance thereunder of a notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein by Seller shall be the "**Construction Start Date**." The Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

b. If Construction Start is not achieved by the Guaranteed Construction Start Date, Seller shall pay Daily Delay Damages to Buyer on account of such delay. Daily Delay Damages shall be payable to Buyer for each day for which Construction Start has not begun by the Guaranteed Construction Start Date until Seller reaches Construction Start of the Facility [redacted] On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Daily Delay Damages, if any, accrued during the prior month and, within ten (10) Business Days following Seller's receipt of such invoice, Seller shall pay Buyer the amount of the Daily Delay Damages set forth in such invoice. For avoidance of doubt, Buyer shall have a right to draw on Seller's Development Security to recover any Daily Delay Damages that are not timely paid. Daily Delay Damages shall be refundable to Seller pursuant to Section 2(b) of this Exhibit B. The Parties agree that Buyer's receipt of Daily Delay Damages shall be Buyer's sole and exclusive remedy for Seller's unexcused delay in achieving the Guaranteed Construction Start Date but shall not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 11.1.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when (i) Seller has provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**"), and (ii) Seller has notified Buyer in writing that it has provided the required documentation to Buyer and met the conditions precedent in Section 2.2 for achieving Commercial Operation. The "**Commercial Operation Date**" shall be the later of [redacted]

a. Seller shall cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer at least thirty (30) days before the anticipated Commercial Operation Date.

b. If Seller achieves Commercial Operation by the Guaranteed Commercial Operation Date, all Daily Delay Damages paid by Seller shall be refunded to Seller. Seller shall include the request for refund of the Daily Delay Damages with the first invoice to Buyer after Commercial Operation.

c. If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, Seller shall pay Commercial Operation Delay Damages to Buyer for each day after the Guaranteed Commercial Operation Date until the Commercial Operation Date, [redacted] On or before the tenth (10th) of each month, Buyer shall invoice Seller for Commercial Operation Delay Damages, if any, accrued during the prior month and, within ten (10) Business Days following Seller's receipt of such invoice, Seller shall pay Buyer the amount of the Commercial Operation Delay Damages set forth in such invoice. For avoidance of doubt, Buyer shall have a right to draw on Seller's Development Security to recover any Commercial Operation Delay Damages that are not timely paid. The Parties agree that Buyer's receipt of Commercial Operation Delay Damages shall be Buyer's sole and exclusive remedy for Seller's unexcused delay in achieving the Commercial Operation Date on or before the Guaranteed Commercial Operation Date, but shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 11.1, (y) [redacted] and (y) not limit Buyer's right to declare an Event of Default under Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer's rights pursuant to Section 11.2.

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation [redacted] Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date both shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances:

a. a Force Majeure Event occurs; or

b. the Interconnection Facilities or Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by at least four (4) months prior to the Guaranteed Commercial Operation Date, despite the exercise of commercially reasonable efforts by Seller; or

c. Seller has not acquired by the Guaranteed Construction Start Date all material permits, consents, licenses, approvals, or authorizations from any Governmental Authority required for Seller to own, construct, interconnect, operate or maintain the Facility, including for avoidance of doubt any Interconnection Facilities or Shared Facilities, and to permit Seller and the Facility to make available and sell Product; or

d. Buyer has not made all necessary arrangements to receive the Discharging Energy at the Delivery Point by the Guaranteed Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under Section 4(a) through 4(c) above under the Development Cure Period shall not exceed [redacted] for any reason, including a Force Majeure Event; [redacted] Notwithstanding the foregoing, no extension under

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the Development Cure Period shall be given if (i) the delay was the result of Seller's failure to take commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide written notice to Buyer as required in the next sentence. Seller shall provide prompt written notice to Buyer of a delay, but in no case more than thirty (30) days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the expected Commercial Operation Date, or after such date, Seller must provide written notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take reasonable actions.

5. **Failure to Reach Guaranteed Capacity**. If, at Commercial Operation, the Installed Capacity is less than one hundred percent (100%) of the Guaranteed Capacity, Seller shall have [redacted] after the Commercial Operation Date to install additional capacity such that the Installed Capacity is equal to (but not greater than) the Guaranteed Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I hereto specifying the new Installed Capacity. If Seller fails to construct the Guaranteed Capacity by such date, Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to the product of (i) [redacted] and (ii) each MW (or portion thereof) that the Guaranteed Capacity exceeds the Installed Capacity, and the Guaranteed Capacity and other applicable portions of the Agreement shall be adjusted accordingly.

# EXHIBIT C

# COMPENSATION

(a) Monthly Compensation. Each month of the Delivery Term (and pro-rated for the first and last month of the Delivery Term if the Delivery Term does not start on the first day of a calendar month), Buyer shall pay Seller a Monthly Capacity Payment equal to (i) the Contract Price x 1,000 x Effective Capacity x Availability Adjustment. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Product. If the Effective Capacity and/or Efficiency Rate are adjusted pursuant to a Storage Capacity Test effective as of a day other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Effective Capacity and/or Efficiency Rate are applicable.

(b) Availability Adjustment. The "**Availability Adjustment**" (or "**AA**") is calculated as follows:

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]



(c) Efficiency Rate Liquidated Damages. [redacted]

[redacted]

(d) Tax Benefits. The Parties agree that the Contract Price is not subject to adjustment or amendment if Seller fails to receive any Tax Benefits, or if any Tax Benefits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Benefits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Benefits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) is eligible for, or receives, Tax Benefits during the Contract Term.

# EXHIBIT D-1

## SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Seller as Scheduling Coordinator for the Facility. Upon Initial Synchronization of the Facility to the CAISO Grid, Seller shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for both the delivery and the receipt (as applicable) of Charging Energy, Discharging Energy and the Product at the Delivery Point and for the purposes of conducting Storage Capacity Tests (as the Facility's SC). During the Delivery Term, Seller shall submit Schedules to the CAISO in accordance with this Agreement and the applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market, real time or other CAISO market basis that may develop after the Effective Date, as determined by Buyer pursuant to the Standing Instructions.

(b) Notices. Seller (as the Facility's SC) shall use a web-based system through which Seller shall submit to CAISO all notices and updates required under the CAISO Tariff regarding the Facility's status, including, but not limited to, all outage requests, forced outages, forced outage reports, clearance requests, or must offer waiver forms. Seller will cooperate with Buyer to provide Buyer access to such notices and updates. If the web-based system is not available, Seller shall promptly submit such information to Buyer and the CAISO (in order of preference) telephonically, by electronic mail, transmission to the personnel designated to receive such information.

(c) CAISO Costs and Revenues. Except during a Storage Capacity Test, or as otherwise set forth below, during the Delivery Term Buyer shall be responsible for CAISO costs (including Charging Energy, penalties, Imbalance Energy costs or revenues, and other charges) and shall be entitled to all CAISO revenues (including Discharging Energy, credits, Imbalance Energy revenues or costs, and other payments), including 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. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of the Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, and any such sanctions or penalties are imposed upon the Facility or to Seller as Scheduling Coordinator due to failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be the Seller's responsibility. Subject to the foregoing, Seller shall pass through to Buyer all CAISO costs and revenues associated with the Facility, which shall be reflected as a credit or debit on the monthly invoices provided to Buyer in accordance with the invoicing and payment provisions of Article 8, including the netting provisions of Section 8.6.

(d) CAISO Settlements. Seller (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility.

(e) Dispute Costs. Seller (as the Facility's SC) may be required to dispute CAISO settlements in respect of the Facility. If Buyer has directed Seller to dispute a CAISO settlement, Buyer agrees to pay Seller's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Buyer with respect to the Facility.

(f) Master Data File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

(g) NERC Reliability Standards. Seller (as Scheduling Coordinator) shall comply with NERC reliability standards.

# EXHIBIT D-2
# BUYER AND SELLER OPERATING COORDINATION

The Parties shall work together after the Effective Date to develop this Exhibit D-2. No later than ninety (90) days prior to the Commercial Operation Date, representatives of Buyer and Seller shall finalize this Exhibit D-2. This Exhibit D-2 may be reviewed annually (date and time to be mutually agreed) to optimize operations for both Parties. The Parties shall cooperate to integrate the systems and controls necessary to implement this Exhibit D-2.

As part of this effort, Buyer shall issue Standing Instructions to Seller for bidding, scheduling, and operation of the Facility during the Delivery Term, including charging and discharging of the Storage Facility. The Standing Instructions shall be consistent with this Agreement, including but not limited to the Operating Restrictions and Seller's obligations under the CAISO Tariff and Law, including compliance with the Availability Standard.

# EXHIBIT E

## 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 material planned changes to the Facility or the Site.
5. Gantt chart schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar quarter or month, as applicable.
7. Forecast of activities scheduled for the current calendar quarter or month as applicable.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.
9. List of issues that are likely to potentially 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. If applicable, prevailing wage reports as required by Law.
12. 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.
13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.
14. Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.
15. Any other documentation reasonably requested by Buyer.

# EXHIBIT F

## FORM OF MONTHLY EXPECTED AVAILABLE CAPACITY REPORT

[Available Capacity, MW Per Hour] – [*Insert Month*]

| | **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** |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Day 1** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Day 2** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Day 3** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Day 4** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Day 5** | | | | | | | | | | | | | | | | | | | | | | | | |
| **[insert additional rows for each day in the month]** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Day 29** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Day 30** | | | | | | | | | | | | | | | | | | | | | | | | |
| **Day 31** | | | | | | | | | | | | | | | | | | | | | | | | |

The foregoing table 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.

# EXHIBIT G

# FORM OF DAILY AVAILABILITY NOTICE

Trading Day: ________________________

Station: _______________________ Issued By: _________________________________

Unit: _________________________ Issued At: _________________________________

Unit 100% Available No Restrictions: _______________________

| Hour Ending | Available Capacity | | | Comments (including available Ancillary Services) |
|---|---|---|---|---|
| | (MW) | | | |
| 1:00 | | | | |
| 2:00 | | | | |
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| 21:00 | | | | |
| 22:00 | | | | |
| 23:00 | | | | |
| 0:00 | | | | |



Comments: ______________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

# EXHIBIT H

## FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by _______[*licensed professional engineer*] ("**Engineer**") to Silicon Valley Clean Energy Authority, a California joint powers authority **(**"**Buyer**") in accordance with the terms of that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.) 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.

As of _______[DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, interconnected, and synchronized with the Transmission System in accordance with the Interconnection Agreement.

2. The Facility has met all Interconnection Agreement requirements and is capable of receiving Charging Energy from, and delivering Discharging Energy to, the CAISO Balancing Authority Area.

3. The Facility's Installed Capacity is no less than [redacted] of the Guaranteed Capacity and the Facility is capable of charging, storing and discharging Energy, all within the operational constraints and subject to the applicable Operating Restrictions.

4. The Facility has successfully completed all testing required for the commencement of Commercial Operation, including the Commercial Operation Storage Capacity Test in accordance with Exhibit O, and any tests required under applicable permits and approvals to operate the Facility.

5. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on___[DATE]____.

6. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Transmission Provider as appropriate] on _______[DATE]_____.

7. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on _______[DATE]_____.

8. Seller has either (i) separately metered; or (ii) used a separate channel within the Facility Meter to meter all Station Use when the Facility is idle (i.e., the Facility is not charging or discharging).

[*Signature on next page*]

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**
this ________ day of ______________, 20__.

**[**LICENSED PROFESSIONAL ENGINEER**]**
By:___________________________________
Its:___________________________________
Date:___________________________

# EXHIBIT I

## FORM OF CAPACITY AND EFFICIENCY RATE TEST CERTIFICATE

This certification ("**Certification**") of Storage Capacity Test results is delivered by [licensed professional engineer] ("**Engineer**") to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.) dated __________ ("**Agreement**") by and between [*SELLER ENTITY*] 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.

I hereby certify that a Storage Capacity Test conducted on [Date] demonstrated (i) an Effective Capacity of __ $MW_{AC}$ ("Installed Capacity")(ii) an Efficiency Rate of __%, all in accordance with Section 4.4 and Exhibit O.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**
this ________ day of _____________, 20__.

**[**LICENSED PROFESSIONAL ENGINEER**]**
By:_________________________________
Its:_________________________________
Date:_________________________

# EXHIBIT J

## FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.) 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) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto;

(2) the Construction Start Date occurred on _____________ (the "**Construction Start Date**"); and

(3) 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 of the Agreement.)



IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of ________.

[SELLER ENTITY]

By:_________________________________
Its:_________________________________

Date:_______________________________

# EXHIBIT K

# FORM OF LETTER OF CREDIT

**[**Issuing Bank Letterhead and Address**]**

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]

Date:
Bank Ref.:
Amount:  US$[XXXXXXXX]
Expiry Date:

Beneficiary:

Silicon Valley Clean Energy Authority
Attn: Monica Padilla, CEO
333 W. El Camino Real, Suite 330
Sunnyvale, CA 94087



Ladies and Gentlemen:

By the order of __________ ("Applicant"), we, [insert bank name and address] ("Issuer") hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of Silicon Valley Clean Energy Authority, a California joint powers authority ("Beneficiary"), for an amount not to exceed the aggregate sum of U.S. $[XXXXXX] (United States Dollars [XXXXX] and 00/100), pursuant to that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.) dated as of ______ and as amended (the "Agreement") between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall expire on [Insert Date] 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").

Funds under this Letter of Credit are available to Beneficiary by presentation on or before the Expiration Date of a dated statement purportedly signed by your duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein, referencing our Letter of Credit No. [XXXXXXX] ("Drawing Certificate").

The Drawing Certificate may be presented by (a) physical delivery, (b) as a PDF attachment to an e-mail to [*bank email address*] or (c) facsimile to [bank fax number [XXX-XXX-XXXX]] confirmed by [e-mail to [*bank email address*]] Transmittal by facsimile or email shall be deemed delivered when received.

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.

We hereby agree with the Beneficiary that all documents presented under and in compliance with the terms of this Letter of Credit, that such drafts will be duly honored upon presentation to the Issuer on or before the Expiration Date. 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.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance.

It is a condition of this Letter of Credit that the Expiration Date shall be deemed automatically extended without an amendment for a one year period beginning on the present Expiration Date hereof and upon each anniversary for such date, unless at least one hundred twenty (120) days prior to any such Expiration Date we have sent to you written notice by overnight courier service that we elect not to extend this Letter of Credit, in which case it will expire on the date specified in such notice. No presentation made under this Letter of Credit after such Expiration Date will be honored.



Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. In the event of an act of God, riot, civil commotion, insurrection, war or any other cause beyond Issuer's control (as defined in Article 36 of the UCP) that interrupts Issuer's business and causes the place for presentation of the Letter of Credit to be closed for business on the last day for presentation, the Expiration Date of the Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [*insert bank address information*], referring specifically to Issuer's Letter of Credit No. [XXXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

[Bank Name]

______________________________

[Insert officer name]

[Insert officer title]

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

**Exhibit A**

Drawing Certificate

[Insert Bank Name and Address]

The undersigned, a duly authorized representative of Silicon Valley Clean Energy Authority, a California joint powers authority, as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of __________ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.) dated as of ___________, 20__ (the "Agreement").

2. 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

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 thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of Silicon Valley Clean Energy Authority and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to Silicon Valley Clean Energy Authority by wire transfer in immediately available funds to the following account:

[Specify account information]

Silicon Valley Clean Energy Authority

___________________________________
Name and Title of Authorized Representative

Date__________________________

# EXHIBIT L

# FORM OF GUARANTY

This Guaranty (this "**Guaranty**") is entered into as of [_____] (the "**Effective Date**") by and between [_____], a [______] ("**Guarantor**"), and Silicon Valley Clean Energy Authority, a California joint powers authority (together with its successors and permitted assigns, "**Buyer**").

## Recitals

A. Buyer and [*SELLER* ENTITY], a ______________________ ("**Seller**"), entered into that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.) (as amended, restated or otherwise modified from time to time, the "**ESSA**") dated as of [____], 20___.

B. Guarantor is entering into this Guaranty as [Development Security to secure Seller's obligations under the ESSA, as required by Section 8.8 of the ESSA] [Performance Security to secure Seller's obligations under the ESSA, as required by Section 8.8 of the ESSA].

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 ESSA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the ESSA.



## Agreement

1. Guaranty. For value received and subject to the terms and conditions hereof, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the ESSA (the "**Obligations**"), including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the ESSA ; *provided*, that the Guarantor's aggregate liability under or arising out of this Guaranty for payment of the Obligations shall not exceed ________________ Dollars ($________________) (the "**Guaranteed Amount**"). The Parties understand and agree that any payment by Guarantor or Seller of any portion of the Guaranteed Amount shall thereafter reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the payment, 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 ESSA, Guarantor shall promptly pay such amount as required herein.

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 ESSA. If Seller fails to pay any Guaranteed Amount as required pursuant to the ESSA 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), (y) replacement [Development Security] [Performance Security] is provided in an amount and form required by the terms of the ESSA, or (z) the [_________] anniversary of the Effective Date. 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 ESSA, 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 ESSA 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

(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 ESSA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the ESSA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the ESSA, 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.

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 ESSA, 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 ESSA;



(iii) subject to Paragraph 9, any (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***][***corporate***] powers and authority and the 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, which would invalidate or materially impair Guarantor's ability to perform its obligations under this Guaranty, (d) except as disclosed in reports filed with the Securities and

Exchange Commission by Guarantor's parent, NextEra Energy, Inc., 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, materially 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 (4) Business Days after mailing if sent by certified, first class mail, return receipt requested. 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 8.

| | |
|---|---|
| If delivered to Buyer, to it at | [____]<br>Attn: [____] |
| If delivered to Guarantor, to it at | [____]<br>Attn: [____] |



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 or the courts of the State of California sitting in the City and 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 ESSA. 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, which consent shall not be unreasonably withheld. This Guaranty is not assignable by Buyer without the prior written consent of Guarantor, which consent shall not be unreasonably withheld. 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 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. BUYER (BY ITS ACCEPTANCE OF THIS GUARANTY) AND GUARANTOR EACH HEREBY IRREVOCABLY, INTENTIONALLY AND VOLUNTARILY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON RELATING HERETO OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY.

[*Signature on next page*]

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:_____________________________

# EXHIBIT M

## FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by [SELLER ENTITY] ("**Seller**") to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.) dated __________ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.5 of the Agreement, Seller hereby provides the below Replacement RA product information:

[redacted]

[SELLER ENTITY]

By:_________________________________
Its:_________________________________

Date:_______________________________

# EXHIBIT N

## NOTICES

| **Yellow Pine Solar III, LLC**<br>("Seller") | **Silicon Valley Clean Energy Authority**<br>("Buyer") |
|---|---|
| **All Notices:**<br><br>Street: 700 Universe Blvd.<br>City: Juno Beach, FL 33408<br>Attn: Business Management<br>Phone: [redacted]<br>Email: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com<br>and<br>[redacted]<br>and<br>Email: NEER-General-Counsel@nexteraenergy.com | **All Notices:**<br>Street: 333 W. El Camino Real, Suite 330<br>City: Sunnyvale, California 94087<br>Attn: Monica Padilla, CEO<br>Phone: [redacted]<br>Email: [redacted] |
| **Reference Numbers:**<br>Duns: [To be provided separately]<br>Federal Tax ID Number: [To be provided separately] | **Reference Numbers:**<br>Duns: [redacted]<br>Federal Tax ID Number: [redacted] |
| **Invoices:**<br>Attn: Business Management<br>Phone: [redacted]<br>E-mail: NEER-REVENUE-TEAM.SharedMailbox@nexteraenergy.com<br>and<br>DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com | **Invoices:**<br>Attn: Power Supply Group<br>Phone: [redacted]<br>Email: [redacted] |

| **Yellow Pine Solar III, LLC**<br>(“Seller”) | **Silicon Valley Clean Energy Authority**<br>(“Buyer”) |
|---|---|
| **Scheduling:**<br>Attn: [redacted]<br>Email: dl-nepm-dayaheaddesk-wecc@nexteraenergy.com<br>and<br>nepm.realtimedesk@nexteraenergy.com | **Scheduling:**<br><br>Attn: Tenaska<br>Team Email: [redacted] |
| **Confirmations:**<br>Attn: Confirmation<br>Email: DL-Confirmations-Juno-PMI@nexteraenergy.com | **Confirmations:**<br>Attn: [redacted] |
| **Payments:**<br>Attn: Business Management<br>Phone: [redacted]<br>E-mail: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com | **Payments:**<br>Attn: Finance Group<br>Phone: [redacted]<br>Email: [redacted] |
| **Wire Transfer: [**Seller shall provide to Buyer the information below at least 60 days prior to the Commercial Operation Date.]<br>BNK:<br>ABA:<br>ACCT: | **Wire Transfer:**<br>BNK: [redacted] |

| **Yellow Pine Solar III, LLC**<br>(“Seller”) | **Silicon Valley Clean Energy Authority**<br>(“Buyer”) |
|---|---|
| **Defaults:**<br><br>Yellow Pine Solar III, LLC<br>700 Universe Blvd.<br>Juno Beach, FL 33408<br>Attn: Emre Ergas and Jess Melin<br>[redacted]<br>DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com<br><br>With a simultaneous copy provided to:<br><br>Attn: General Counsel<br>E-mail: NEER-General-Counsel@nexteraenergy.com<br>and<br>[redacted] | **Defaults:**<br><br>[redacted] |
| **Emergency Contact:**<br><br>Street: 700 Universe Blvd.<br>City: Juno Beach, FL 33408<br>Attn: Business Management<br>Phone: [redacted]<br>Email: FPDC-Wind.SharedMailbox@nexteraenergy.com<br>and<br>DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com | **Emergency Contact:**<br>[redacted] |

# EXHIBIT O

## CAPACITY AND EFFICIENCY RATE TESTS

**Storage Capacity Test Notice and Frequency**

A. Commercial Operation Storage Capacity Test(s). Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Storage Capacity Test no more than thirty (30) days prior to the Commercial Operation Date. Such initial Commercial Operation Storage Capacity Test (and any subsequent Commercial Operation Storage Capacity Test permitted in accordance with Section 5 of Exhibit B) shall be performed in accordance with this Exhibit O and shall establish the Installed Capacity and initial Efficiency Rate hereunder based on the actual capacity and capabilities of the Facility determined by such Commercial Operation Storage Capacity Test(s).

