



AGENDA PACKET MATERIALS AMENDMENTS SUMMARY

City of Campbell

5/9/25

Item 1h: Receive Executive Committee Report

Amendments made to report (tracked and shown in redline)

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

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087



George Tyson, Chair
Town of Los Altos Hills

Larry Klein, Vice Chair
City of Sunnyvale

Elliot Scozzola
City of Campbell

J.R. Fruen
City of Cupertino

Zach Hilton
City of Gilroy

Sally Meadows
City of Los Altos

Rob Rennie
Town of Los Gatos

Garry Barbadillo
City of Milpitas

Bryan Mekechuk
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Pat Showalter
City of Mountain View

Tina Walia
City of Saratoga

Otto Lee
County of Santa Clara

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

Wednesday, May 14, 2025
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

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

Teleconference Meeting
Webinar:

<https://svcleanenergy-org.zoom.us/j/83211205182>

Telephone (Audio Only):
US: +1 669-219-2599
Webinar ID: 832 1120 5182

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

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

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

AGENDA

George Tyson, Chair
Town of Los Altos Hills

Call to Order

Larry Klein, Vice Chair
City of Sunnyvale

Roll Call

Elliot Scozzola
City of Campbell

Public Comment on Matters Not Listed on the Agenda

J.R. Fruen
City of Cupertino

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.

Zach Hilton
City of Gilroy

Sally Meadows
City of Los Altos

Consent Calendar (Action)

Rob Rennie
Town of Los Gatos

1a) Approve Minutes of the April 9, 2025, Board of Directors Meeting

1b) Receive March 2025 Treasurer Report

Garry Barbadillo
City of Milpitas

1c) Adopt Resolution Amending SVCE Conflict of Interest Code to Remove and Retitle Decarbonization Programs & Policy Positions and Add Senior Regulatory Analyst & Associate General Counsel and Senior Data Engineer as Designated Positions for Filing Statements of Economic Interests

Bryan Mekechuk
City of Monte Sereno

1d) Approve Real Time Pricing Rate for Compliance

Yvonne Martinez Beltran
City of Morgan Hill

1e) Authorize the Chief Executive Officer to Execute a Three-Year Agreement with Strategic Energy Innovations to Host Climate Corps Fellows for the 2025-2028 Fellowship Cycles for a Not to Exceed Amount of \$750,000

Pat Showalter
City of Mountain View

1f) Receive March 2025 Decarbonization Strategy and Programs Quarterly Report

Tina Walia
City of Saratoga

1g) Receive Updates to E-TOU-C Summer Rates

Otto Lee
County of Santa Clara

1h) Receive Executive Committee Report

1i) Receive Additional Committees Report

1j) Receive California Community Power Report

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Regular Calendar

2) CEO Report (Informational)

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Suite 330
Sunnyvale, CA 94087



George Tyson, Chair
Town of Los Altos Hills

Larry Klein, Vice Chair
City of Sunnyvale

Elliot Scozzola
City of Campbell

J.R. Fruen
City of Cupertino

Zach Hilton
City of Gilroy

Sally Meadows
City of Los Altos

Rob Rennie
Town of Los Gatos

Garry Barbadillo
City of Milpitas

Bryan Mekechuk
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Pat Showalter
City of Mountain View

Tina Walia
City of Saratoga

Otto Lee
County of Santa Clara

- 3) Authorize the Chief Executive Officer to Execute Two 10-Year Power Purchase Agreements with SunZia Wind South LLC and SunZia Wind North LLC (Action)
- 4) Adopt Resolution Authorizing the Chief Executive Officer to Execute a Main Services Agreement with Lunar Energy for a Distributed Energy Resources Management System (DERMS) and Related Customer Demand Flexibility Services (Action)
- 5) Adopt Resolution to End SVCE's "E-ELEC 1.0" Electrification Discount Rate Pilot Program and Establish the "E-ELEC 2.0" Rate Pilot Program with Dedicated Funding (Action)
- 6) Approve Formation of Ad Hoc Committee to Propose Amendments to Silicon Valley Clean Energy's Operating Rules and Regulations (Action)

Board Member Announcements and Direction on Future Agenda Items

Adjourn

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Sunnyvale, CA 94087

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 (Statute 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, 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

DRAFT MEETING MINUTES

Call to Order:

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

Director Meadows provided a statement regarding her remote participation pursuant to AB 2449 under the "Just Cause" provision due to a physical disability that could not be accommodated and stated there was no one else 18 or over present in her location.