B. Subsequent Storage Capacity Tests. Following the Commercial Operation Date, at least fifteen (15) days in advance of the start of each Contract Year, upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Storage Capacity Test. In addition to the annual capacity test, if Buyer has reason to believe that the Effective Capacity or the Efficiency Rate is materially less than shown by the most recent test results, Buyer shall have the right to require a Storage Capacity Test at any time upon no less than five (5) Business Days prior Notice to Seller. Seller shall have the right to run a retest of any Storage Capacity Test at any time upon five (5) Business Days' prior Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice).



C. Test Results and Re-Setting of Effective Capacity and Efficiency Rate. No later than five (5) days following any Storage Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include Facility Meter readings and plant log sheets verifying the operating conditions and output of the Facility. In accordance with Section 4.4(a)(ii) of the Agreement and Part II(I) below, for each Storage Capacity Test after the Commercial Operation Storage Capacity Test(s), the Effective Capacity (up to, but not in excess of, the Installed Capacity) and Efficiency Rate determined pursuant to such Storage Capacity Test shall become the new Effective Capacity and Efficiency Rate at the beginning of the day following the completion of the test for calculating the Monthly Capacity Payment and all other purposes under this Agreement.

**Storage Capacity Test Procedures**

PART I. GENERAL.

A. Each Storage Capacity Test shall be conducted in accordance with Prudent Operating Practices, the Operating Restrictions, and the provisions of this Exhibit O. For ease of reference, a Storage Capacity Test is sometimes referred to in this Exhibit O as a "**SCT**". Buyer or its representative may be present for the SCT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

B. Conditions Prior to Testing.

**(i)** EMS Functionality. The EMS shall be successfully configured to receive data from the Battery Management System (BMS), exchange DNP3 data with the Buyer SCADA device, and transfer data to the database server for the calculation, recording and archiving of data points.

**(ii)** Communications. The Remote Terminal Unit (RTU) testing should be successfully completed prior to any testing. The interface between Buyer's RTU and the Facility SCADA System should be fully tested and functional prior to starting any testing, including verification of the data transmission pathway between Buyer's RTU and Seller's EMS interface and the ability to record SCADA System data.

**(iii)** Commissioning Checklist. Commissioning shall be successfully completed per manufacturer guidance on all applicable installed Facility equipment, including verification that all controls, set points, and instruments of the EMS are configured.

PART II. REQUIREMENTS APPLICABLE TO ALL STORAGE CAPACITY TESTS.

***Note: Seller shall have the right and option in its sole discretion to install storage capacity in excess of the Guaranteed Capacity; provided, for all purposes of this Agreement, the amount of Installed Capacity shall never be deemed to exceed the Guaranteed Capacity, and all SOC measurements associated with a Storage Capacity Test shall be based on the Effective Capacity without taking into account any capacity that exceeds the Installed Capacity.***



A. Test Elements. Each SCT shall include at least the following individual test elements, which must be conducted in the order prescribed in Part III of this Exhibit O, unless the Parties mutually agree to deviations therefrom. The Parties acknowledge and agree that should Seller fall short of demonstrating one or more of the Test Elements as specified below, the Test will still be deemed "complete," and any adjustments necessary to the Effective Capacity or to the Efficiency Rate resulting from such Test, if applicable, will be made in accordance with this Exhibit O.

(1) Electrical output at maximum discharging level at the Facility Meter (MW) for eight (8) continuous hours; and

(2) Electrical input at maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches at least 90%, continued by the electrical input at a rate up to the maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches 100%, not to exceed ten and one-half (10.5) hours of total charging time.

B. Parameters. During each SCT, the following parameters shall be measured and recorded simultaneously for the Facility, at two (2) second intervals:

(1) Time;

(2) The amount of Discharging Energy to the Facility Meters (kWh) (i.e., to each measurement device making up the Facility Meter);

(3) Net electrical energy input from the Facility Meters (kWh) (i.e., from each measurement device making up the Facility Meter); and

(4) Storage Level (MWh).

C. Site Conditions. During each SCT, the following conditions at the Site shall be measured and recorded simultaneously at thirty (30) minute intervals:

(1) Relative humidity (%);

(2) Barometric pressure (inches Hg); and

(3) Ambient air temperature (°F).

D. Test Showing. Each SCT shall record and report the following datapoints:

(1) That the SCT successfully started;

(2) The maximum sustained discharging level for eight (8) consecutive hours pursuant to A(1) above;

(3) The maximum sustained charging level for ten and one-half (10.5) consecutive hours (or such lesser time as is required to reach 100% SOC) pursuant to A(2) above;

(4) Amount of time between the Facility's electrical output going from 0 to the maximum sustained discharging level registered during the SCT for purposes of calculating the ramp rate (with the parties acknowledging that this value may be effectively instantaneous and unmeasurable with precision);

(5) Amount of time between the Facility's electrical input going from 0 to the maximum sustained charging level registered during the SCT (for purposes of calculating the ramp rate);

(6) Amount of Charging Energy, registered at the Facility Meter, to go from 0% SOC to 100% SOC;

(7) Amount of Discharging Energy, registered at the Facility Meter, to go from 100% SOC to 0% SOC.

E. Test Conditions.

(1) General. At all times during a SCT, the Facility shall be operated in compliance with Prudent Operating Practices, the Operating Restrictions, and all operating protocols recommended, required or established by the manufacturer for the Facility.

(2) Abnormal Conditions. If abnormal operating conditions that prevent the testing or recordation of any required parameter occur during a SCT, Seller may postpone or reschedule all or part of such SCT in accordance with Part II.F below.

(3) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the SCT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice and, as applicable, the CAISO Tariff.

F. Incomplete Test. If any SCT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the SCT stopped without any modification to the Effective Capacity or Efficiency Rate pursuant to Section I below; (ii) require that the portion of the SCT not completed, be completed within a reasonable specified time period; or (iii) require that the SCT be entirely repeated within a reasonable specified time period. Notwithstanding the above, if Seller is unable to complete a SCT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the Transmission Provider, Seller shall be permitted to reconduct such SCT on dates and at times reasonably acceptable to the Parties.

G. Test Report. Within five (5) Business Days after the completion of any SCT, Seller shall prepare and submit to Buyer a written report of the results of the SCT, which report shall include:



(1) A record of the personnel present during the SCT that served in an operating, testing, monitoring or other such participatory role;

(2) The measured and calculated data for each parameter set forth in Part II.A through D, including copies of the raw data taken during the test; and

(3) Seller’s statement of either Seller’s acceptance of the SCT or Seller’s rejection of the SCT results and reason(s) therefor.

Within ten (10) Business Days after receipt of such report, Buyer shall notify Seller in writing of either Buyer’s acceptance of the SCT results or Buyer’s rejection of the SCT and reason(s) therefor. If either Party rejects the results of any SCT, such SCT shall be repeated in accordance with Part II.F.

H. Supplementary Storage Capacity Test Protocol. No later than sixty (60) days prior to the initial Commercial Operation Storage Capacity Test, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Storage Capacity Tests based on the then current design of the Facility (“**Supplementary Storage Capacity Test Protocol**”). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) any Seller recommended updates to the then-current Supplementary Storage Capacity Test

Protocol. The initial Supplementary Storage Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed an amendment to this Exhibit O.

I. Adjustment to Effective Capacity and Efficiency Rate. The Effective Capacity and Efficiency Rate shall be updated as follows:

(1) The total amount of Discharging Energy delivered to the Delivery Point (expressed in MWh AC) during the time period comprised of (x) the first eight (8) hours of discharge, plus (y) the time required for ramping the Facility from 0 $MW_{AC}$ to the maximum discharging level as limited by CAISO (up to, but not in excess of, the product of (i) (a) the Guaranteed Capacity (in the case of a Commercial Operation Storage Capacity Test, including under Section 5 of Exhibit B) or (b) the Installed Capacity (in the case of any other Storage Capacity Test), multiplied by (ii) eight (8) hours) shall be divided by eight (8) hours to determine the Effective Capacity, which shall be expressed in $MW_{AC}$, and shall be the new Effective Capacity in accordance with Section 4.4(a)(ii) of the Agreement.

(2) The total amount of Discharging Energy (as reported under Section II.D(7) above) divided by the total amount of Charging Energy (as reported under Section II.D(6) above), and expressed as a percentage, shall be recorded as the new Efficiency Rate, and shall be used for the calculation of the Efficiency Rate Liquidated Damages in Exhibit C until updated pursuant to a subsequent Storage Capacity Test.



PART III. INITIAL SUPPLEMENTARY CAPACITY TEST PROTOCOL.

A. **Effective Capacity and Efficiency Rate Test**

- Procedure:

(1) System Starting State: The Facility shall be balanced using original equipment manufacturer procedures as appropriate and will be in the on-line state at 0% SOC.

(2) Record the initial value of the SOC.

(3) Command a real power charge that results in an AC power of Facility's maximum charging level and continue charging until the earlier of (a) the Facility has reached 100% SOC or (b) ten and one-half (10.5) hours have elapsed since the Facility commenced charging.

(4) Record and store the SOC after the earlier of (a) the Facility has reached 100% SOC or (b) ten and one-half (10.5) hours of continuous charging.

(5) Record and store the amount of Charging Energy, registered at the Facility Meter, to go from 0% SOC to 100% SOC.

(6) Following one (1) hour rest period, command a real power discharge that results in an AC power output of the Facility's maximum discharging level and maintain the discharging state until the earlier of (a) the Facility has discharged at the maximum discharging level for eight (8) consecutive hours, or (b) the Facility has reached 0% SOC.

(7) Record and store the SOC after eight (8) hours of continuous discharging. Such data point shall be used for purposes of calculation of the Effective Capacity. If the Facility SOC remains above zero percent (0%) after discharging at a rate at or above the Guaranteed Capacity (or at or above the Installed Capacity after a Commercial Operation Storage Capacity Test) for eight (8) consecutive hours pursuant to Part III.A.6(a), the SOC will be deemed 0 for the purposes of calculating the Effective Capacity.

(8) Record and store the Discharging Energy as measured at the Facility Meter. Such data point shall be used for purposes of calculation of the Effective Capacity.

(9) If the Facility has not reached 0% SOC pursuant to Section III.A.6, continue discharging the Facility until it reaches a 0% SOC.

(10) Record and store the Discharging Energy as measured at the Facility Meter from the commencement of discharging pursuant to Part III.A.6 until the Facility has reached a 0% SOC pursuant to either Part III.A.7 or Part III.A.9, as applicable.



- Test Results:

(1) The resulting Effective Capacity measurement is the sum of the total Discharging Energy as recorded pursuant to Part III.A.8 at the Facility Meter divided by eight (8) hours.

(2) The quotient of (x) the total amount of Discharging Energy (as reported under Section III.A(10) above), divided by (y) the total amount of Charging Energy (as reported under Section III.A(5) above), and expressed as a percentage, shall be recorded as the new Efficiency Rate, and shall be used for the calculation of the Efficiency Rate Liquidated Damages in Exhibit C until updated pursuant to a subsequent Storage Capacity Test.

B. **AGC Discharge Test**

- Purpose: This test will demonstrate the AGC discharge capability to achieve the Facility's maximum discharging level within 30 seconds.

- System starting state: The Facility will be in the on-line state at [redacted] and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow a predefined agreed-upon active power profile.

- Procedure:

  (1) Record the Facility active power level at the Facility Meter.

  (2) Command the Facility to follow a simulated CAISO RIG signal of PMAX at .95 power factor for ten (10) minutes.

  (3) Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

C. **AGC Charge Test**

- Purpose: This test will demonstrate the AGC charge capability to achieve the facility's full charging level within 30 seconds.

- System starting state: The Facility will be in the on-line state at [redacted] and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Facility control system will be configured to follow a predefined agreed-upon active power profile.

- Procedure:

  (1) Record the Facility active power level at the Facility Meter.

  (2) Command the Facility to follow a simulated CAISO RIG signal of PMAX at [redacted] power factor for [redacted].

  (3) Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

D. **Reactive Power Production Test**

- Purpose: This test will demonstrate the reactive power production capability of the Facility.

- System starting state: The Facility will be in the on-line state at [redacted] and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow an agreed-upon predefined reactive power profile.

- Procedure:

  (1) Record the Facility reactive power level at the Facility Meter.

  (2) Command the Facility to follow 5 MW for ten (10) minutes.

(3) Record and store the Facility reactive power response.

- System end state: The Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

E. **Reactive Power Consumption Test**

- Purpose: This test will demonstrate the reactive power consumption capability of the facility.

- System starting state: The Facility will be in the on-line state at [redacted] and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Facility control system will be configured to follow an agreed-upon predefined reactive power profile.

- Procedure:

(1) Record the Facility reactive power level at the Facility Meter.

(2) Command the Facility to follow 5 MW for ten (10) minutes.

(3) Record and store the Facility reactive power response.

- System end state: The Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

# EXHIBIT P

## FACILITY AVAILABILITY CALCULATION

Monthly Capacity Availability Calculation. Seller shall calculate the "**Monthly Capacity Availability**" for a given month of the Delivery Term using the formula set forth below:

$$\text{Monthly Capacity Availability (\%)} = \frac{[AVAILHRS_m + EXCUSEDHRS_m]}{[MONTHRS_m]}$$

Where:

*m* = relevant month "m" in which Monthly Capacity Availability is calculated;

$MONTHRS_m$ is the total number of hours for the month;

$AVAILHRS_m$ is the total number of hours, or partial hours, in the month during which the Facility was available to charge and discharge Energy between the Facility and the Delivery Point and to provide Ancillary Services (provided that notwithstanding anything to the contrary set forth above in this Exhibit P or elsewhere in this Agreement, to the extent the Facility is unable to provide Ancillary Services for any reason not excused under this Agreement during any Settlement Interval or Settlement Period that is not otherwise deemed $EXCUSEDHRS_m$, but the Facility is available to charge and discharge Energy between the Facility and the Delivery Point, then such impact on $AVAILHRS_m$ shall be reduced by [redacted]) at the Delivery Point (excluding, for avoidance of doubt, all circumstances at the high-voltage side of the Delivery Point or beyond that may limit Seller's delivery of Product). If the Facility is available pursuant to the preceding sentence during any applicable hour, or partial hour, but for less than the full amount of the Effective Capacity, the $AVAILHRS_m$ for such time period shall be calculated by multiplying such $AVAILHRS_m$ by a percentage determined by dividing (a) by (b); where (a) is the Effective Capacity amount reported as available by Seller's real-time EMS data feed to Buyer for the Facility for such hours, or partial hours, and (b) is the Effective Capacity.

$EXCUSEDHRS_m$ is the total number of hours, or partial hours, in the month that are not included as $AVAILHRS_m$ due to Approved Maintenance Hours, Storage Capacity Tests, Curtailment Orders, Force Majeure Events, System Emergencies, Operating Restrictions in Exhibit Q, Buyer breach or default, or any circumstances at the high-voltage side of the Delivery Point or beyond that point that may limit Seller's delivery of Product (each, an "**Excused Event**"). If an Excused Event results in less than the full amount of the Effective Capacity for the Facility being unavailable during any applicable hour, or partial hour, the $EXCUSEDHRS_m$ for such time period shall be calculated by multiplying such $EXCUSEDHRS_m$ by a percentage determined by dividing (a) by (b); where (a) is the Effective Capacity amount that is reported as unavailable by Seller's real-time EMS data feed to Buyer for the Facility for such hours, or partial hours, and (b) is the Effective Capacity. For avoidance of doubt, the total of $AVAILHRS_m$ plus $EXCUSEDHRS_m$ for any hour, or partial hour, shall never exceed 1.

# EXHIBIT Q

## OPERATING RESTRICTIONS

The Parties will finalize the Operating Restrictions prior to the Commercial Operation Date; *provided*, the Operating Restrictions (i) may not be materially more restrictive of the operation of the Facility than as set forth below, unless agreed to by Buyer in writing, (ii) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q, (iii) will include protocols and parameters for Seller's operation of the Facility in the absence of Discharging Notices or other similar instructions from Buyer relating to the use of the Facility, and (iv) may include facility scheduling, operating restrictions and Communications Protocols.

| | |
|---|---|
| **File Update Date:** | |
| **Technology:** | **Lithium Ion Batteries** |
| **Storage Unit Name:** | |
| **A. Contract Capacity** | |
| **Guaranteed Capacity (MW):** | 9 |
| **Effective Capacity (MW):** | 9 as determined by Storage Capacity Test |
| **B. Total Unit Dispatchable Range Information** | |
| | |
| **Maximum Average Annual Storage Level** | [redacted]<br><br>[redacted] |
| **Maximum Storage Level (MWh):** | 72 |
| **Minimum Storage Level (MWh):** | 0 |
| **Maximum Charging Capacity (MW):** | 9 |
| **Maximum Discharging Capacity (MW):** | 9 |
| **C. Maximum Throughput** | |
| **Maximum Daily Throughput (MWh):** | 144 (2.0 cycles) |
| **Maximum Annual Throughput (MWh):** | [redacted]<br><br>[redacted] |

| | |
|---|---|
| | [redacted] |
| **D. Charge and Discharge Rates** | |
| | **Ramp Rate (MW/minute) Description** |
| **Energy** | 18 (unless limited by CAISO) |
| **E. Ancillary Services** | |
| **Spinning reserve is included:** | Yes |
| **Non-spinning reserve is included:** | Yes |
| **Regulation up is included:** | Yes |
| **Regulation down is included:** | Yes |
| **Black start is included:** | No |
| **Voltage support is included:** | Yes |



**I. Data Points to Be Sent from Seller to Buyer Via a Mutually Agreeable Form**

The following data points will be transmitted via a mutually agreeable form from Seller to Buyer and represent energy storage level data:

Table 1

| **Energy Storage** | |
|---|---|
| **Description** | **Units** |
| **Real Power Set-Point (echo)** | **MW** |
| **Actual Real Power** | **MW** |
| **Actual Reactive Power** | **MVar** |
| **Stored Energy Level** | **MWh** |
| **Remaining Throughput (Contract Year)** | **MWh** |
| **YTD average Stored Energy Level (Contract Year)** | **MWh/day** |

| | |
|---|---|
| **Maximum Allowable Stored Energy Level** | **MWh** |
| **Additional Data Points Reserved for Future Use** | |

* Parties will resolve any conflicts in priority of signal in the Operating Restrictions.

Data points transmitted via a mutually agreeable form from Seller to Buyer are subject to Operating Restrictions.

1. Response times of Storage Facility. The Operating Restrictions will include protocols that outline the expectations for responding to Buyer's set points.

2. Backup Communications. In the event of a communications failure, Buyer and Seller shall communicate via telephone in order to correct the failure.