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 (participated remotely)

Rob Rennie, Los Gatos

Garry Barbadillo, Milpitas

Bryan Mekechuk, Monte Sereno (participated remotely; joined the meeting at 7:05 p.m.)

Yvonne Martinez Beltran, Morgan Hill

Pat Showalter, Mountain View

Otto Lee, Santa Clara County (arrived at 7:04 p.m.)

Tina Walia, Saratoga

A quorum was present.

Public Comment on Matters Not Listed on the Agenda

No speakers.

Consent Calendar

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

- 1a) Approve Minutes of the 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

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

The motion carried by verbal roll call vote with Directors Lee and Mekechuk absent.

Regular Calendar

2) CEO Report (Discussion)

CEO Monica Padilla addressed the following in her report:

- 1) Announcement of staff hiring and promotion:
 - Kaila Kiefer, previously an SVCE climate fellow, accepted a permanent position with SVCE in the role of Energy Services Specialist; and
 - Adam Pearse, Senior Regulatory Analyst, was promoted to Senior Regulatory Analyst and Associate General Counsel
- 2) An acknowledgment of the recipients of the Metropolitan Transportation Capital Program Implementation Grant for charging station infrastructure work, which included: City of Morgan Hill, City of Gilroy, and Santa Clara County. CEO Padilla announced SVCE's matching of grant funds at 11.47 percent by providing \$136,266 to the City of Morgan Hill, and \$68,302 to the City of Gilroy, and noted that the County infrastructure projects were outside of SVCE's service territories.
- 3) Announcement of SVCE as the recipient of an Excellence in Public Information and Communications (EPIC) award presented by the California Association of Public Information Officials.
- 4) Announcement of an SVCE survey requesting information from Directors regarding ideas to improve agency communication with the Board of Directors.

- 5) An update on executive orders from Bena Chang, Director of Government and Legislative Affairs, who provided information regarding the slate of tariffs imposed by the federal government, with potential impact to costs for developing and procuring clean energy.

Staff responded to questions and comments regarding federal-level policy changes, existing SVCE power purchase agreements and future pricing adjustments, tariffs and clean energy procurement, and tax-exempt status of municipal bonds.

Chair Tyson opened Public Comment.

No speakers.

Chair Tyson closed Public Comment.

3) Adopt SVCE's Power Purchase Agreement Project Selection Policy (Action)

Director of Government and Legislative Affairs Chang and Kris Van Vactor, Director of Power Resources, presented information on SVCE's proposed Power Purchase Agreement (PPA) Project Selection Policy, including the following key elements of the policy: workforce standards, environmental stewardship, technology diversification, and location. Changes made to the policy as a result of stakeholder feedback were reviewed, in addition to the direction provided by the Executive Committee from the February 28, 2025 meeting.

Staff responded to questions and comments regarding potential gaps identified in the staff proposal and stakeholders' requests.

Chair Tyson opened Public Comment and addressed in-person comments.

Louise A., Working Partnerships USA, provided a comment in support of the proposed policy with two additional elements recommended in the public comment letter that was submitted (consider environmental impacts and assess community engagement for earlier stage projects), and expressed the importance of developing projects focused on regional construction careers.

Following the in-person public comment speaker, Chair Tyson addressed members of the public joining remotely.

Bradley C., Oakland resident and consultant with IBEW local 595, provided supportive comments regarding the proposed policy, specifically the strong workforce and environmental standards and the role the policy will play in terms of workforce development.

Eric V., Co-director of the CCA Workforce and Environmental Justice Alliance, thanked the SVCE Board and staff for the collaborative effort undertaken in the development of the proposed policy, and requested inclusion of earlier stage considerations in environmental stewardship and community engagement as mentioned in the public comment letter that was submitted.

Tim F., CCA Workforce and Environmental Justice Alliance, commented on habitat conservation plan best practices and the desire to see the industry embrace the habitat conservation plan as a norm to get the best outcomes.

Chair Tyson closed Public Comment.