# EXHIBIT R

## METERING DIAGRAM

Preliminary Metering Diagram set forth on the following page. A final version of the Metering Diagram will be provided to Buyer at least thirty (30) days before the Commercial Operation Date, which will replace the attached version for purposes of this Agreement.

[redacted]

# EXHIBIT S

## FORM OF COLLATERAL ASSIGNMENT AGREEMENT

FORM OF CONSENT AND AGREEMENT
([NAME OF CONTRACTING PARTY])
([NAME OF ASSIGNED AGREEMENT])

This **COLLATERAL ASSIGNMENT AGREEMENT** (this "Consent"), dated as of ___________, 20[ ], is executed by and among [NAME OF CONTRACTING PARTY], a [legal form of Contracting Party] organized under the laws of the State of [________] (the "Contracting Party"), [__________], a [___________] (the "Project Owner"), and [_____________], as collateral agent (in such capacity, together with its successors and permitted assigns, the "Collateral Agent") for various financial institutions named from time to time as Lenders under the Credit Agreement (as defined below) and any other parties (or any of their agents) who hold any other secured indebtedness permitted to be incurred under the Credit Agreement (the Collateral Agent and all such parties collectively, the "Secured Parties").

A. The Project Owner owns, operates and maintains [_________________] (the "Project").

B. The Contracting Party and the Project Owner have entered into the agreement specified in Schedule I hereto (as further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Assigned Agreement").

C. The Borrower, the Project Owner, the other affiliates of the Borrower as Guarantors, various financial institutions named therein from time to time as Lenders,[_________________] , as the Administrative Agent and Collateral Agent, have entered into a Credit Agreement, dated as of [________________](as amended, modified or supplemented from time to time, the "Credit Agreement"), providing for the extension of the credit facilities described therein.

D. As security for the payment and performance by the Project Owner of its obligations under the Credit Agreement and the other Financing Documents (as defined below) and for other obligations owing to the Secured Parties, the Project Owner has assigned all of its right, title and interest in, to and under, and granted a security interest in, the Assigned Agreement to the Collateral Agent pursuant to the Assignment and Security Agreement, dated as of [_____________________]between the Project Owner and the Collateral Agent (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "Security Agreement", and, together with the Credit Agreement and any other financing documents relating to the issuance of the Notes, the "Financing Documents").

E. It is a requirement under the Credit Agreement that the Project Owner cause the Contracting Party to execute and deliver this Consent.

NOW, THEREFORE as an inducement for Lenders to make the Loans, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. Consent to Assignment. The Contracting Party hereby acknowledges and consents to the pledge and assignment of all right , title and interest of the Project Owner in, to and under (but not its obligations, liabilities or duties with respect to) the Assigned Agreement by the Project Owner to the Collateral Agent pursuant to the Security Agreement.

2. Representations and Warranties. The Contracting Party represents and warrants as follows:

(a) No Amendments. [Except as described in Schedule I hereto,] there are no amendments, modifications or supplements (whether by waiver, consent or otherwise) to the Assigned Agreement, either oral or written.

(b) No Previous Assignments. The Contracting Party affirms that it has no notice of any assignment relating to the right, title and interest of the Project Owner in, to and under the Assigned Agreement other than the pledge and assignment to the Collateral Agent referred to in Section 1 above.

(c) No Termination Event: No Disputes. After giving effect to the pledge and assignment referred to in Section 1, and after giving effect to the consent to such pledge and assignment by the Contracting Party, there exists no event or condition (a "Termination Event") that would, either immediately or with the passage of time or giving of notice, or both, entitle either the Project Owner or the Contracting Party to terminate the Assigned Agreement or suspend the performance of its obligations under the Assigned Agreement. [Except as set forth on Schedule III hereto,] there are no unresolved disputes between the parties under the Assigned Agreement. All amounts due under the Assigned Agreement as of the date hereof have been paid in full [, except as set forth on Schedule III hereto].



**3. RIGHT TO CURE.**

(a) From and after the date hereof and unless and until the Contracting Party shall have received written notice from the Collateral Agent that the lien of the Security Agreement has been released in full, the Collateral Agent shall have the right, but not the obligation, following an Event of Default by the Project Owner under the Assigned Agreement, to pay all sums due under the Assigned Agreement by the Project Owner and to perform any other act, duty or obligation required of the Project Owner thereunder as described in Section 3(c) below; *provided*, that no such payment or performance shall be construed as an assumption by the Collateral Agent or any other Secured Party of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(b) The Contracting Party agrees that it will not (i) terminate the Assigned

Agreement [(other than pursuant to Section [__] of the Assigned Agreement)]1or (ii) suspend the performance of any of its obligations under the Assigned Agreement without first giving the Collateral Agent notice and opportunity to cure as provided below. The Contracting Party further agrees that it will not assign any obligation under the Assigned Agreement without the prior consent of the Collateral Agent, which consent shall not be unreasonably withheld, delayed or conditioned, except to the extent the Contracting Party may subcontract such obligations to other parties.

(c) If a Termination Event shall occur [(other than a termination pursuant to Section [__] of the Assigned Agreement)]2, and the Contracting Party shall then be entitled to and shall desire to terminate the Assigned Agreement or suspend the performance of any of its obligations under the Assigned Agreement, the Contracting Party shall, prior to exercising such remedies or taking any other action with respect to such Termination Event, give written notice to the Collateral Agent of such Termination Event. Collateral Agent will have the right, but not the obligation, to cure an Termination Event on behalf of Project Owner, only if Collateral Agent sends a written notice to Contracting Party before the later of (i) the expiration of any cure period under this Agreement, and (ii) fifteen (15) Business Days after Collateral Agent's receipt of notice of such Termination Event from Contracting Party, indicating Collateral Agent's intention to cure. If the Collateral Agent elects to exercise its right to cure as herein provided, it shall have a period of thirty (30) days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination Event specified in such notice if such Termination Event consists of a payment default, or if such Termination Event is an event other than a failure to pay amounts due and owing by the Project Owner (a "Non-monetary Event") the Collateral Agent shall have a period of ninety (90) days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination Event so long as the Collateral Agent has commenced and is diligently pursuing appropriate action to cure such Termination Event (or such longer additional period if the Collateral Agent is unable to cure such Termination Event within such initial ninety (90) day period despite exercising commercially reasonable efforts); *provided, however*, that (i) if possession of the Project is necessary to cure such Non-monetary Event and the Collateral Agent has commenced foreclosure proceedings, the Collateral Agent will be allowed a reasonable time to complete such proceedings, and (ii) if the Collateral Agent is prohibited from curing any such Non-monetary Event by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving the Project Owner, then the time periods specified herein for curing a Termination Event shall be extended for the period of such prohibition; *provided, further*, that in the event of items (i) or (ii) above, such time period shall not exceed one hundred eighty (180) days. Any cure period for the Collateral Agent shall not commence until the later of (i) the end of the cure period of the Project Owner under the Assigned Agreement and (ii) written notice from the Contracting Party to the Collateral Agent of a

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1 Insert applicable provision, if any, of the Assigned Agreement giving the Contracting Party a right to terminate the Assigned Agreement other than upon a default or other event or condition curable by the Project Owner.

2 Insert applicable provision, if any, of the Assigned Agreement giving the Contracting Party a right to terminate the Assigned Agreement other than upon a default or other event or condition curable by the Project Owner.

Termination Event.

(d) Any curing of or attempt to cure any Termination Event shall not be construed as an assumption by the Collateral Agent or the other Secured Parties of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(e) Following a Termination Event by the Project Entity under the Assigned Agreement, the Contracting Party may require the Collateral Agent, if the Collateral Agent has provided the notice set forth in subsection (c) above, to provide to Contracting Party a report concerning:

(i) The status of efforts by Collateral Agent to develop a plan to cure the Termination Event;

(ii) Impediments to the cure plan or its development;

(iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and

(iv) Any other information which Contracting Party may reasonably require related to the development, implementation and timetable of the cure plan.

Collateral Agent must provide the report to Contracting Party within twenty (20) Business Days after Notice from Contracting Party requesting the report. Contracting Party will have no further right to require the report with respect to a particular Termination Event after that Termination Event has been cured.



**4. REPLACEMENT AGREEMENTS. NOTWITHSTANDING ANY PROVISION IN THE ASSIGNED AGREEMENT TO THE CONTRARY, IN THE EVENT (I) THE ASSIGNED AGREEMENT IS REJECTED OR OTHERWISE TERMINATED AS A RESULT OF ANY BANKRUPTCY, INSOLVENCY, REORGANIZATION OR SIMILAR PROCEEDINGS AFFECTING THE PROJECT OWNER, AT THE COLLATERAL AGENT'S REQUEST, THE CONTRACTING PARTY WILL ENTER INTO A NEW AGREEMENT WITH THE COLLATERAL AGENT OR THE COLLATERAL AGENT'S DESIGNEE FOR THE REMAINDER OF THE ORIGINALLY SCHEDULED TERM OF THE ASSIGNED AGREEMENT, EFFECTIVE AS OF THE DATE OF SUCH REJECTION, WITH THE SAME COVENANTS, AGREEMENTS, TERMS, PROVISIONS AND LIMITATIONS AS ARE CONTAINED IN THE ASSIGNED AGREEMENT, OR (II) IF THE COLLATERAL AGENT OR ITS DESIGNEE, DIRECTLY OR INDIRECTLY, TAKES POSSESSION OF, OR TITLE TO, THE PROJECT (INCLUDING POSSESSION BY A RECEIVER OR TITLE BY FORECLOSURE OR DEED IN LIEU OF FORECLOSURE) AFTER ANY SUCH REJECTION OR TERMINATION OF THE ASSIGNED AGREEMENT, PROMPTLY AFTER THE CONTRACTING PARTY'S WRITTEN REQUEST, THE COLLATERAL AGENT MUST ITSELF OR MUST CAUSE ITS DESIGNEE TO PROMPTLY ENTER INTO A NEW AGREEMENT WITH THE CONTRACTING PARTY HAVING SUBSTANTIALLY THE SAME TERMS AS THE ASSIGNED AGREEMENT FOR THE**

**REMAINING TERM THEREOF, PROVIDED THAT IN THE EVENT A DESIGNEE OF THE COLLATERAL AGENT, DIRECTLY OR INDIRECTLY, TAKES POSSESSION OF, OR TITLE TO, THE PROJECT (INCLUDING POSSESSION BY A RECEIVER OR TITLE BY FORECLOSURE OR DEED IN LIEU OF FORECLOSURE), SUCH DESIGNEE SHALL BE APPROVED BY THE CONTRACTING PARTY, NOT TO BE UNREASONABLY WITHHELD.**

**5. SUBSTITUTE OWNER. THE CONTRACTING PARTY ACKNOWLEDGES THAT IN CONNECTION WITH THE EXERCISE OF REMEDIES FOLLOWING A DEFAULT UNDER THE FINANCING DOCUMENTS, THE COLLATERAL AGENT MAY (BUT SHALL NOT BE OBLIGATED TO) ASSUME, OR CAUSE ANY PURCHASER AT ANY FORECLOSURE SALE OR ANY ASSIGNEE OR TRANSFEREE UNDER ANY INSTRUMENT OF ASSIGNMENT OR TRANSFER IN LIEU OF FORECLOSURE TO ASSUME, ALL OF THE INTERESTS, RIGHTS AND OBLIGATIONS OF THE PROJECT OWNER THEREAFTER ARISING UNDER THE ASSIGNED AGREEMENT. SUCH SALE OR TRANSFER MAY BE MADE ONLY TO AN ENTITY THAT (I) MEETS THE DEFINITION OF "PERMITTED TRANSFEREE" AS DEFINED IN THE ASSIGNED AGREEMENT AND (II) IS AN ENTITY THAT THE CONTRACTING PARTY IS PERMITTED TO CONTRACT WITH UNDER APPLICABLE LAW. IF THE INTEREST OF THE PROJECT OWNER IN THE ASSIGNED AGREEMENT SHALL BE ASSUMED, SOLD OR TRANSFERRED AS PROVIDED ABOVE, THE ASSUMING PARTY SHALL AGREE IN WRITING TO BE BOUND BY AND TO ASSUME THE TERMS AND CONDITIONS OF THE ASSIGNED AGREEMENT AND ANY AND ALL OBLIGATIONS TO THE CONTRACTING PARTY ARISING OR ACCRUING THEREUNDER FROM AND AFTER THE DATE OF SUCH ASSUMPTION, AND THE CONTRACTING PARTY SHALL CONTINUE TO PERFORM ITS OBLIGATIONS UNDER THE ASSIGNED AGREEMENT IN FAVOR OF THE ASSUMING PARTY AS IF SUCH PARTY HAD THEREAFTER BEEN NAMED AS THE "CUSTOMER" UNDER THE ASSIGNED AGREEMENT; PROVIDED THAT IF THE COLLATERAL AGENT OR ITS DESIGNEE (OR ANY ENTITY ACTING ON BEHALF OF THE COLLATERAL AGENT, THE COLLATERAL AGENT'S DESIGNEE OR ANY OF THE OTHER SECURED PARTIES) ASSUMES THE ASSIGNED AGREEMENT AS PROVIDED ABOVE, IT SHALL BE PERSONALLY LIABLE FOR THE PERFORMANCE OF THE OBLIGATIONS THEREUNDER SOLELY TO THE EXTENT OF ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE PROJECT.**

**6. PAYMENTS. THE CONTRACTING PARTY SHALL MAKE ALL PAYMENTS DUE TO THE PROJECT OWNER UNDER THE ASSIGNED AGREEMENT DIRECTLY INTO THE ACCOUNT SPECIFIED ON SCHEDULE II HERETO, OR TO SUCH OTHER PERSON OR ACCOUNT AS SHALL BE SPECIFIED FROM TIME TO TIME BY THE COLLATERAL AGENT TO THE CONTRACTING PARTY IN WRITING. ALL PARTIES HERETO AGREE THAT EACH PAYMENT BY THE CONTRACTING PARTY AS SPECIFIED IN THE PRECEDING SENTENCE OF AMOUNTS DUE TO THE PROJECT OWNER FROM THE CONTRACTING PARTY UNDER THE ASSIGNED AGREEMENT SHALL SATISFY THE CONTRACTING PARTY'S CORRESPONDING PAYMENT OBLIGATION UNDER THE ASSIGNED AGREEMENT.**

**7. NO AMENDMENTS. THE CONTRACTING PARTY ACKNOWLEDGES THAT THE FINANCING DOCUMENTS RESTRICT THE RIGHT OF THE PROJECT OWNER TO AMEND OR MODIFY THE ASSIGNED AGREEMENT, OR TO WAIVE OR PROVIDE CONSENTS WITH RESPECT TO CERTAIN PROVISIONS OF THE ASSIGNED AGREEMENT, UNLESS CERTAIN CONDITIONS SPECIFIED IN THE FINANCING DOCUMENTS ARE MET. THE CONTRACTING PARTY SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COLLATERAL AGENT, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, DELAYED OR CONDITIONED, AMEND OR MODIFY THE ASSIGNED AGREEMENT IN ANY MATERIAL RESPECT, OR ACCEPT ANY WAIVER OR CONSENT WITH RESPECT TO A MATERIAL PROVISION OF THE ASSIGNED AGREEMENT, UNLESS THE CONTRACTING PARTY HAS RECEIVED FROM THE BORROWER OR PROJECT OWNER (AS APPLICABLE UNDER THE FINANCING DOCUMENTS) A COPY OF A CERTIFICATE DELIVERED BY THE PROJECT OWNER TO THE COLLATERAL AGENT TO THE EFFECT THAT SUCH AMENDMENT, MODIFICATION, WAIVER, OR CONSENT IS BEING MADE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FINANCING DOCUMENTS, WHICH MAY IN CERTAIN CIRCUMSTANCES REQUIRE THE BORROWER OR THE PROJECT OWNER (AS APPLICABLE UNDER THE FINANCING DOCUMENTS) TO HAVE OBTAINED THE PRIOR WRITTEN CONSENT OF THE COLLATERAL AGENT, LENDERS, OR OTHER PARTIES THERETO.**



**8. ADDITIONAL PROVISIONS. [TO BE SPECIFIED IF NECESSARY TO CLARIFY THE ASSIGNED AGREEMENT.]**

**9. NOTICES. NOTICE TO ANY PARTY HERETO SHALL BE IN WRITING AND SHALL BE DEEMED TO BE DELIVERED ON THE EARLIER OF: (A) THE DATE OF PERSONAL DELIVERY, (B) POSTAGE PREPAID, REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR SENT BY EXPRESS COURIER, IN EACH CASE ADDRESSED TO SUCH PARTY AT THE ADDRESS INDICATED BELOW (OR AT SUCH OTHER ADDRESS AS SUCH PARTY MAY HAVE THERETOFORE SPECIFIED BY WRITTEN NOTICE DELIVERED IN ACCORDANCE HEREWITH), UPON DELIVERY OR REFUSAL TO ACCEPT DELIVERY, OR (C) IF TRANSMITTED BY FACSIMILE, THE DATE WHEN SENT AND FACSIMILE CONFIRMATION IS RECEIVED; PROVIDED THAT ANY FACSIMILE COMMUNICATION SHALL BE FOLLOWED PROMPTLY BY A HARD COPY ORIGINAL THEREOF BY EXPRESS COURIER:**

| | |
|---|---|
| The Collateral Agent: | [________________________]<br>[ ]<br>Attn: [ ]<br>Telephone No.: [ ]<br>Facsimile No.: [ ] |
| The Project Owner: | ______________________________<br>______________________________<br>______________________________ |

_______________________________

The Contracting Party: _______________________________
_______________________________
_______________________________
_______________________________

**10. SUCCESSORS AND ASSIGNS. THIS CONSENT SHALL BE BINDING UPON AND SHALL INURE TO THE BENEFIT OF THE SUCCESSORS AND ASSIGNS OF THE CONTRACTING PARTY, AND SHALL INURE TO THE BENEFIT OF THE COLLATERAL AGENT, THE OTHER SECURED PARTIES, THE PROJECT OWNER AND THEIR RESPECTIVE SUCCESSORS, TRANSFEREES AND ASSIGNS.**

**11. COUNTERPARTS. THIS CONSENT MAY BE EXECUTED IN ONE OR MORE COUNTERPARTS WITH THE SAME EFFECT AS IF THE SIGNATURES THERETO AND HERETO WERE UPON THE SAME INSTRUMENT.**

**12. GOVERNING LAW. THIS CONSENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF _______________.**

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Consent as of the date first written above.

[NAME OF CONTRACTING PARTY]

By: ___________________________
Name:
Title:

[__________________________]
as Collateral Agent

By: ___________________________
Name:
Title:

Acknowledged and Agreed:

[________________________________]

By: ___________________________
Name:
Title:

Schedule I

Assigned Agreement

Schedule II

Payment Instructions
(Section 6)

All payments due to the Project Owner pursuant to the Assigned Agreement shall be made to [INSERT REVENUE ACCOUNT INFORMATION].

[Schedule III]

[Amounts Due and Unpaid under the Assigned Agreement
(Section 2(c))]

# EXHIBIT T

# FORM OF ESTOPPEL CERTIFICATE

## ESTOPPEL CERTIFICATE
## (Energy Storage Agreement)

This ESTOPPEL CERTIFICATE (this "Estoppel Certificate"), dated as of _____________ __, 202_, is provided by ____________________, a __________________ ("Buyer").

## RECITALS

A. Buyer and _______________________, a Delaware limited liability company (the "Project Company") are parties to that certain Amended and Restated Energy Storage Service Agreement (9MW-8hr.), dated as of _______________, 202_ (the "Energy Storage Agreement"), in connection with the _______ storage project ("Storage Project").

B. Pursuant to that certain [describe Lender financing agreement].

C. Pursuant to Section [__] of the [Lender financing agreement], the [Lenders] have required that this Estoppel Certificate be delivered as a condition precedent to the consummation of the transactions described therein.



NOW, THEREFORE, in consideration of the foregoing recitals, Buyer hereby certifies, agrees and acknowledges as follows:

1. No default or event of default with respect to Buyer, nor, to the knowledge of Buyer, any other party has occurred under the Energy Storage Agreement, and there are no defaults or unsatisfied conditions presently existing (or which would exist after the passage of time and/or giving of notice) that would allow the Project Company or Buyer to terminate the Energy Storage Agreement.

2. There exists no event or condition that would, either immediately or with the passage of time or giving of notice, or both, entitle either the Project Company or Buyer to suspend the performance of its obligations under the Energy Storage Agreement.