Chair Tyson opened the floor for comments from the Board of Directors. Board members shared comments regarding the following:

- Clarification regarding suggested stakeholder changes relating to earlier stage projects, pre-entitlement and entitlement distinction, and mitigation efforts that would address potential environmental impacts;
- Proposed language changes to the entitlement process, and the enforceable development agreement relating to habitat conservation plans;
- Project risk reduction and meeting SVCE's environmental stewardship goals;

- SVCE's environmental stewardship goals post-commencement of PPA projects and maintaining SVCE standards;
- Developer agreements relating to environmental stewardship and future PPA projects; and
- Suggested stakeholder language changes.

MOTION: Director Mekechuk moved and Director Scozzola seconded the motion to Adopt SVCE's Power Purchase Agreement Project Selection Policy as set forth by staff.

Director Rennie clarified with the maker of the motion that "as set forth by staff" meant the proposed redlines to the policy were not included; Director Mekechuk confirmed the proposed redlines would not be included.

The motion carried by verbal roll call vote, 11-2-0, with Directors Hilton and Martinez Beltran dissenting.

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)

Pamela Leonard, Deputy Director of Marketing and Communications, and Juliette Pascual, Community Outreach Specialist, provided a presentation regarding the funding request for two programs from the Hanford Hybrid Plant Emissions Mitigation Fund to support emissions reduction from greenhouse gases through electrification activities in disadvantaged or low-income communities in Kings County. The presentation included information on the following:

- Funding for Kings Community Action Organization up to \$300,000 for weatherization measures;
- Funding for Self-Help Enterprises up to \$1,200,000 for electrification initiatives;
- Highlights of the Hanford Hybrid Battery Plant;
- An overview of Kings Community Action Organization and Self-Help Enterprises program; and
- Key elements of funding the Kings Community Action Organization and Self-Help Enterprises programs and SVCE's funding guidelines and priorities.

Chair Tyson opened Public Comment.

No speakers.

Chair Tyson closed Public Comment.

Staff responded to questions and comments regarding local weatherization programs, the tenure and oversight of the two selected programs, and community education relating to electrification.

Board members provided supportive comments to staff regarding their efforts on the initiative.

MOTION: Vice Chair Klein moved and Director Scozzola seconded the motion to 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

The motion carried by verbal roll call vote, 12-1-0, with Director Barbadillo dissenting.

5) Regionalization Overview (Discussion)

CEO Padilla introduced the item and Director of Power Resources Van Vactor and Director of Government and Legislative Affairs Chang provided a presentation with information on the California Independent System Operator (CAISO) and Western Energy Imbalance Market (WEIM), the governance

structure of CAISO, and the introduction of Senate Bill 540 (SB540) that aims to transition specific functions from CAISO governance to regional organizations.

Staff responded to questions and comments including: SVCE's support for SB 540, the regional energy market, the potential for passage of SB 540, future participation of other states in regional energy markets, and the position of other CCAs on SB 540.

There was no public comment on this item.

6) Local Agency Action Planning (Informational)

Anthony Eulo, Senior Manager of Public Sector Services, provided an update regarding local reach codes, permit modernization and policy implementation, and existing building retrofitting initiatives.

Staff responded to questions and comments regarding the adoption of 2025 state-level building codes, ongoing engagement with agencies' stakeholders, reach codes, introduction of and potential amendments to Assembly Bill 306 (AB 306), and the potential impact on regional housing development initiatives.

Chair Tyson opened Public Comment.

No speakers.

Chair Tyson closed Public Comment.

Board Member Announcements and Future Agenda Items

Vice Chair Klein acknowledged SVCE staff for their participation in the Sunnyvale Arbor Day event at Sunnyvale City Hall.

Adjourn

Chair Tyson adjourned the meeting at 9:06 p.m.

ATTEST:

Andrea Pizano, Board Secretary



TREASURER REPORT

**Fiscal Year to Date
As of March 31, 2025**

(Preliminary & Unaudited)

Issue Date: May 14, 2025

Table of Contents

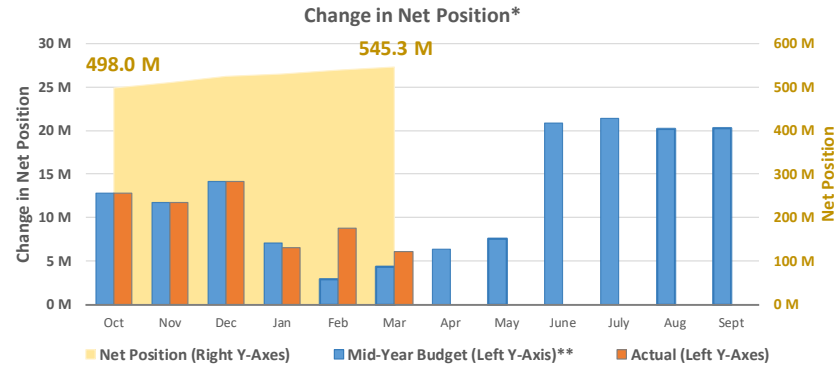
	<u>Page</u>
Summary	2-3
Statement of Net Position	4
Statement of Revenues, Expenses & Changes in Net Position	5
Statement of Cash Flows	6-7
Actuals to Budget Report	8-11
Monthly Change in Net Position	12
Investments Report	13
Customer Accounts and Aging Report	14
Certificate of Compliance	15
SVCE Managed Account & Security Transactions	16-26

SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights* (\$ in millions)
March 31, 2025

Page 2

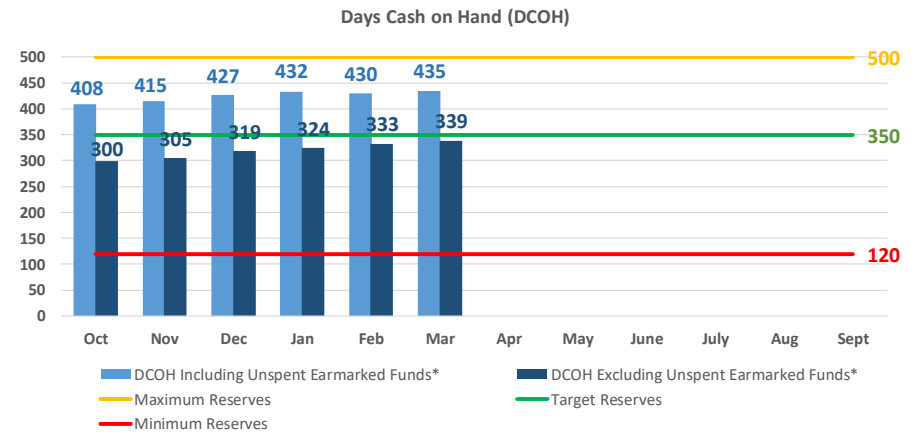
Balance Sheet Highlights:

- > SVCE operations resulted in a change in net position of \$6.1 million for the month of March and \$60 million for fiscal-year-to-date (FYTD).*
- > Total Net Position increased further to \$545.3 million.
- > SVCE is investing ~95.4% of available funds, recognizing interest/dividend income of \$10.6M 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.

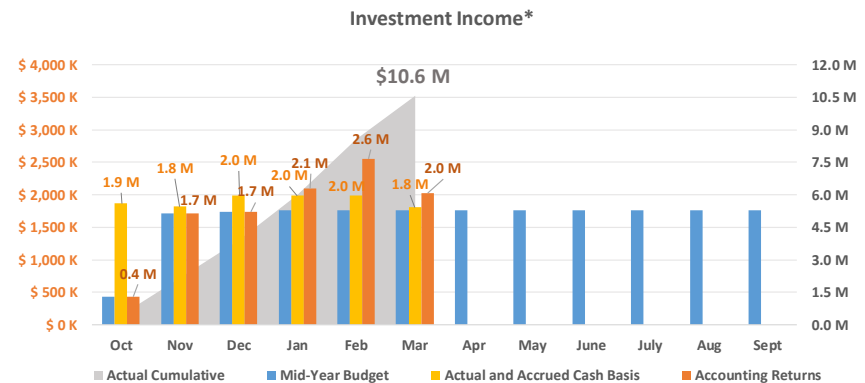
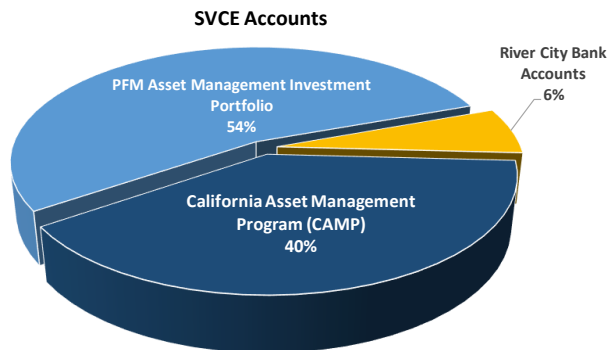
October, 2024-January, 2025 results are updated per the Mid-Year budget revisions adopted in March 2025.