3. Each representation or warranty made or given by Buyer in Section [__] of the Energy Storage is complete, true and correct.

4. As of the date hereof, (i) the Energy Storage Agreement is in full force and effect and has not been assigned, amended, supplemented or modified, (ii) there are no pending or threatened disputes or legal proceedings between Buyer and the Project Company, (iii) there is no pending or, to the knowledge of Buyer,

5. threatened action or proceeding involving or relating to Buyer before any court, tribunal, governmental authority or arbitrator which purports to affect the legality, validity or enforceability of the Energy Storage Agreement, (iv) Buyer is not aware of any event, act, circumstance or condition constituting an event of force majeure under the Energy Storage Agreement, and (v) the Project Company owes no indemnity payments or other amounts to Buyer under the Energy Storage Agreement.

6. The execution, delivery and performance by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any approval or consent of any other person or entity and do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.

7. Buyer agrees that any notices required to be delivered to Seller under Section [__] of the Energy Storage Agreement, including notices of an [Event of Default], shall be delivered by Buyer to each of the [Lenders] at their respective notice addresses set forth on Exhibit A hereto, and Buyer agrees that the [Lenders] shall have the right (but not the obligation) to cure the defaults listed in any notice of default in accordance with Section [__] of the Energy Storage Agreement within a cure period that is the same length as the cure period afforded to Seller under the Energy Storage Agreement with respect to such event (but in no event less than 90 days), and which starts on the later of (i) the same date that the Seller's cure period expires under the Energy Storage Agreement or (ii) the date that the [Lenders] receive such notice that lists the default or defaults of the Seller under the Energy Storage Agreement.

8. [Additional provisions to be included if necessary to clarify the Energy Storage Agreement.]

9. This Estoppel Certificate shall be governed by the laws of ____________, without regard to principles of conflict of law.

***[Signature page follows]***

**IN WITNESS WHEREOF,** Buyer has caused this Estoppel Certificate to be executed by its undersigned authorized officer as of the date first set forth above.

By: ______________________________

Name:_________________________

Title:__________________________

**Staff Report – Item 1g**

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|---|---|
| **Item 1g:** | **Receive Executive Committee Report** |
| To: | Silicon Valley Clean Energy Board of Directors |
| Prepared by: | Yvonne Martinez Beltran, Executive Committee Chair |
| Date: | 4/9/2025 |

The Executive Committee met March 28, 2025 and heard a request from staff to recommend support to authorize the Chief Executive Officer to execute contracts from the Hanford Mitigation Fund, a request to authorize the Chief Executive Officer to approve the CalCCA Annual Budget and dues per CalCCA's fiscal year, provided feedback on how staff can solicit input for the community space at the new SVCE headquarters, and heard two informational items.

Pamela Leonard, Deputy Director of Marketing and Communications, and Juliette Pascual, Community Outreach Specialist, presented a request for the Executive Committee's support to recommend that the Board of Directors authorize the Chief Executive Officer to execute contracts with Kings Community Action Organization and Self-Help Enterprises from the Hanford Mitigation Fund, which will help reduce emissions from greenhouse gases through electrification activities in disadvantaged or low-income communities in Kings County. The Executive Committee received two funding options to select from if supporting to authorize the CEO to execute contracts with Kings Community Action Organization and Self-Help Enterprises: 1) Execute contracts with an amount not to exceed $761,000 from the Hanford Mitigation Fund, which would cover a two-year commitment to Kings Community Action Organization for weatherization programs and two-year commitment to Self-Help Enterprises for two programs, or 2) Execute contracts with an amount not to exceed $1.5 million from the Hanford Mitigation Fund, which would cover a two-year commitment to Kings Community Action Organization for weatherization programs and a five-year commitment to Self-Help Enterprises, which would add an additional program for electrification hub and education program at Lakeview Terrace in Corcoran, CA for a total of three programs. Following a robust discussion, the Executive Committee voted unanimously to support recommending the Board of Directors authorize the CEO to execute contracts with Kings Community Action Organization and Self-Help Enterprises from the Hanford Mitigation Fund in an amount not to exceed $1.5 million. This item will be presented to the Board of Directors at the April board meeting for consideration.

Maren Wenzel, Director of Regulatory, Policy and Planning, presented a request for the Executive Committee to support a recommendation to the Board of Directors to authorize the Chief Executive Officer to authorize payments for the CalCCA annual budget and dues, not to exceed $750,000 per CalCCA's fiscal year. The committee unanimously supported the request, which will be on the Consent Calendar at April's board meeting.

Zoe Elizabeth, Director of Decarbonization Policy and Community Strategies, requested feedback on how to best receive input for the community space at the new SVCE office building headquarters in Sunnyvale. The group discussed the importance of all members of the Board having an opportunity to share ideas within the relatively short timeframe, and ultimately were in agreement that staff should hold a special meeting to facilitate initial ideas with the full board, then distill the feedback received to the Executive Committee. The Executive Committee would then formulate a recommendation to be presented at a future regular board of directors meeting. As a result of this discussion, staff sent a poll for availability for a special meeting Board of Directors meeting in May.

The Committee received two informational items: 1) an update on Clean Power Procurement Efforts from Willy Wang, Power Resources Planner, and 2) an overview of programs marketing strategy from Shawn Orgel-Olson.

Materials from this meeting can be found on SVCE's website: SVCE Executive Committee Meeting, March 28, 2025

The next meeting of the Executive Committee will be April 22, 2025 at 1:00 p.m.; materials will be posted no later than 72 hours in advance of the meeting.

**Staff Report – Item 1h**

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|---|---|
| **Item 1h:** | **Receive Additional Committees Report** |
| To: | Silicon Valley Clean Energy Board of Directors |
| Prepared by: | Andrea Pizano, Sr. Executive Assistant and Board Clerk |
| Date: | 4/9/2025 |

There are no reports for the 2025 Legislative Ad Hoc Committee, Finance and Administration Committee, and Audit Committee, as they have not met since the last report.

The 2025 Legislative Ad Hoc Committee and Finance and Administration Committees are expected to meet in May, and the Audit Committee is expected to meet in September. Meetings will be scheduled based on member availability; materials will be posted 72 hours in advance of the meeting dates.

**Staff Report – Item 1i**

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| **Item 1i:** | **Receive California Community Power Report** |
| To: | Silicon Valley Clean Energy Board of Directors |
| From: | Monica Padilla, CEO |
| Date: | 4/9/2025 |

Per direction from the SVCE Board on December 9, 2020 for the CEO to provide a report of the ongoing activities of California Community Power (CC Power) after each of its meetings, this is to report CC Power held a regular board meeting on Wednesday, March 19, 2025.

Attached is a March summary report from General Manager Alex Morris; materials from the March board meeting can be found here on the CC Power website: CC Power Meeting, 3/19/25

The next meeting of the board will be April 23, 2025 at 1:00 p.m.; meeting materials can be found on the CC Power website: https://cacommunitypower.org/meetings/

**ATTACHMENTS:**
1. CA Community Power Board Meeting Summary from General Manager Alex Morris, March 19, 2025

# California Community Power

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

**TO:** CC Power Board of Directors and Alternates **DATE:** 3/26/25
**FROM:** Alex Morris – General Manager
**SUBJECT:** **Report on CC Power Regular Board of Directors Meeting – March 19, 2025**

The CC Power Board of Directors held its December Board Meeting on March 19, 2025, via Zoom. Details on the Board packet, presentation materials, and public comment letters can be found under the Meetings tab at the CC Power website: [Meetings and Agendas – ca community power]

Highlights of the meeting included the following:

- **Matters subsequent to posting the Agenda.** None.
- **Public Comment.** None.
- **Consent Agenda** - The Board approved the following items:
  - Minutes of the Regular Board Meeting held on January 22, 2025.
- **Regular Agenda Items**:
  - **Work-Planning and Budget *Ad Hoc* Committee Update*:*** Chair Lori Mitchell (SJCE) shared about timelines and approaches to establishing the 2025-2026 CC Power budget. By April, a draft budget will be available. Board consideration is expected in April or May. The *Ad Hoc* Committee includes Chair Mitchell, Treasurer Mitch Sears (VCE), Monica Padilla (SVCE), and Shawn Marshall (PCE)
  - **General Manager Report:** the General Manager provided updates to the Board, including on current work to explore wind and energy storage projects for member consideration, dates and target locations for the Fall Forum annual event, and on the member-survey for work-planning. Market conditions for power projects are showing higher uncertainty due to tariffs and Federal positions on certain resource-types and permitting.
  - **Discussion on Coordinated Operations Agreement:** CC Power's Tumbleweed energy storage project is scheduled to come online in April 2026 (13-months). Pursuant to CC Power's established contracts, CC Power must work with members to develop a Coordinated Operations Agreement (COA) under which operating decisions for power projects are made, including how participating members can provide input on power project operations, such as outage management, bidding strategies, etc. CC Power staff shared potential approaches and feedback from member-staff to date, notifying the Board that a draft-final COA will be brought for Board Consideration in April.

Staff Report – Item 2

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|---|---|
| **Item 2:** | **CEO Report** |
| To: | Silicon Valley Clean Energy Board of Directors |
| Prepared by: | Monica Padilla, CEO |
| Date: | 4/9/2025 |

**REPORT**

**Staff Updates**
Kaila Keifer started her new role at Silicon Valley Clean Energy (SVCE) April 1, 2025 as Energy Services Specialist. Kaila first joined SVCE in 2024 as a Decarbonization Fellow, where she supported small-business rebate programs and contributed to research and data collection to support residential programs. Prior to SVCE, Kaila brought experience in customer relations, systems optimization, and outreach and engagement. Kaila holds a Bachelors in Environmental Studies from CSU San Bernadino and a Master of Environmental Law and Policy from the Vermont Law School.

Adam Pearse was recently promoted from Senior Regulatory Analyst to Senior Regulatory Analyst and Associate General Counsel. Adam joined SVCE in October 2023 as part of the Regulatory, Policy, Planning and Legislative Department where he focused on key regulatory proceedings at the California Public Utilities Commission. In his new role, he will continue to focus on energy policy and regulatory advocacy while also providing support to SVCE's general counsel. Adam holds a law degree from Tulane University and is licensed to practice in California.

**Personnel Officer Update**
Recruitment efforts continue for a Senior Financial Operations Analyst. This month, staff will be posting several summer intern opportunities across the organization including Customer Success, Finance and Administration, and Power Resources and Operations. A Rotational Power Analyst Role has been posted internally that will provide a training opportunity for a candidate to learn various roles in Front, Middle and Back Office as well as Regulatory. Should no internal candidate be interested in the role, it'll be posted externally in the coming weeks.

Job descriptions and applications for the above positions can be found on SVCE's website: Current Job Openings

**Metropolitan Transportation Commission (MTC) Capital Program Implementation Grant for Charging Infrastructure Awards**
Silicon Valley Clean Energy would like to congratulate the City of Morgan Hill, the City of Gilroy, and the County of Santa Clara for being selected as recipients of the Metropolitan Transportation Commission (MTC) Capital Program Implementation Grant for Charging Infrastructure. SVCE offered matching funds to all 13 member agencies for the Charging Infrastructure track. The City of Morgan Hill and the City of Gilroy had high-priority sites and took advantage of the offered 11.47% match for their separate applications. SVCE will provide $136,266 to Morgan Hill and $68,302 to Gilroy. The County's sites were located outside of SVCE's service territory. SVCE will continue to work with member agency staff to support the MTC grant and confirm the transfer of matching funds to Morgan Hill and Gilroy.

**Excellence in Public Information and Communications (EPIC) Award**
Silicon Valley Clean Energy has won an Excellence in Public Information and Communications (EPIC) Award, presented by the California Association of Public Information Officials (CAPIO). The EPIC awards honor outstanding public agency information and communications programs and this highly competitive awards program

had a record high of 500 entries from public agencies throughout the state. The marketing and communications team accepted the award at the CAPIO annual conference in Napa on April 2, 2025.

**Power Resources & Clean Energy Update**
In 2023, the SVCE Board approved a 12 year contract with Middle River Power allowing for the use of the existing Hanford 99.4 MW peaker plant for reliability and compliance purposes and for the addition of a new 16 MW, one-hour lithium-ion BESS to meet to enhance grid reliability, reduce plant emissions and meet certain California procurement mandates. Staff invites the Board to join us at the Hanford Natural Gas Peaker and Battery Energy Storage System (BESS) project ribbon cutting event on April 17, 2025 in Hanford, CA.

Please see Attachment 1 for a summary of SVCE's clean energy efforts including progress on meeting mandates, on-boarding of new power purchase agreements and a summary of utility-scale storage contracts.

**Customer Success Department Updates**
The SVCE Marketing Team has launched a new ad campaign called Power Squad, which personifies SVCE as the local resource to answer all customer energy questions. The campaign directs customers to visit the newly improved eHub to learn more about electrification and find relevant SVCE programs. The ads are running from mid-March through early-May across digital platforms, print ads in local papers and bus shelters.

The fifth Annual EmpowerSV Scholarship Competition is now open. Middle and high school students in SVCE communities can participate in creating clean energy-themed songs, album covers, or performances for an opportunity to win up to $3,000. SVCE invites students to create and submit a song or art piece that creatively showcases clean energy stories and solutions. Applications close April 28, 2025. Learn more at svcleanenergy.org/empower-sv.

A list of recent media mentions and prior or upcoming community engagement events are listed below.

**Press and Media**

- *Press Release*
  - Silicon Valley Clean Energy Receives A3 Investment-Grade Credit Rating Upgrade from Moody's Investor Service, Press Release, 3-6-25

- *Media Mentions*
  - Real estate investment firm sells downtown Sunnyvale building for $11.5M, *The Business Journals, 2-26-25*
  - Silicon Valley Clean Energy Receives A3 Investment-Grade Credit Rating Upgrade, *American Public Power Association, 3-7-25*
  - A greener future: Catalyze SV brings clean energy experts to Milpitas, The Milpitas Beat, 3-22-25

**Recent & Upcoming Events**
Staff are busy with Earth Day events all this month. Board members are welcome to support SVCE at its outreach booth in your community. If interested, please reach out to the board clerk for coordination.

| | |
|---|---|
| **March 24 – FUHSD Earth Month Program**<br>- 4 – 8 p.m.<br>- Tabling and sponsorship<br>- Computer History Museum 1401 N Shoreline Blvd Mountain View, CA 94043 | **March 28 – Electrify Our Future: Clean Energy and Sustainable Transportation**<br>- 4 – 5:30 p.m.<br>- Speaking<br>- Milpitas Library, 160 N Main St. Milpitas, CA 95035 |
| **April 5 – Cupertino Earth Day**<br>- 11 a.m. – 3 p.m.<br>- Dream Home and tabling | **April 5 – Sunnyvale Earth Day**<br>- 11 a.m. – 2 p.m.<br>- Tabling |

| | |
|---|---|
| - Cupertino Library Green, 10800 Torre Ave, Cupertino, CA 95014 | - Sunnyvale City Hall, 456 W Olive Ave, Sunnyvale, CA 94086 |
| **April 5 – Santa Clara County Office of Education Environmental Literacy Summit**<br>- 8 a.m. – 2 p.m.<br>- Sponsorship and tabling<br>- SCCOE, 1290 Ridder Park Dr, San Jose, CA 95131 | **April 12 – Milpitas Earth Day**<br>- 10 a.m. – 12 p.m.<br>- Dream Home and tabling<br>- Murphy Park<br>1567 Yellowstone Avenue<br>Milpitas, CA 95035 |
| **April 12 – Sunnyhills Neighborhood Association Monthly Meeting**<br>- Time TBA<br>- Presentation<br>- Milpitas High School<br>1285 Escuela Parkway<br>Milpitas, CA 95035 | **April 15 – El Camino Health Sustainability Fair**<br>- 11 a.m. – 3 p.m.<br>- Tabling<br>- Los Gatos Campus<br>815 Pollard Rd<br>Los Gatos, CA 95032 |
| **April 19 – Mountain View Earth Day**<br>- 10 a.m. – 2 p.m.<br>- Dream Home and tabling<br>- Rengstorff Park<br>201 S Rengstorff Ave,<br>Mountain View, CA 94040 | **April 25 – The Forum at San Antonio**<br>- 1 p.m. – 3 p.m.<br>- Tabling and presentation<br>- The Forum at Rancho San Antonio<br>23500 Cristo Rey Dr<br>Cupertino, CA 95014 |
| **April 25 — Saratoga Elementary Earth Day**<br>- Time TBA<br>- Tabling<br>- 14592 Oak St<br>Saratoga, CA 95070 | **April 26 – Morgan Hill AAUW Earth Day**<br>- Time TBA<br>- Tabling<br>- Morgan Hill Community Center<br>17000 Monterey St<br>Morgan Hill, CA 95037 |
| **April 29 – El Camino Health Sustainability Fair**<br>- 11 a.m. - 3 p.m.<br>- Tabling<br>- Mountain View Campus<br>2500 Grant Road<br>Mountain View, CA | **May 4 – Los Altos Living Electric Fair**<br>- 11 a.m. – 3 p.m.<br>- Sponsorship and Dream Home<br>- 170 State Street<br>Los Altos, CA 94022 |

**Regulatory & Legislative Update**

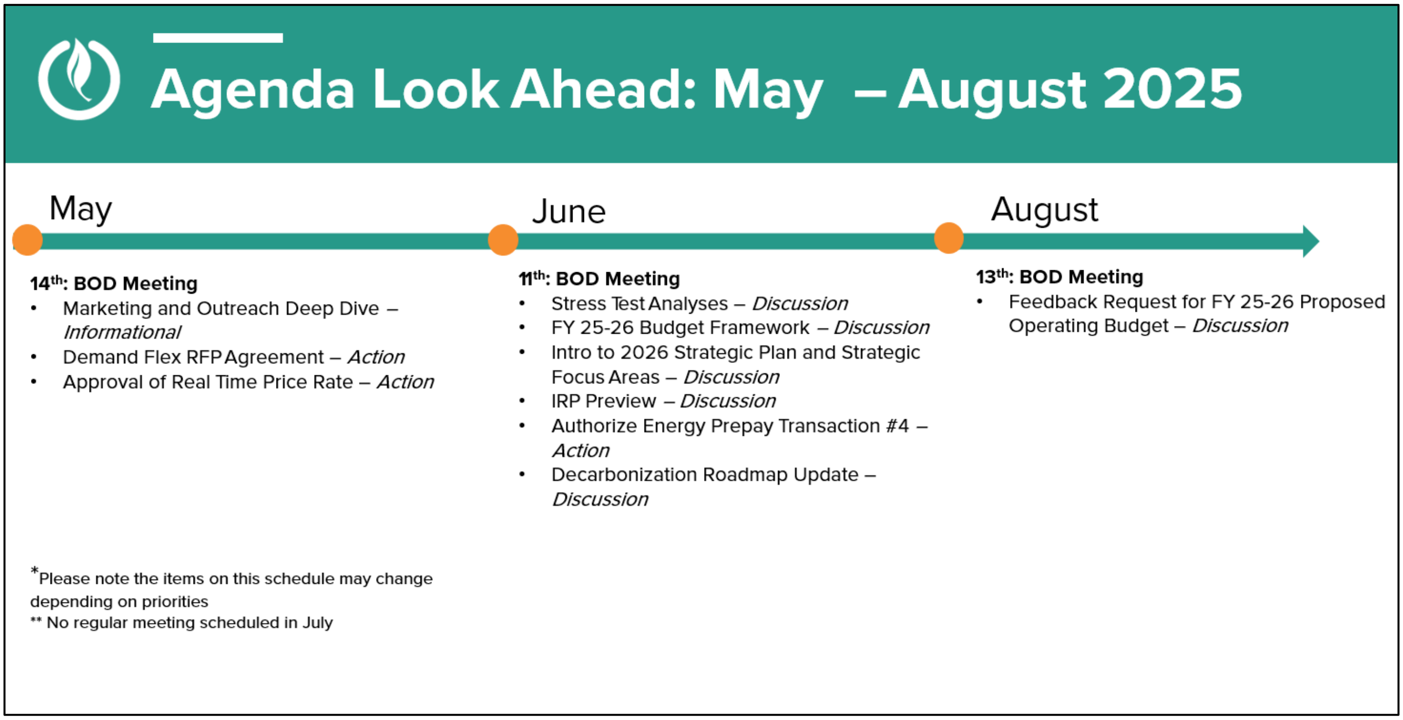
SVCE has taken a support position on SB 540 (Becker) to enable regional energy markets. SB 540 would make it easier to share clean energy, increase reliability, and bring down costs across western states. Additionally, SVCE is analyzing SB 541 (Becker), a bill requiring load-serving entities to capture load-flexibility opportunities, to better understand the potential impacts to SVCE and the broader market.

**SVCE Office Space Update**

SVCE's RFP to select a consultant to serve as an in-house project manager and expert for the development of SVCE's new office headquarters has come to a close and staff is reviewing proposals. In an effort to gather the Board of Director's input for the community space of the building, staff has polled for a Special Meeting in May.

**Look Ahead Update**

Staff continues to plan for Board and committee meetings through the end of the year. Below is a preview of what's ahead for the Board from May through August 2025:




**ATTACHMENTS**

1. Clean Power Update, March 2025
2. Regulatory and Legislative Update, March 2025
3. December 2024 Decarbonization Strategy and Programs Quarterly Report

**Exhibit 1 - CEO Agreements Executed Under Delegated Authority**

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

| Type | Consultant | Description | Compensation | Term | Authority |
|---|---|---|---|---|---|
| Agreement | Ruben Veek | Technical Electrification Advising Services | NTE - $14,400 | 1/19/2025-12/31/2025 | CEO Spending Authority |
| Agreement | Richard Heath and Associates | Technical Electrification Advising Services | NTE - $14,400 | 2/9/2025-12/31/2025 | CEO Spending Authority |
| Agreement | Energy Integrity Inc. DBA Home Energy Academy | Technical Electrification Advising Services | NTE - $14,400 | 1/19/2025-12/31/2025 | CEO Spending Authority |
| Amendment to Task Order 2 | Opinion Dynamics | Data Analytics Support | Increased NTE $4,181 to $280,181 | No change in term | Board Approved (12/13/23) |
| Agreement | Calpine Energy Solutions | Data Management Services | NTE- $10,671,000 | 3/1/2025-12/31/2027 | Board Approved (12/11/24) |
| Amendment to Task Order 3 | Opinion Dynamics | Data Analytics Support | Increased NTE $28,000 to $131,000 | No change in term | Board Approved (12/13/23) |
| Agreement | Efficient Modern Heat Pump-HVAC DBA Electrify My Home | Technical Electrification Advising Services | NTE - $14,400 | 1/19/2025-12/31/2025 | CEO Spending Authority |
| Agreement | Becoming Superhuman | Learning and Development | NTE - $15,000 | 3/11/2025-3/21/2025 | CEO Spending Authority |
| Amendment | California Public Policy Group (CPPG) | Grant Services Bench for Advanced Clean Energy Buildings, Transportation and Innovation Programs | NTE - $84,000 | Extended term to 3/25/2026 | CEO Spending Authority |
| Amendment | Taj Ait-Laoussine | Data Architecture Design Expert Review | No change | Extended term to 12/31/2025 | CEO Spending Authority |
| Amendment | Tenaska Power Services | Optimization Services | NTE – $37,500 | Extends term to 6/30/2025 | CEO Spending Authority |

.

SILICON VALLEY CLEAN ENERGY

**Exhibit 2 - CEO Power Supply Agreements Executed Under Delegated Authority**

No agreements to report

# CEO Report
# Clean Power Update

SVCE Board Meeting
April 9, 2025

SILICON VALLEY CLEAN ENERGY

# Clean Long-term Power Agreements


- $3.8B+ in commitments
- 22 PPAs signed
  - 19 new build projects
- 1,045 MW of Renewable Power
- 2,045 MWh of Battery Storage

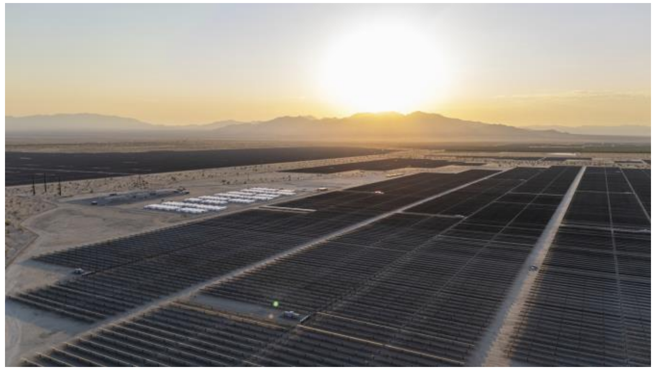
9 Projects now delivering to SVCE:

- COSO geothermal - January 2022
- Slate Solar + Storage – January 2022
- Casa Diablo geothermal – July 2022
- Mountain View wind – July 2022
- Rabbitbrush Solar + Storage – October 2022
- Terra-Gen Wind – January 2023
- Yellow Pine Solar + Storage – July 2023
- Victory Pass Solar + Storage – March 2024
- Baldy Mesa Storage (RA-only) – June 2024

# Long-Term Contracts: Online

| | Seller | Project Name | Technology | Generation MW | Storage MW | Storage MWh | Term (years) | SVCE Board Approval |
|---|---|---|---|---|---|---|---|---|
| 1 | MN8 | Slate | Solar + Storage | 93 | 46.5 | 186 | 17 | Oct-18 |
| 2 | Ormat | Casa Diablo | Geothermal | 7 | | | 10 | Feb-20 |
| 3 | Atlantica | Coso | Geothermal | 43.8 | | | 15 | Mar-20 |
| 4 | Leeward | Rabbitbrush | Solar + Storage | 40 | 8 | 20 | 15 | Apr-20 |
| 5 | NextEra | Yellow Pine | Solar + Storage | 50 | 26 | 104 | 20 | May-20 |
| 6 | AES | Mountain View | Wind | 33.3 | | | 20 | Apr-21 |
| 7 | Clearway | Victory Pass | Solar + Storage | 100 | 25 | 100 | 15 | May-21 |
| 8 | Terra-Gen | Cameron Crest | Wind | 77.7 | | | 15 | May-21 |
| 9 | AES | Baldy Mesa (RA-only) | Storage | 0 | 75 | 300 | 10 | Sep-22 |


Casa Diablo Geothermal


Victory Pass Solar + Storage

# Long-Term Contracts: In Development

| | Seller | Project Name | Technology | Generation MW | Storage MW | Storage MWh | Term (years) | SVCE Board Approval | Status |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Avantus | Aratina | Solar + Storage | 80 | 50 | 200 | 20 | Jun-20 | Pre-construction |
| 2 | 174 Power Global | Atlas | Solar | 50 | | | 10 | Jan-21 | Pre-construction |
| 3 | SB Energy | Angela | Solar + Storage | 20 | 10 | 40 | 15 | Mar-21 | Pre-construction |
| 4 | Origis | San Luis West | Solar + Storage | 62.5 | 15.625 | 62.5 | 15 | Apr-21 | Pre-construction |
| 5 | Rev Renewables | Tumbleed | Long Duration Storage | | 15.9375 | 127.5 | 15 | Feb-22 | Construction |
| 6 | Onward | Goal Line | Long Duration Storage | | 14.2 | 113.6 | 15 | Mar-22 | Pre-construction |
| 7 | Ormat | Geothermal Portfolio | Geothermal | 16.75 | | | 20 | Jun-22 | Pre-construction |
| 8 | OME | Fish Lake | Geothermal | 1.82 | | | 20 | Jun-22 | Pre-construction |
| 9 | Middle River Power | Hanford | Thermal + BESS | 99.4 | 131.4 | 131.4 | 12 | Apr-23 | Construction |
| 10 | NextEra | Grace | Solar | 120 | | | 15 | Aug-23 | Pre-construction |
| 11 | NextEra | Yellow Pine III | Storage | 0 | 115 | 460 | 15 | Aug-23 | Pre-construction |
| 12 | Pattern | SunZia | Wind | 100 | | | 15 | Nov-23 | Construction |
| 13 | VCI Energy | Glossy Garlic | Solar + Storage | 50 | 50 | 200 | 10 | Oct-24 | Pre-construction |

SunZia Wind & Transmission

# SVCE's Contracted Batteries

## Overview of SVCE's battery storage portfolio:

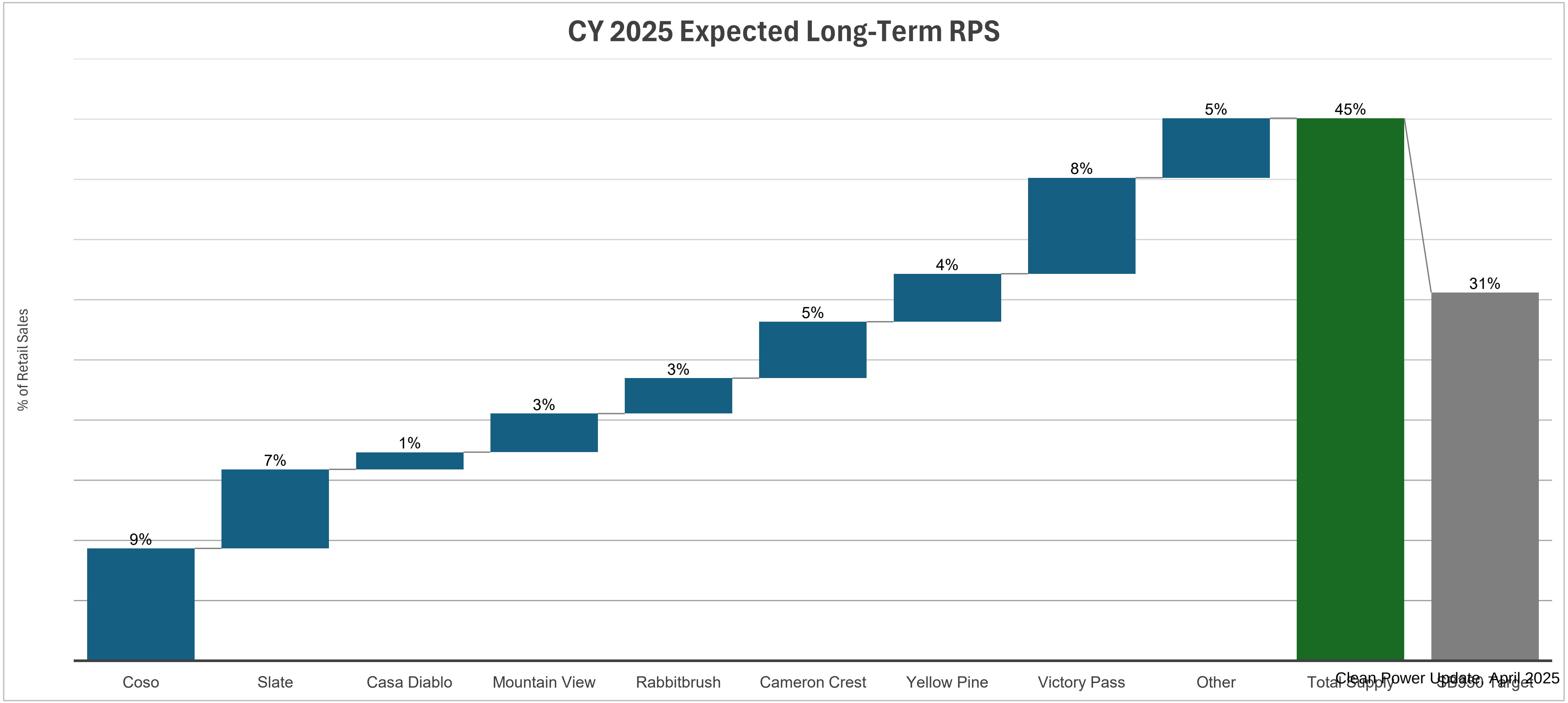
- 13 storage sites under contract
  - 5 in operation (180 MW)
  - 8 in development (402 MW)
- All are outdoor and containerized
- All permitted and compliant to NFPA 855 / UL 9540 standards
- 11 Lithium-ion Phosphate (LFP)
- 2 Lithium Nickel Manganese Cobalt Oxide (NMC)
  - SVCE has further discussed additional safety protocols with developers for NMC sites

Victory Pass Solar + Storage

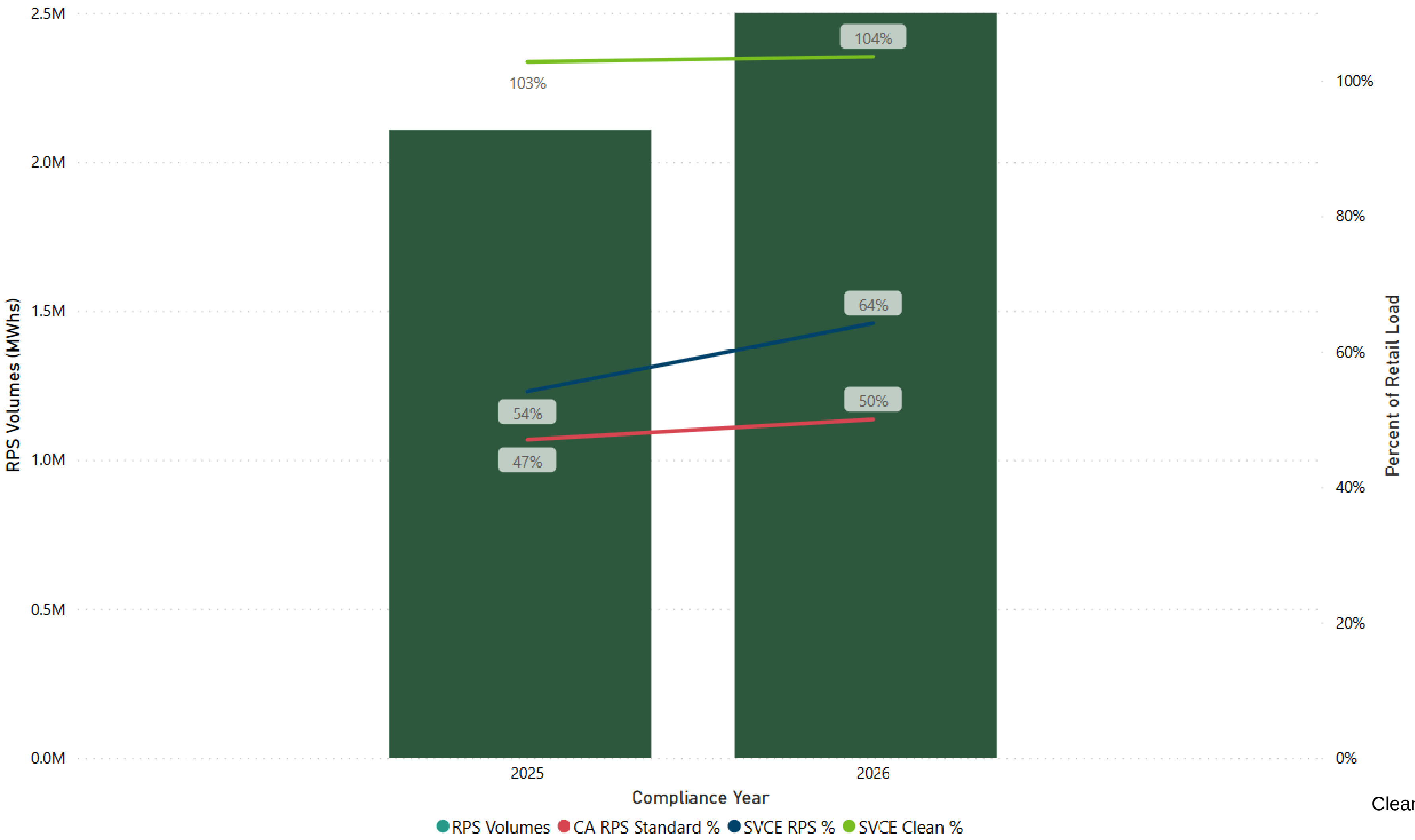
# Clean Energy Resources Online Progress
## as of March 19, 2025

| | |
|---|---|
| 2025 – H1 | • Hanford BESS on Peaker: *Construction mode*<br>• Goal Line Long Duration Storage: *Pre-construction - delayed* |
| 2025 – H2 | • Atlas Solar: *Pre-construction – delayed*<br>• San Luis West Solar + Storage: *Pre-construction - delayed* |
| 2026 – H1 | • Yellow Pine III Storage: *Pre-construction*<br>• Tumbleweed Long Duration Storage: *Construction mode*<br>• Fish Lake Geothermal: *Pre-construction*<br>• Aratina Solar + Storage: *Pre-construction* |
| 2026 – H2+ | • Ormat Geothermal Portfolio: *Pre-construction*<br>• SunZia Wind: *Construction mode*<br>• Angela Solar + Storage: *Pre-construction – delayed*<br>• Grace Solar: *Pre-construction*<br>• Glossy Garlic: *Pre-construction* |

# SVCE is Making Significant Progress Toward Meeting Long-Term RPS Requirements



# Projected Clean Position for 2025/2026



# THANK YOU!

# SVCE Legislative and Regulatory Update

April 9, 2025

SILICON VALLEY CLEAN ENERGY

# Policy Updates

## Regulatory Update:

1. Flexible Service Connections for Timely Energization and High DER
2. Power Charge Indifference Adjustment Policies and Processes

## Legislative Update:

1. State Legislation
2. 2025 Legislative Calendar




# Regulatory Update

# Key Regulatory Activities

| Activity | Purpose | Status |
|---|---|---|
| Timely Energization and High Distributed Energy Resources<br>R. 24-01-018<br>R. 21-06-017 | To establish energization timelines and modernize the grid for a high distributed energy resources future | Twin rulings were issued in the Timely Energization and High DER (Distributed Energy Resources) proceedings to coordinate the collection of stakeholder feedback on the implementation of Flexible Service Connections. Flexible Service Connections (FSC) are a type of service connection that allows a utility to expeditiously energize new load to a utility's distribution system with variable limits on the import of electricity at certain times. These limits can allow a customer that may not have previously been able to connect to the grid at a static limit to connect flexibly and receive service on a faster timeline than having to wait for a grid update to be constructed to allow the connection at their max static load. The CPUC is gathering feedback from stakeholders on how to standardize a FSC connection process and how FSC should be implemented in the near term. SVCE, through CalCCA, has supported the widespread use of FSCs and argued that they be available to all types of customers. |
| Order Instituting Rulemaking to Update and Reform Energy Resource Recovery Account and Power Charge Indifference Adjustment ("PCIA") Policies and Processes<br>R.25-02-005 | To re-examine the resource adequacy ("RA") market-price benchmark ("MPB") and to examine wholesale changes to the PCIA. | Opening comments to the OIR were submitted on March 18. Track 1 of the proceeding will concern changes to the RA MPB, for which Energy Division staff put forth 5 proposals. The parties generally agree on the proposals, except for proposal 1, which would compute the MPB by taking into account all transactions in time for a specific year of RA products, as opposed to the current method of including only transactions from the previous 12 months. The CCAs prefer the current methodology, while the IOUs prefer the proposed change.<br><br>Track 2 of the proceeding will examine wholesale changes to the PCIA, for which the Commission sought topics. The CCAs put forth allocation of attributes and potential sunsetting of the PCIA, among others. The IOUs proposed examining the renewable portfolio standard MPB, as well as re-visiting whether the PCIA can be negative. |

# Legislative Update

# Bill Update

SVCE is reading and analyzing several bills this session. Preliminary bills of interest include:

| Bill Number | Summary |
|---|---|
| SB 332 (Wahab) | Caps IOU rate increases to the Consumer Price Index, restricts disconnections, ties IOU executive compensation to safety metrics, and increases shareholder contributions to the Wildfire Fund, among other measures. |
| SB 57 (Padilla) | Would require CPUC to establish a rate for data centers with the goal of ratepayer protections. |
| SB 239 (Arreguin) | Allows advisory bodies of Boards to teleconference with a 2/3 vote of the Board every 12 months. |
| AB 303 (Addis) | Changes permitting approval from CEC to local governments for siting of battery storage facilities. Prohibits facilities from being placed within 3,200 feet of a sensitive receptor. |

# SVCE Bill Positions

SVCE has taken the following positions on legislation

| Bill Number | Summary | SVCE Position |
|---|---|---|
| SB 540 (Becker/Stern) | Allows the formation of a new Regional Organization to enable California to participate in energy markets with other western states. | Support |
| AB 306 (Schultz/Rivas) | Would prohibit local governments from adopting new reach codes as of January 1, 2025, unless the reach codes were related to emergency health and safety or home hardening. | Concerns and offered amendment suggestions to clarify that local governments can adopt the 2025 state building code and to narrow bill to new construction only. |

# Key 2025 State Legislative Milestones

- ~~January 6 – Legislature Reconvenes~~
- ~~February 21 – Last day for bills to be introduced~~
- May 2 – Last day for policy committees to hear fiscal bills
- May 23 – Last day for fiscal committees to hear bills introduced in that house
- June 6 – Last day for each house to pass bills introduced in that house
- June 15 – Budget bill must pass by midnight
- July 18 – Last day for policy committees to vote on bills
- August 29 – Last day for fiscal committees to vote on bills
- September 12 – Last day for each house to pass bills
- October 12 – Last day for Governor to sign bills

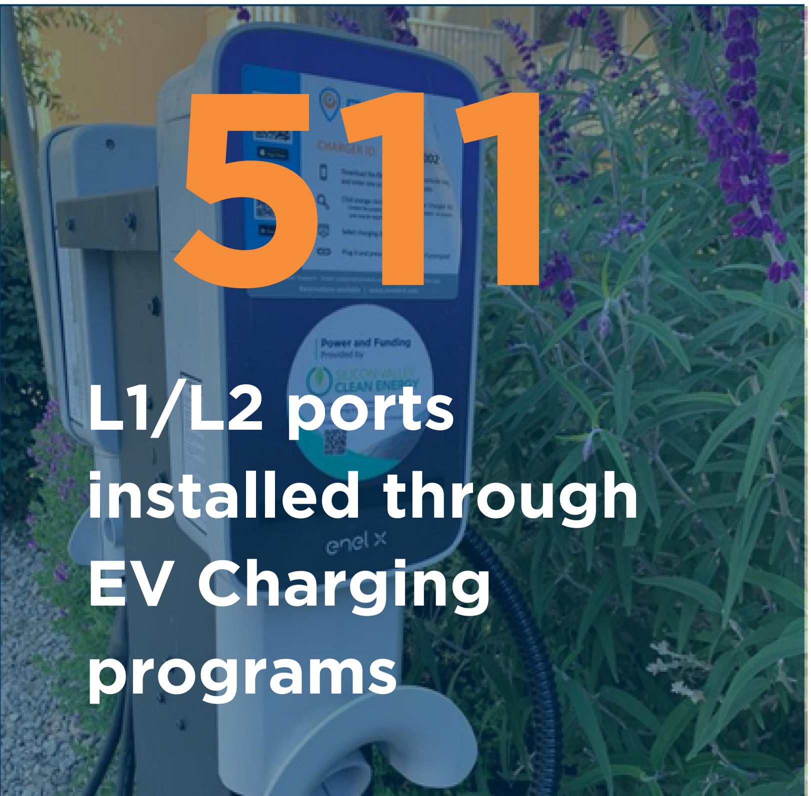
# DECARBONIZATION PROGRAMS & MARKETING HIGHLIGHTS

SILICON VALLEY CLEAN ENERGY

## Quarterly Report

# December 2024 Milestones

**288** contractors complete Contractor Training



**511** L1/L2 ports installed through EV Charging programs

**1,700** completed electrification projects through Home Rebates

# PROGRAMS PORTFOLIO

DEC 24

# 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) |
|---|---|---|---|---|---|
| Multifamily Retrofits (TE and BE) | $12.5M | 300 to 1,000 MF AH units electrified | 2 multifamily sites enrolled | Completed 2 site assessments. Issued RFP for General Contractor. | Reissue Contractor RFP to select contractor with better pricing. Start construction at 2 sites. |
| EV Charging Incentives | $11.4M | • 80 MUDs with EVI (720 ports)<br>• 4,000 L1/L2 chargers at affordable housing | • 21 MUD active reservations (166 ports)<br>• 16 sites completed (166 L1/L2) | Processed 3 new MUD claims for 17 additional EV ports. Raised per site maximum to $100k (from $50k). | Continue to expand enrollment and ways to help connect customers to vendors. |
| Full-Service Home Upgrades | $11.4M | 600 single-family homes electrified | Soft launched program in November 2024 | Soft launched program in November 2024. | Complete installations for 10 projects. |
| Home Rebates | $10.05M | 2,800 homes fully/partially electrified | 1,700 homes fully/partially electrified | Cumulative results: 654 HPWH, 1073 HVAC, 70 Induction, 532 prewiring. Applications launched in Salesforce. | Hit 2,000 claims. Update requirements for appliances. Launch rebate adders for Milpitas and Mountain View. |
| Electrification Rate Discount | $9.5M | 5,000 customers enrolled | 4,200 enrolled | Significant enrollment growth. NEM analysis completed. Synthesized learnings to-date. | Finalize proposals for E-ELEC design revision. Create timeline for board presentation. |
| Member Agency Grants | $6.5M | 13- 18 new member agency projects focused on community engagement and capital decarb project | Received 1 noncompetitive grant application | Launched the noncompetitive and competitive grants. | Hold pre-application webinar for competitive grant solicitation. |
| Community Energy Resilience | $5.15M | 13 agencies complete projects | 5 completed agency projects | Cupertino received two off-grid EV chargers and trailer to rotate chargers to different community locations. | Monitor and reimburse agencies as projects are completed. |
| C&I Decarbonization Program | $5M | 8,000 metric tons of CO2e removed through carbon saving measures | 5 customers enrolled in the program, 7 “warm” leads reviewing Agreement | 3 onsite energy audits completed, reports in development. | Continue on-site energy audits. First cohort-wide workshop scheduled for March 14. |
| Decarbonization Demonstration Grants | $3.2M | 8 local public facing electric projects | 1 project complete | Worked with several agencies to execute grant extensions to accommodate project delays. | Support grantee community engagement efforts and grant extensions. |



SILICON VALLEY CLEAN ENERGY

View our active rebates here.

# PROGRAMS PORTFOLIO

DEC 24

## Active Programs

| Name | Budget | Potential Impact | Cumulative Impact To-Date | Last Quarter (Update) | Next Quarter (Target) |
|---|---|---|---|---|---|
| Permit Modernization | $3.2M | 13 member agencies improve electrification permitting | Permitting agencies are briefed and have action plans in place | Action plans were finalized in 12 of 13 jurisdictions. | Resources actively deployed in at least five agencies. |
| Emergency Water Heater Replacement | $2.6M | 700 emergency water heaters upgraded | Launched program in November 2024 | Launched program in November 2024. | Complete installations for 10 projects. |
| CALeVIP 1.0 | $2.5M | • 85 DCFC installed<br>• 1,100 L2 installed | • 10 DCFC installed<br>• 319 L2 installed | Continued processing incentive payments as installations were completed. | Continue making payments to DCFC and L2 projects as they are completed. |
| Customer Resource Center (eHub) | $2.1M | • 1.5M email opens<br>• 350K unique web visits | • 1M email opens (54% open rate)<br>• 393K web visits | Sent emails promoting:<br>• Solar + Battery Assistant<br>• New eHub in PCL<br>Launched new eHub Nov 18. | Launch EV Finder. Develop Appliance Marketplace rebate promotions. Prepare Go Electric Campaign. |
| Fast Charger Incentives | $1.875M | 10 DCFC installations near MUD hotspots | 10 of 10 ports are live now (4 sites) | All sites now energized. Explored ways to support one site through ownership transition. | Complete ownership transition for one site. |
| Existing Building Policy Experiment | $1.9M | Spur action on building electrification and reduce building gas combustion | Concepts have been introduced and are no longer “foreign” and momentum is building for incorporation into 2025 Reach Code efffort | Action plans were finalized in 12 of 13 jurisdictions. | Convene initial regional workshop for staff on Reach Code options and developments. |
| Contractor Training | $1.7M | • 300 contractors trained<br>• 500 graduate incentives | • 288 contractors completed training<br>• 187 approved graduate incentive claims | Significant growth in registrations and incentive claims. | Achieve 300 completed contractor trainings. |
| EV Rebates | $1.5M | 600 EV purchase incentives for income qualified customers | 4 claims paid | Launched program on Oct 19, 2024. Held 2 community events with CBO partners. | Increase marketing and education efforts. Hold 2 additional community education events. Continue to grow dealership network. |
| Programs Marketing Fund | $1M | 4,500 new program participants | Marketing provided for 10 programs. 1,880 program participants added. | Google Analytics setup phase 1 completed. See individual programs for more detailed updates. | Large Go Electric umbrella campaign planning with School of Thought (vendor). Complete allocation of marketing fund for 2025. |
| GridShift EV Charging and Rebates | $973K | Bill/emissions savings and load shifting capacity | • 1,601 EVs enrolled (incl. ChargeWise pilot participants)<br>• 58 charger rebates | Launched ChargeWise pilot and recruited pilot participants. | Monitor ChargeWise results and customer savings. Adjust dynamic rate adders as needed. |

# PROGRAMS PORTFOLIO

DEC 24

## Active Programs

| Name | Budget | Potential Impact | Cumulative Impact To-Date | Last Quarter (Update) | Next Quarter (Target) |
|---|---|---|---|---|---|
| Go Electric Advisor | $892K | 3,600 customers use hotline, 1,200 use tech assistance, 350 use electrification plans | 714 customers use service | Record participation in Q4. Contacts largely driven by FutureFit Homes participants with questions on available incentives and upgrade process. | Increase marketing campaigns and aim for 400 new contacts. |
| Business Rebates | $750K | 20-30 SMBs electrified | 7 SMBs fully/partially electrified | Presented at Cupertino Business Incentives workshop. Drafted Consultant Agreement for site assessment pilot. Processed first two rebate claims in Salesforce. | Determine project rebate caps. Award 2 to 4 new rebates. Present at another chamber event. Launch site assessment pilot program. |
| EV Charging Planning | $725K | 60 assessments, 36 projects done, 250 ports installed | 73 applications (49 completed) | Prepared 4 new site solutions. Enrolled 1 new property | Expand enrollment through email and other marketing channels. Determine and execute wind-down strategy. |
| EM&V | $640K | Evaluate 80% of SVCE programs within 2 years of launch | 11 reports completed | Completed TO6 (EVI) and TO15 (Home Rebate) reports. Set up new TO for Member Agency Grants. | Set up TOs for 5 additional programs. |
| SV Building Electrification Stronger Together | $600K | Educate stakeholders about building electrification | 35 new stakeholders engaged to date | Completed RFP process for contractor bench. Completed design of CBO programs bench. | Hold the first contractor bench focus group. Release community partnership grant and conduct information session. |
| Decarbonization Engagement Grants | $442K | 5 communities engage residents on climate action topics | 1 project complete | Worked with several agencies to execute extensions to accommodate project delays. | Monitor and reimburse agencies as projects move to completion. |
| Natural Gas Phaseout Feasibility | $300K | Complete 2 whitepapers to inform local, regional, and statewide policies | 1 whitepaper (funding requirements) completed | Assessed the most challenging home electrification configurations and developed solutions for each. | Finalize technical solutions analysis report. |
| Fleet Electrification | $300K | Complete fleet electrification and charger installation planning for 10 fleets | 10 fleets in progress | Three (3) agencies have completed the planning program. Remaining 7 agencies are actively proceeding. | Finalize 2 additional agency engineered plans and recruit new fleets into the program. |
| Lights On Silicon Valley | Power Supply Budget | 750 SFH and 5 MF projects | 657 enrolled SFH at outset of delivery period | Capacity from behind-the-meter solar and storage projects was delivered to SVCE. | Continued delivery and adjustments to dispatch as needed. |

# PROGRAMS PORTFOLIO



## Planning

| Name | Budget | Potential Impact | Last Quarter (Update) | Next Quarter (Target) |
|---|---|---|---|---|
| Tariffed On Bill (TOB) Financing | $5.2M | 200 customers finance electrification | Ongoing pilot design with focus on billing implementation. | Launch OBF pilot and begin enrollment. |
| Community Grants | $3.5M | Fund resiliency, engagement, and decarbonization projects for schools, community groups, and non-profits | Divided the larger $10M allocation into three different program areas. | Explore adding fellow to assist with program design. |
| Neighborhood Electrification | $1.5M | Test model to electrify buildings within a community. Electrify 15 homes and set plans for 24 homes | Continued pilot program design. | Release RFP for vendor. |
| Workforce Development Partnerships | $1.3M | Increase capacity to coordinate and train skilled workforce for residential electrification jobs | Continued program design and met with stakeholders. | Complete program design. |
| Demand Flexibility and Virtual Power Plant programs | $1M | Connectivity to flexible, customer-sided loads to enable bill savings, avoided generation and capacity costs, reliability and carbon benefits | Completed competitive solicitation for demand flexibility services. Received 16 proposals, reviewed 8 in depth. Completed 2 rounds of interviews with 4 firms. | Select firm(s). Develop scopes of work and program design. Execute contracts with selected firm(s) for capacity, flexibility and associated services. |
| Innovation Onramp (EV Charging Pilot) | $1M | Demonstrate innovative and scalable solutions to reduce the cost of EV charging for MF residents. | Received 11 proposals in this grant cycle. Applications are currently under review. | Launch 3-4 projects with the selected vendors. |
| E-Bike Rebates | $500K | 450 e-bikes | Program paused due to staffing constraints. | Determine new timeline and next steps for program launch. |
| Innovation Onramp (Rock Rabbit) | $190K | Pilot an innovative web app to assist homeowners and contractors to apply for multiple incentives simultaneously. | Continued integration of Rock Rabbit app with SVCE's internal data tools and systems. | Soft Launch to small group of residential customers and contractors planned for February 2025. Full launch to all residential customers in late March/April 2025. |

# PROGRAMS HIGHLIGHTS

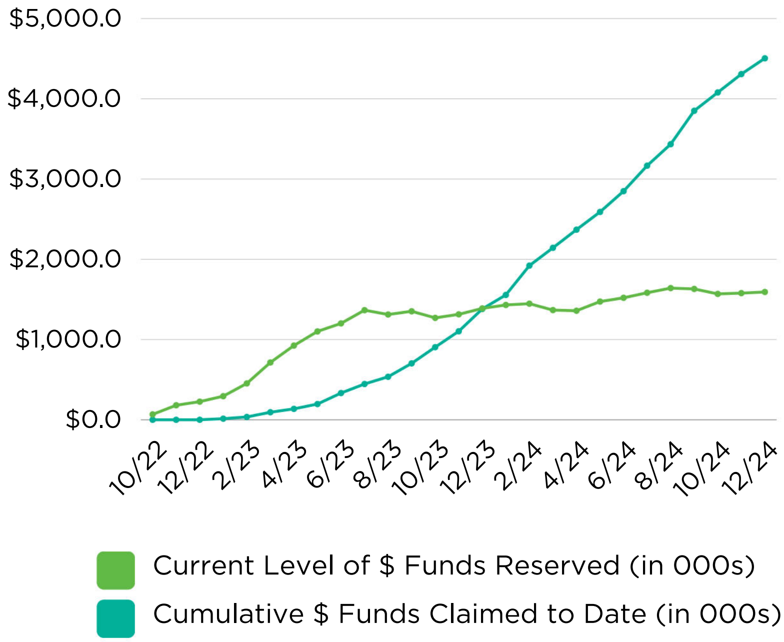
DEC 24

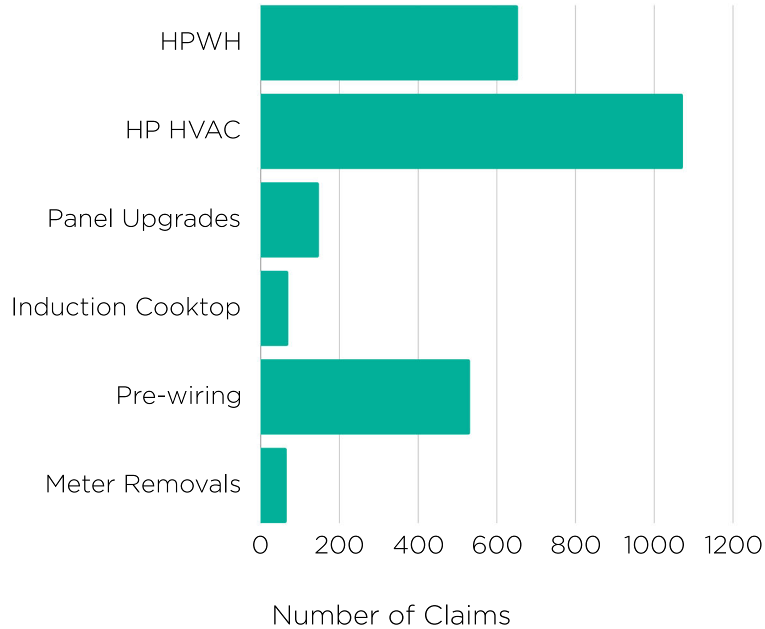
## Home Rebates

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

**Rebates claimed:** $4.5M

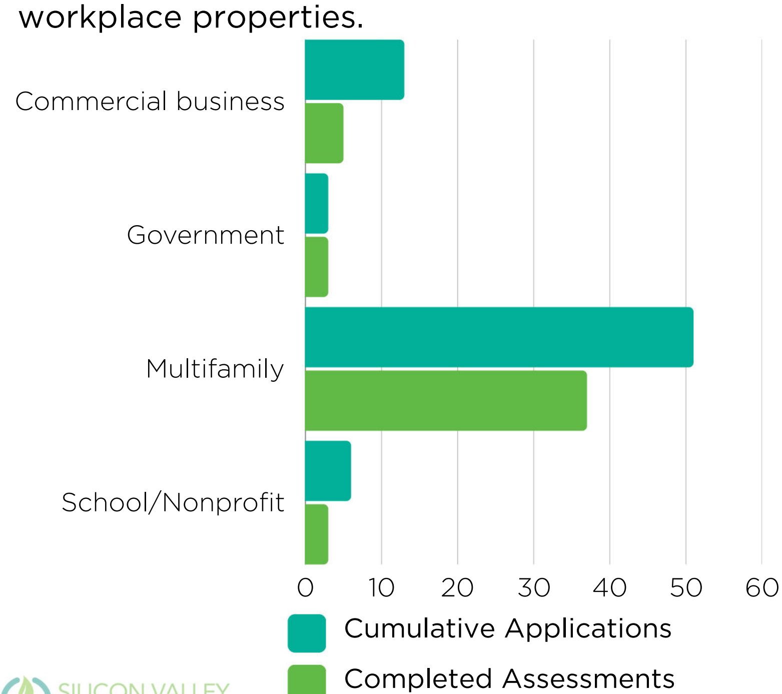
**Rebates reserved:** $1.6M




## EV Charging Planning

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



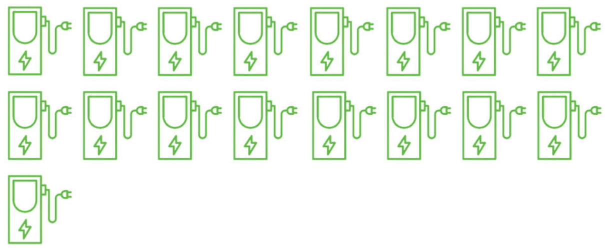

## EV Charging Incentives

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

**Funds Reserved:** $789K

**Funds Claimed:** $650k

**Ports Installed:** 166 L1/L2



= 10 Installed EVSE Ports

# PROGRAMS HIGHLIGHTS

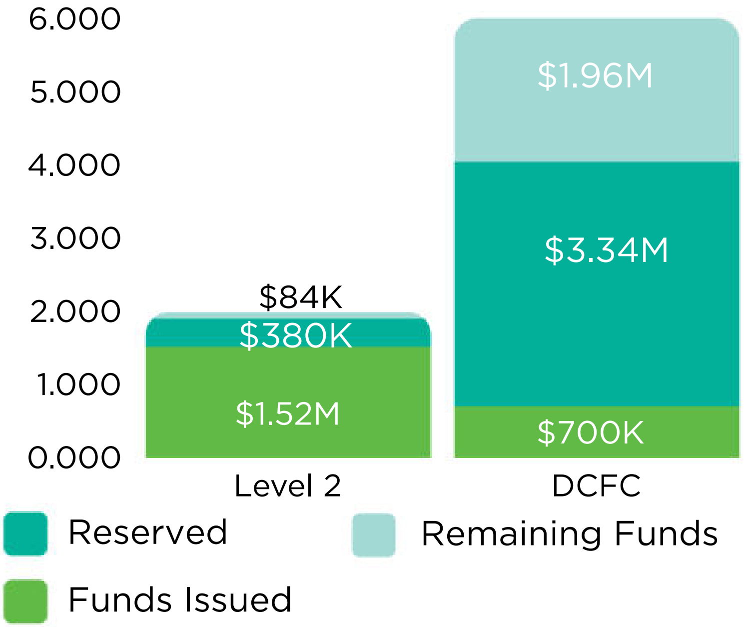
DEC 24

## 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




= 25 Level 2 Installations

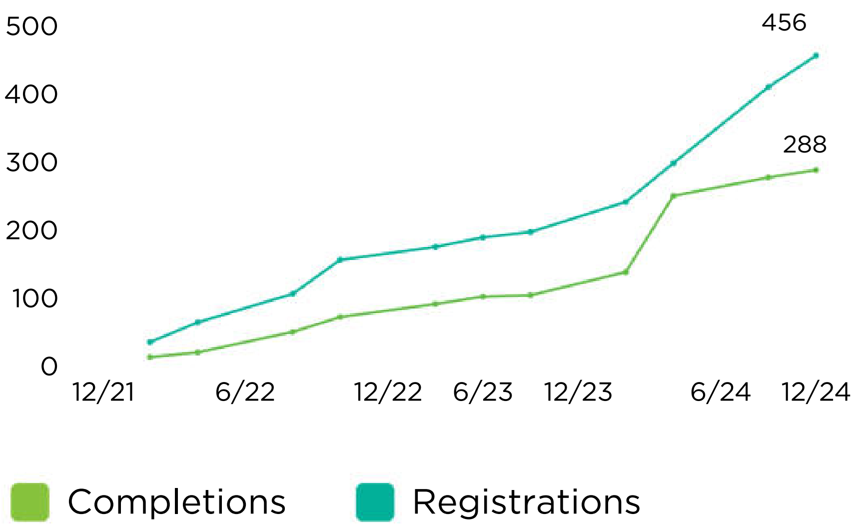
= 5 DCFC Installations

## Contractor Training

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

**Funding:** $1.5M

**Goal:** 300 Participants Complete the Course (Phase 2)



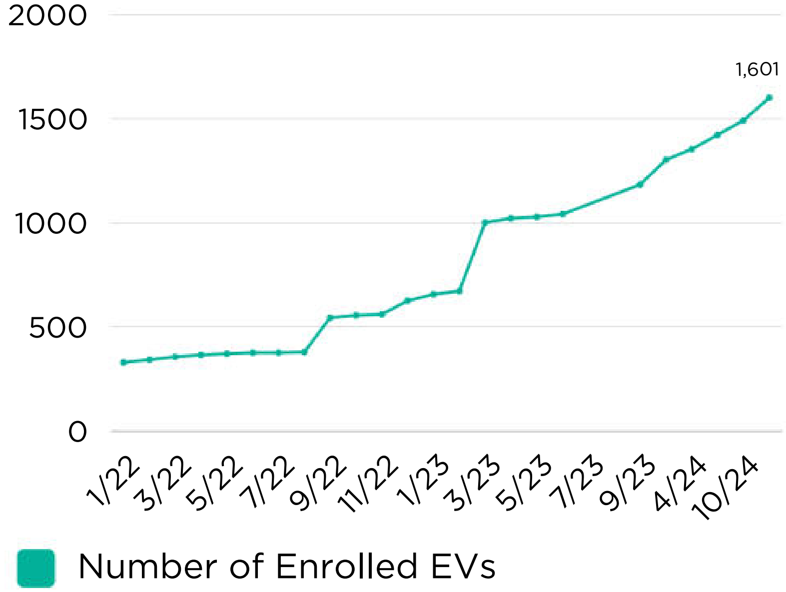

= 10 Participants Complete Course

# PROGRAMS HIGHLIGHTS

DEC 24

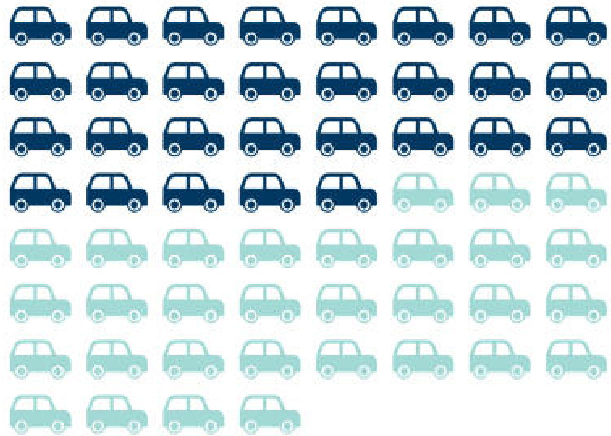
## GridShift EV Charging

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




**Rebate Goal:** $30K

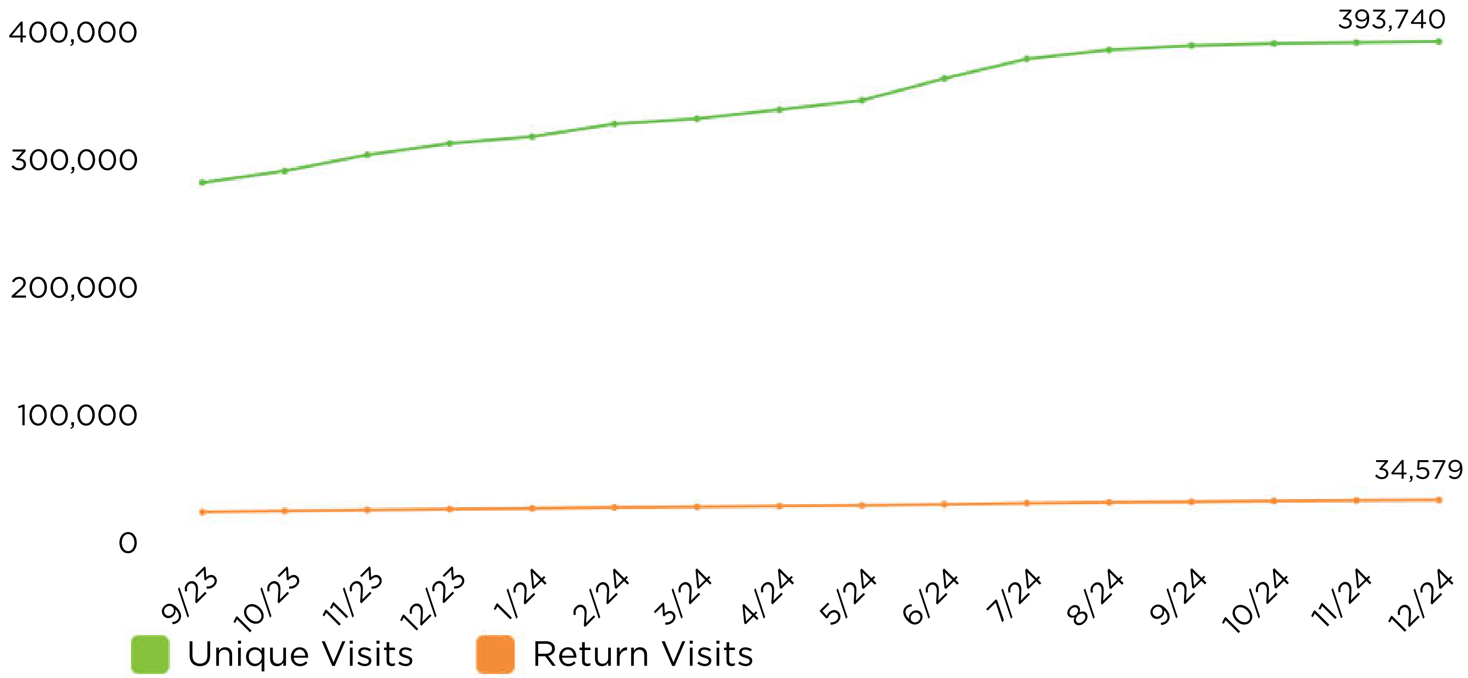
**Goal:** 120 EV Chargers added to fleet



Charger Rebates Issued: 58

## eHub Report

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



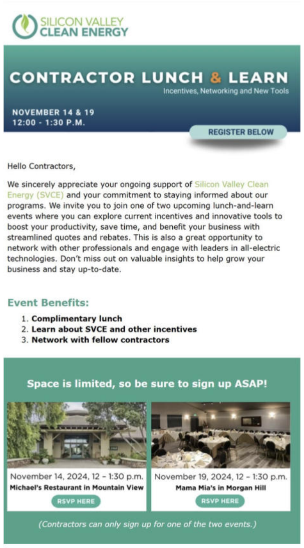
# MARKETING HIGHLIGHTS

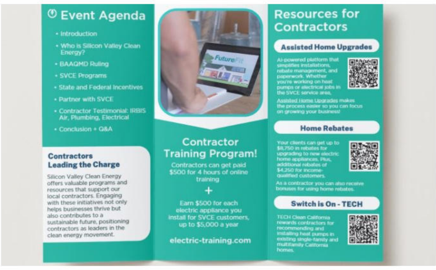
DEC 24

## Contractor Lunch and Learns

Goal: To engage and reach local contractors who have not heard of SVCE offers and services or those who are aware of our programs but rarely engage.

Results: 41 contractors from our service territory attended our events in Mountain View and Morgan Hill, which were designed as small, intimate lunch-and-learn sessions. We reached our target audience via email, phone calls, and brochures.

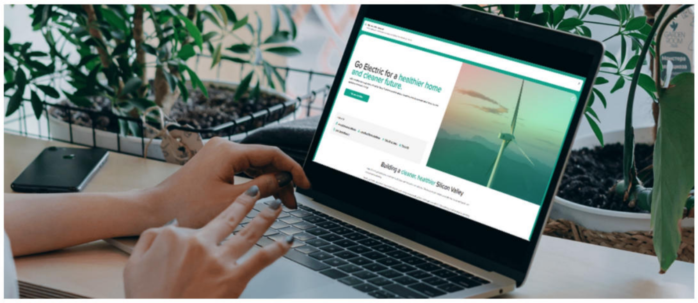


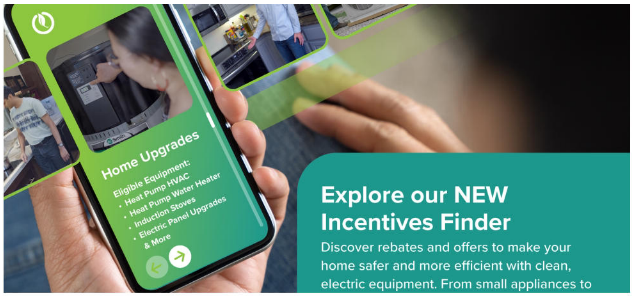




## Launch of the New and Improved eHub

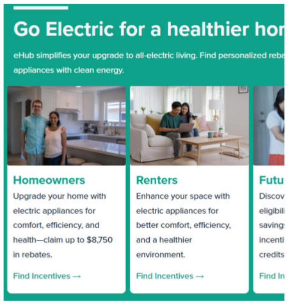
**Goal: Increase accessibility and remove barriers to going electric by improving the user experience (UX).**

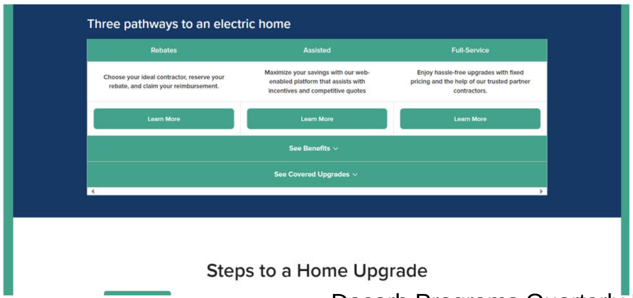
Tactics: Launched the new eHub mid-November, published a press release, and updated customers via our monthly newsletter and the annual Power Content Label.









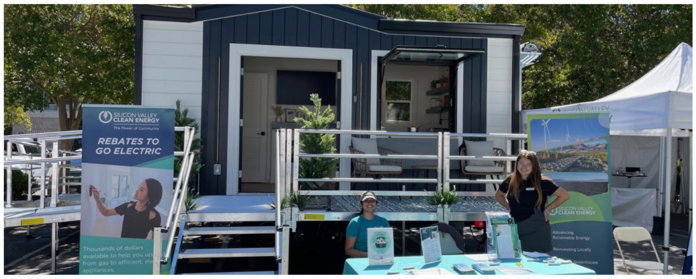



## Dream Home at Community Events

**Goal: Promote a hands-on, interactive experience with modern electric equipment to demonstrate why customers should replace fossil fuel appliances.**

Tactics: SVCE partnered with the San Jose Conservation Corps to design and build the Dream Home, a demonstration trailer featuring a heat pump mini-split, induction cooking, heat pump water heater, and more. In 2024, SVCE brought the Dream Home to ten community events.





# GLOSSARY



## 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.

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

**Go Electric Advisor:** 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.

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

**Business Rebates:** Incentives for projects at a handful of small and medium business properties.

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

**EV Charging Incentives:** 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.

**EV Charging Planning:** Technical assistance for preliminary site design and pertinent rebates for charging at multifamily housing and small and medium workplace properties.

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

**Fast Charger Incentives:** 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.

**Staff Report – Item 3**

| | |
|---|---|
| **Item 3:** | **Adopt SVCE's Power Purchase Agreement Project Selection Policy** |
| From: | Monica Padilla, CEO |
| Prepared by: | Bena Chang, Director of Government and Legislative Affairs |
| Date: | 4/9/2025 |

**RECOMMENDATION**

Staff recommends the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) adopt the Power Purchase Agreement Project Selection Policy (Policy).

**EXECUTIVE COMMITTEE RECOMMENDATION**

The Executive Committee met February 28, 2025 and discussed the proposed Policy, which took into account initial feedback provided at a previous Executive Committee meeting in June 2024, and stakeholder communications. Following a robust discussion, committee members voted unanimously to provide advice to staff regarding the policy and to define the charter of the Policy as seemed operationally most fitting. The Executive Committee was also in agreement that the Policy was viewed as aspirational in nature and not explicit requirements. The details of the advice and direction provided by the Executive Committee are outlined below in the 'Background' section.

**BACKGROUND**

In May of 2023, SVCE staff presented a workforce strategy to the Executive Committee. The Committee provided feedback that SVCE should play a supporting versus leading role on workforce development for the utility sector in general. The Committee also indicated interest in supporting local workforce development efforts for building and transportation electrification and having SVCE enhance the work of existing stakeholders in this space including unions, community colleges, workforce development agencies, and nonprofit organizations.

SVCE has engaged in several activities to support local decarbonization workforce development through its programs. This includes choosing to require that prevailing wages be paid to workers doing installation work for its single-family electrification direct installation program – even though it did not fall under state prevailing wage requirements. Through SVCE's contractor training program, more than 280 contractors have received online training on residential electrification and electric appliances. Program participants receive $500 for completing the 5-hour training and also get $500 when they complete an installation for an SVCE customer through SVCE's customer rebate program (up to 10 per year). SVCE also offers contractors from the training program $5,000 to install a qualifying electric appliance in their own home or business in SVCE territory to get first-hand experience with using one day-to-day. In 2024, the Board approved $1.3 million for workforce partnerships that would also serve to prepare the region for Bay Area Air District's rules around water heaters and furnaces. In February of 2025, SVCE began convening a group of contractors, a first-of-its-kind effort, to hear directly from them about the barriers to completing home electrification projects. These efforts will provide important context for regional workforce readiness and serve as a basis for future policy and programmatic approaches to maximize the benefits of electrification for SVCE customers.

In June of 2024, SVCE staff presented an update on the workforce strategy and a draft Power Purchase Agreement Project Selection Policy to the Executive Committee. The Policy would be applied by staff as part of the process of acquiring energy and capacity resources for new build or substantial repower projects involving construction labor. Projects considered for Power Purchase Agreements will be evaluated based on best portfolio fit and value while considering, regulatory mandates, reliability, risk mitigation, and other relevant factors that are listed in the Policy. All Power Purchase Agreements are brought to the Board for approval.

The major elements in the Policy include contributions to SVCE's mission, workforce development, technology diversity, location, environmental stewardship, and community engagement.

Since the June 2024 Executive Committee meeting, SVCE staff conducted outreach with environmental and labor stakeholders including Working Partnerships USA, IBEW 332, Santa Clara and San Benito Building Trades Council, South Bay Labor Council, CCA Workforce and Environmental Justice Alliance, San Francisco Electrical Construction Industry, and Center for Sustainable Neighborhoods to gather feedback on the proposed Policy.

As a result of stakeholder input, staff incorporated changes into the proposed Policy including:

1) **Workforce Standards:** Updated the policy to include a structured framework with high, medium, and low preferences for projects that have a Project Labor Agreement (high), prevailing wage (medium), and other workforce measures (low).
2) **Environmental Considerations in Project Siting**: Included a preference for projects located in previously disturbed or urban sites.
3) **Community Engagement**: Included a preference for projects and developers that commit to ongoing and meaningful engagement with the local community.
4) **Reporting**: Added reporting on the results of the Policy in the annual California Public Utilities' GO 156 Supplier Diversity Report.
5) **California Community Power**: Added language that makes it explicit that SVCE will use the Policy to decide whether to participate in joint procurement at California Community Power, a Joint Powers Authority SVCE participates in with other CCAs.

The Policy also reflects direction from the November 2024 Board of Directors meeting to include a greenhouse gas emissions evaluation as part of the Board's goal to move towards a clean portfolio.

At the February 28, 2025, Executive Committee Meeting, stakeholders requested additional changes to the Policy. The Executive Committee directed staff to incorporate the following additions to the Policy:

1) **Local Hires**: Research an appropriate target percentage goal for developers on local hires. Add this percentage goal to the highest priority category under Workforce Development.
    a. Staff partnered with Working Partnerships to review percentages in existing Project Labor Agreement Contracts. Most Project Labor Agreements had a 30% local hire percentage based on the median, which is included as the updated target goal.
2) **Hiring from Workforce Pipeline Programs**: Research an appropriate target percentage goal for developers on hires from Multi-Craft Core Curriculum (MC3)-certified construction careers training and placement programs. Add this percentage goal to the highest priority category under Workforce Development.
    a. Staff partnered with Working Partnerships to review percentage goals in existing Project Labor Agreement Contracts. Most Project Labor Agreements had a 5% percentage hiring from workforce pipeline programs based on the median, which is included as the updated target goal. MC3s exist nationwide.
3) **Apprentices**: Add developers that use apprentices to the medium priority project preference under Workforce Development. Research whether one apprentice hour per every 5 hours of journeywork per craft is an appropriate target.

a. Staff removed the specificity of the one hour per every 5 hours. This will provide some flexibility for developers while preserving the intent of encouraging developers to use apprentices at the ratios required for public works projects.

The Executive Committee declined to accept the other changes the stakeholders proposed, which included:

1) **Location Preference**: Stakeholders requested the following redlines to the staff's proposed Policy:
   a. SVCE priorities projects within the California Independent System Operator (CAISO) balancing authority and/or certified deliverability to the CAISO in accordance with the following:
      1) Projects within SVCE's service territory.
      2) ~~Projects within the CAISO balancing authority.~~ Projects that are located in the state of California and interconnect with the CAISO.
      ~~3) Projects with the ability to interconnect with the CAISO balancing authority.~~ Projects that interconnect with the CAISO.
      ~~4) Projects with the ability to interconnect with the CAISO balancing authority.~~
      5) All other projects.

   Staff's feedback was that the stakeholders' proposal would further constrain preference to projects that are inside California **and** within CAISO. Currently, there are areas within California that are not part of CAISO as well as areas in Nevada that are in CAISO. All projects within CAISO are treated the same by the balancing authority, and the same advantage in lower project complexity applies to projects in and outside of California as long as they are within the balancing authority. The stakeholder's proposal would disadvantage projects in Nevada that are part of CAISO like the Yellow Pine solar + storage project and would be a departure from the statewide Renewable Portfolio Standard's Portfolio Content Category (PCC1) bucket system.

2) **Environmental Stewardship**: The stakeholders requested additional language on projects that are in earlier stages of the entitlement process that have "adequately assessed likely impacts and addressed potential mitigants to sensitive habitat or environmentally sensitive areas, as for instance by committing to compliance with applicable Habitat Conservation Plans," and to give preference to developers that "commit to measurable offset efforts within the vicinity of the proposed project." On the first point, staff sees implementation challenges with the "adequately assessed" language, which is vague. On the second point, "measurable offset efforts" are often included in the "enforceable development agreement" that is already a part of the Policy.

3) **Additional Changes**: The Executive Committee also declined to accept a number of other redlines from the stakeholders including adding licensed electricians as required by state law since this is something already required by state law, wording changes to strike "all else being equal," changing "maximize Regulatory and Market Value" to "deliver Best Value," changing "entitlement and construction processes" to "project lifecycle," etc.

## ANALYSIS & DISCUSSION

SVCE's power supply business is highly regulated. The regulations SVCE is mandated to meet are complex and can include prescriptive orders. SVCE needs to maximize the value of power purchase agreements to keep energy affordable for customers and to stay competitive in a tight renewable market where SVCE competes for resources not just from other CCAs, but from Investor-Owned Utilities and municipal utilities that are constrained by similar procurement policies.

The Policy strikes a balance between the need to meet regulatory, market value, best fit considerations with additional policy goals around workforce development, environmental stewardship, and community engagement. If approved, the Policy will be used to in the evaluation of future solicitations for potential Power Purchase Agreements.

**STRATEGIC PLAN**

The Policy aligns with the Strategic Plan Focus Area No. 2 to "Expand Clean and Reliable Grid Actions" and Goal No. 2, "Long-term, target for 100% clean energy annually by building a balanced portfolio with consideration for both affordability and reliability while exploring long-term pathways to clean power supply."

**ALTERNATIVE**

The Board could advise staff to modify or not adopt a Project Selection Policy.

**ATTACHMENTS**

1. Updated Proposed Power Purchase Agreement Project Selection Policy

# ATTACHMENT 1: POWER PURCHASE AGREEMENT PROJECT SELECTION POLICY

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## I. POWER PURCHASE AGREEMENT (PPA) PROJECT SELECTION POLICY

The PPA Project Selection Policy ("Policy") shall be applied as part of the process of acquiring energy and capacity resources for new build, or substantial repower projects involving construction labor, in front of the meter electricity generation, or storage resources where SVCE does not own, develop or construct the generation or storage facility. Projects considered for PPAs will be evaluated based on best portfolio fit and value while considering regulatory mandates, reliability, risk mitigation, and other relevant factors including the following all else being equal goals:

A. <u>Contributions to SVCE's Mission</u>

1. Assessment and evaluation of proposed projects to ensure SVCE is able to meet its mission of providing clean, reliable and affordable energy.
2. Assessment and evaluation of proposed projects' operational performance and market economics to ensure selected projects maximize Regulatory and Market Value to SVCE and its customers.
3. Assessment and evaluation of projects to minimize risk to SVCE and its customers through effective location, Counterparty and technology diversification and management of Development Risk

B. <u>Workforce Development</u>

SVCE is committed to stimulating its local economy through, among other measures, supporting projects committing to applying prevailing wage rates as required by law, and supporting a local Skilled and Trained Workforce with construction work performed by appropriate Journeypersons and Apprentices from a state-approved apprenticeship training program.

1. SVCE will prioritize Power Purchase Agreements where:
   a) Highest priority projects will commit to a multi-trade project labor agreement with additional preference given to projects committing to a target of 30% local hire and a target of 5% hiring from workforce pipeline programs.
   b) Medium priority projects will commit to:
      (1) Using prevailing hourly wage and benefit rates as determined by the California Department of Industrial Relations for California projects and state or federal prevailing wage and benefit rates, whichever is higher, for out-of-state projects.
      (2) Additional preference will be given to projects that use apprentices at the same ratio of apprentice hours to journeyperson hours as required for public works projects under Section 1777.5 of the California Labor Code.
   c) Low priority projects may demonstrate other commitments to local workforce development.

C. Technology Diversity

SVCE recognizes the importance of diversifying technology in its portfolio to minimize risk.

1. All else being equal, SVCE will prioritize projects that will diversify technologies in its current portfolio, provide local reliability, provide SVCE a competitive advantage, and/or reduce costs for SVCE customers while remaining cost competitive with established market alternatives.

D. Location

SVCE prioritizes projects within the California Independent System Operator (CAISO) and/or certified deliverability to the CAISO in accordance with the following:

1. Projects within SVCE’s service territory.
2. Projects within the CAISO balancing authority.
3. Projects with the ability to interconnect with the CAISO balancing authority.
4. All other projects.

E. Environmental Stewardship

SVCE is committed to leading by providing customers with energy that delivers benefits for air, water, and the natural environment while avoiding impacts to important lands, species, and waters. Without diminishing or interfering with permitting, land use or development requirements of any authority with jurisdiction including local, state, and federal agencies, SVCE prioritizes projects:

1. That are proposed on urban or previously disturbed sites; and
2. Where the developer and local land use authority have established an enforceable development agreement which, in part, sets forth measures to mitigate impacts to sensitive habitats or environmentally sensitive areas.

F. Community Engagement

SVCE will prioritize projects that:

1. Demonstrate contact and collaboration with the local community organizations and stakeholder groups representing a broad diversity of demographics and interests, particularly low income and environmental justice communities, to identify and address benefits and impacts of projects and ensure project benefits are communicated and accessible to the local community.
2. Commit to meaningful engagement with local communities throughout the entitlement and construction processes to identify and address benefits and impacts of projects and ensure project benefits are communicated and accessible to the local community.

G. Greenhouse Gas Emissions Impact

SVCE will evaluate greenhouse gas emissions of project proposals and prioritize projects that minimize emissions on the grid and SVCE's portfolio.

## II. REPORTING AND CALIFORNIA COMMUNITY POWER

A. Reporting

SVCE will assess project proposals in accordance with this Project Selection Policy and report to the SVCE Board of Directors the results of such assessment at the time of the project approval. SVCE will compile and report data and metrics, as appropriate, through the annual GO 156 Supplier Diversity report.

B. California Community Power

SVCE will consider the Power Purchase Agreement Project Selection Policy when it is determining whether to participate in joint procurement at California Community Power.

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## III. DEFINITIONS

A. **Regulatory Value**: The value of project's anticipated ability to satisfy SVCE's regulatory compliance requirements such as Resource Adequacy, Renewable Portfolio Standard, integrated resource planning, and other binding orders or directives received from regulatory bodies.

B. **Market Value:** The project's projected revenues across all relevant day-ahead real-time, ancillary, and other markets. Market Value shall also assess a project's ability to manage, shift, or arbitrage existing SVCE generation to maximize revenue and renewable energy generation on behalf of SVCE and its customers.

C. **Counterparty Risk**: The risk that a counterparty will fail to perform, or adequately remedy, its obligations. Counterparty Risk is inclusive of Development Risk.

D. **Development Risk**: The risk that the project is unable to obtain interconnection, deliverability, site control, entitlements, financing, or other necessary development milestones required to deliver the project on or ahead of the anticipated online date.

E. **Power Purchase Agreements**: An agreement that provides for new build or substantial repower projects but wherein SVCE's participation in the project is limited to receiving energy and any applicable attribute at a set price and term. This includes power purchase agreements, energy storage agreements, resource adequacy only agreements, or other energy product agreements.

F. **Journeyperson:** Is a worker who either:

1. Graduated from a California state-approved apprenticeship program for the applicable occupation or, when located outside California, approved for federal purposes pursuant to apprenticeship regulations adopted by the Secretary of Labor, or
2. Has at least as many hours of on-the-job experience in an applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the California Division of Apprenticeship Standards.

G. **Skilled and Trained Workforce**: means a workforce in which:

1. All workers performing work in apprentice-able occupations in the building and construction trades are either skilled Journeypersons or Apprentices registered in an apprentice program approved by the Chief of the Division of Apprenticeship Standards, as defined in Chapter 2.9 of Part 1 of Division 2 of the California Public Contracts Code.

H. **Local Hire**: A qualified worker that meets one of the following criteria in descending priority:

1. A resident within the nearest communities in proximity to the project, by a radius as reasonably determined on a project-by-project basis. Such radius will target a distance that is within reasonable daily commuting distance.

2. A resident within the county where the project is constructed.

I. **Workforce Pipeline Program Hires:** means an individual who is a participant in a workforce pipeline program which:

1. Partners with a structured, Multi-Craft Core Curriculum (MC3)-certified construction careers training and placement program or programs that

recruits, supports, and places targeted workers in skilled construction trades; and

2. Creates opportunities for certified MC3 graduates to enter Registered Apprenticeship Programs and/or obtain work hours needed to successfully complete their apprenticeship.

**Staff Report – Item 4**

| | |
|---|---|
| **Item 4:** | **Authorize the Chief Executive Officer to Execute Contracts with Kings Community Action Organization and Self-Help Enterprises in an Amount Not-to-Exceed $1,500,000 from the Hanford Hybrid Plant Emissions Mitigation Fund** |
| From: | Monica Padilla, CEO |
| Prepared by: | Pamela Leonard, Deputy Director of Marketing & Communications<br>Juliette Pascual, Community Outreach Specialist |
| Date: | 4/9/2025 |

## RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy ("SVCE") Board of Directors ("Board") authorize the Chief Executive Officer (CEO) to execute the necessary contracts with Kings Community Action Organization and Self-Help Enterprises to disburse and administer funds from the Hanford Hybrid Plant Emissions Mitigation Fund ("Fund") for a total amount not-to-exceed $1,500,000, as follows:

1. Kings Community Action Organization (KCAO) $300,000 for weatherization programs; and
2. Self-Help Enterprises (SHE) up to $1,200,000 for electrification and decarbonization measures

The two proposed funding recipients are consistent with the Board-approved Hanford Hybrid Plant Emissions Mitigation Fund Guidelines (approved via Resolution 2024-09, linked here: SVCE Resolution 2024-09). If staff's recommendation is approved, $300,000 will remain in the Fund.

## EXECUTIVE COMMITTEE RECOMMENDATION

At the March 28, 2025 Executive Committee meeting, staff presented a proposals to the committee to recommend the Board delegate authority to the CEO to enter into contracts with two non-profit organizations that serve Kings County. The Executive Committee expressed unanimous support for the proposed projects and provided input on the recommended partner projects and budget. The Executive Committee voted to recommend the Board authorize the CEO to execute contracts with KCAO in an amount of $300,000 over two years and to SHE in an amount up to $1,200,000.

## BACKGROUND

During the April 12, 2023 Board meeting, the Board approved Resolution Number 2023-06, which delegated authority to the SVCE CEO to execute a Power Purchase Agreement ("PPA") for the Hanford Hybrid Power Plant. The Hanford plant is a hybrid natural gas peaker power plant ("peaker") and battery energy storage system that SVCE contracted with for twelve years to ensure that SVCE can meet its Resource Adequacy program obligations as mandated by California and to assist with meeting SVCE's procurement obligations under the California Public Utilities Commission's (CPUC) Mid-term Reliability procurement order. California's Resource Adequacy program ensures load-serving entities in California have contracted with enough capacity for the grid to be able to meet peak demand conditions. However, this capacity has been in short supply in recent years, which resulted in California facing reliability challenges in 2020 and 2022, especially during heatwaves.

The existing gas plant in Hanford would still be part of the state's fleet of natural gas power plants, even without SVCE contracting with the project. The benefit is that SVCE's contract with the facility enabled the addition of adding a battery energy storage system to reduce the run time of the gas plant as the battery will be called on first to offer the reliability benefits. Natural gas peaker facilities are needed to operate the grid under stressed conditions, such as the hottest summer days when the demand for power is high. These gas facilities are still going to be utilized over the next decade or longer until enough battery capacity and other clean solutions are built, which will ultimately enable meeting the state's 100% clean energy mandate.

SVCE expects to only dispatch the natural gas peaking facility portion of the hybrid plant when the California Independent System Operator market signals it is needed. The projected dispatch is expected to result in 5,000 MT of $CO_2$ being emitted per year at the start of the plant's contract period. SVCE staff has examined the utilization rates of the peaker portion of the hybrid plant and found that run hours will decline over the contract period. Staff expect that this could result in the yearly emissions decreasing over time, especially as the battery energy storage system displaces the gas plant.

Due to the expectation that even with the batteries there will still be some emissions from the facility due to the gas peaker dispatching, the Board directed staff to develop a policy and/or guidelines to set aside funds for programs and/or projects to mitigate emissions associated with energy produced by the plant. At the May 8, 2024, Board meeting, the Board adopted Resolution 2024-09, approving the Hanford Hybrid Power Plant Emission Guidelines.

The adopted guidelines authorize a one-time funding allocation to be used on local programs that reduce greenhouse gas emissions, to be administered during the twelve years of the Hanford plant's operations under its contract with SVCE. Additionally, the guidelines recommend that staff seek approval for a funding allocation range between $750,000 to $1.8 million, and the CEO is authorized to disburse up to $1.8 million from the Hanford Mitigation Fund. The guidelines specify that the funds are to be deployed to benefit low-income or disadvantaged communities in Kings County, the geographical region where the Hanford Hybrid Power Plant is located. Also, the guidelines specify that staff will engage local stakeholders to help determine the local priorities for how the funds could be best utilized.

As directed by the adopted guidelines, staff researched and interviewed local organizations about community needs and existing programs to identify project proposals that meet the fund requirement of mitigating emissions from energy or transportation use.

## ANALYSIS & DISCUSSION

### Stakeholder Engagement and Community Priorities

To identify appropriate projects to fund, staff sought community input from local organizations that serve Kings County. Staff researched and contacted about a dozen different organizations, and met with four that have programs aligned with the goals and guidelines in the Hanford Mitigation Fund. This includes an effort to connect with the County Administrator's Office, but no connection was established. The interviews used a common set of questions to help understand the organization's alignment to the SVCE goals, their experience, capacity and funding sources. The groups included California Health Collaborative, Central Valley Community Fund, Self-Help Enterprises, and Kings Community Action Organization (KCAO). Each of these organizations is a nonprofit with ongoing initiatives in Kings County and the greater San Joaquin Valley region.

In these conversations, the nonprofit organizations referenced past and recent community needs assessments and their reports indicated that one of the primary residential concerns is energy affordability and utilities assistance. Specifically, affordable housing, food insecurity, home repairs and employment were also top community priorities.

**Recommended Partners**
Staff identified the organizations with programs that most align with both the needs of the local community and the SVCE emission mitigation goals. These were Kings Community Action Organization (KCAO) and Self-Help Enterprises (SHE). KCAO, a federally designated anti-poverty agency, offers direct services including childcare, crisis support, utility assistance, and more. In addition to providing energy bill assistance, KCAO also offers weatherization services to approximately 100 homes per year. With funding from SVCE, they can increase their capacity to serve additional homes, helping more income-qualified Kings County residents save money and increase their energy efficiency. The benefits of energy efficiency include lower bills through lower usage and increased comfort.

SHE is a housing-focused organization that works with low-income families. Their work spans a variety of programs to build affordable housing, provide financial assistance, offer emergency services, and encourage sustainable local development. They have several ongoing electrification initiatives and hope to prepare Kings County and the greater region for the future as California continues to move toward all-electric buildings and away from the sale of polluting gas equipment in homes. In discussions with SHE, three project areas were identified: the Community Energy Navigator program, multifamily affordable housing electrification readiness and an Electrification and Education Hub at a new affordable housing property. With funding from SVCE, these programs allow SHE to conduct electrification outreach to affordable housing residents and make upgrades that encourage others to make electric-ready preparations.

Staff determined that these two organizations would have the capacity to deploy funds, are well-known in the region, would be responsive and easy to work with, and had strong mission alignment with SVCE. There was also a need to only select one or two partners to simplify the administration of the fund for SVCE staff. Further, the projects proposed by these organizations fit well with the Board’s direction.

During conversations with these community stakeholders, staff concluded that funding these two programs would be complementary in that they will address both perception/awareness and actual beneficial electrification. KCAO clients have shared that their unwillingness to adopt electric appliances stems in part from bill impact concerns and other common electrification myths. SHE, through their work leading outreach for a CPUC pilot program to electrify rural properties to move away from propane heating, is passionate about enabling an equitable transition to a clean energy future for all. SHE’s focus on outreach is to address residents’ electrification concerns as well as provide trainings on how to properly operate and maintain electric equipment so that users are optimizing their devices to match time of use rates and running efficiently. SHE hopes to use the learnings from their work to inform future projects in the other eight counties they serve throughout the San Joaquin Valley.

**Funding Recommendation**
Staff recommends a funding allocation of $1.5 million from the Hanford Hybrid Plant Emissions Mitigation Fund. The funding breakdown per organization is as follows:

***Kings Community Action Organization (KCAO)***
$300k will be allocated to KCAO for their home weatherization program. The current program is primarily funded from federal grants from the Department of Energy and the Low-Income Home Energy Assistance Program (LIHEAP). Under their current funding amount, which has already been received for 2025, they are able to serve approximately 80 homes with an average cost of ~$5,600 per home. SVCE funds can assist with reaching up to 100 homes each year, over a two-year period.

***Self-Help Enterprises (SHE)***
Approximately $1.2 million will be allocated to SHE to fund electrification outreach and readiness initiatives across three program areas, over five years. Staff will continue to work with the organizations to refine and adjust the scopes, within the bounds of the contract, to optimize the implementation and success of these program areas.

- **Community Energy Navigators (CENs):** Employs local people to help enroll residents in energy efficiency programs and educate the broader community on energy incentives, EVs and use of electric tech.
  - Budget: $438,000 over five years
  - Benefit: Learn more about how can help reach low-income customers to participate in energy programs and offer long-term electrification education.
- **Lincoln Plaza Electrification Readiness:** Electrification of the community building at an existing affordable housing community in Hanford.
  - Budget: $243,650 for one year
  - Benefit: Utilize community building as an education center and location for CENs to conduct workshops and community education.
- **Lakeview Terrace:** Planned affordable housing development in Corcoran; funding to be used for electrification and smart technologies.
  - Budget: $395,000 through 2030
  - Benefit: Education center to serve as central community space to educate low-income residents and the surrounding community about electrification through events and workshops.

**Reporting Requirements**

The Hanford Fund Guidelines require staff to report on the progress of the fund disbursements one year after the first disbursement and annually thereafter until the fund is exhausted. Staff will report on whether funding was able to be disbursed, the programs the funding was used for, and whether disbursements from the fund are still pertinent to accomplishing the goals of the fund. Additional reporting requirements will be determined throughout the contracting process and this information will be reported annually to the Board of Directors in the Board packet. If there are unexpected challenges or issues, staff will work to resolve them and may choose to propose changes to how the funds are allocated to the Board for approval.

## STRATEGIC PLAN

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

Goal 4: Acquire power supply resources in a cost-effective manner to meet legislative and regulatory obligations, Board directives and customer specific products.
Goal 8: Engage customers and community stakeholders to build trust of SVCE and advance decarbonization.

## ALTERNATIVE

If the contracts with one or both organizations are not approved, staff can return to the Board with alternative project proposals with KCAO and/or Self-Help Enterprises. If directed, staff can also identify alternative organizations and programs to fund.

## FISCAL IMPACT

The Board approved funds up to $1.8 million for the Hanford Mitigation Fund as approved in the adopted Fiscal Year 2024-2025 budget.

**Staff Report – Item 5**

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| **Item 5:** | **Regionalization Overview** |
| From: | Monica Padilla, CEO |
| Prepared by: | Andrea Pizano, Sr. Executive Assistant and Board Clerk |
| Date: | 4/9/2025 |

**RECOMMENDATION**

Staff requests the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) receive an overview on regionalization and how it impact's SVCE's mission.

This is an informational discussion item; no action requested.

**ATTACHMENTS**

The PowerPoint presentation for this item will be posted to SVCE's website.

**Staff Report – Item 6**

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|---|---|
| **Item 6:** | **Local Agency Action Planning** |
| From: | Monica Padilla, CEO |
| Prepared by: | Zoe Elizabeth, Director of Decarbonization Policy and Community Strategies |
| Date: | 4/9/2025 |

## RECOMMENDATION
Staff requests that the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) receive an update on the Local Agency Action Planning initiative that supports member agency efforts to electrify existing buildings and modernize permitting.

## BACKGROUND
In late 2023, SVCE launched two complementary programs to help member agencies sensibly expand the decarbonization of local buildings and prepare for upcoming rules that will limit the sale of gas appliances. The two programs, Permit Modernization and Policy Experimentation, provide $4M in technical resources and support to help member agencies adopt local policies and improve permit practices that enable the adoption of local policies that support the transition to fossil-free buildings.

Staff is supporting member agencies with core technical assistance and developing customized plans that meet each jurisdiction's unique needs and goals. These efforts will be discussed in more detail at the Board meeting.

## ANALYSIS & DISCUSSION
SVCE staff will address the analysis as a presentation to the Board.

## STRATEGIC PLAN
The proposal supports SVCE's Strategic Plan Goal 7, "Support all SVCE communities to decarbonize through local investments that reduce barriers and demonstrate sensible, scalable, and equitable solutions."

## FISCAL IMPACT
N/A

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