SVCE Yield-bearing Accounts:

Combined Ending Balance*	517.1 M
Total Interest/Div. Earned FYTD	10.6 M
Average Yield to Maturity**	4.35%

* 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)**
March 31, 2025

Page 3

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

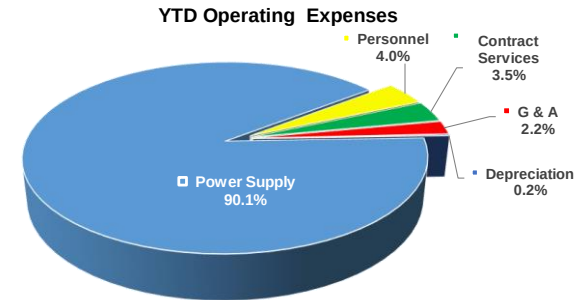
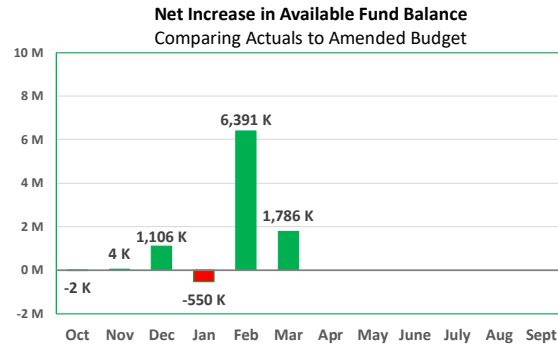
- > FYTD operating margin of \$67.9 million or 29% is above the Mid-Year Budget expectations of \$66.4M (27%) operating margin for the fiscal year to date.
- > FYTD Power Supply costs are -6% below Mid-Year Budget.
- > Retail GWh sales FYTD landed -2.4% below Mid-Year Budget respectively.

Variance Explanation:

October-December - revenue and all operating cost were actualized during the Mid-Year budgeting

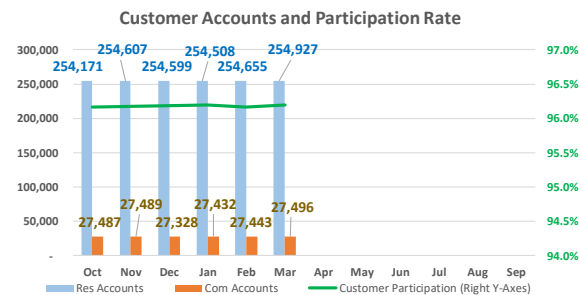
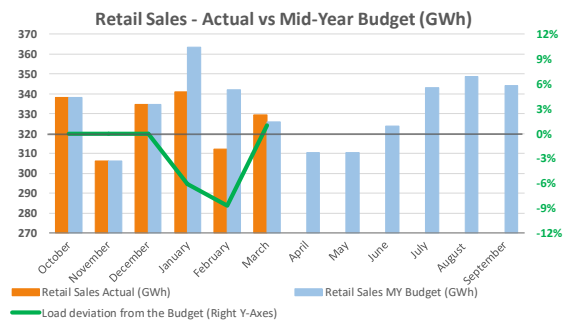
January -February - Weaker customer demand was offset by lower power supply cost, liquidated damage payments and reduced operating expenses.

March - Customer demand was in-line with expectations while all components of operating expenses remained below MY budget.



\$ in millions	March			Fiscal YTD			Main Drivers:
	Actual	MY Budget	% Dif	Actual	MY Budget	% Dif	
Revenue	35.1 M	35.8 M	-2.0%	235.2 M	245.1 M	-4.0%	- Lower November-February customer demand and a negative true-up settlement, partly offset by liquidated damage payments. - Lower YTD costs is mostly due to lower energy consumption in November -February and a decline in energy/attribute prices.
Power Supply Cost	27.9 M	28.9 M	-3.3%	167.3 M	178.7 M	-6.4%	
Operating Margin	7.2 M	7.0 M	3.3%	67.9 M	66.4 M	2.2%	Staffing vacancies, underrunning professional services, and lower marketing expenses
Operating Expenses (ex Power)	2.3 M	3.6 M	-36.0%	13.6 M	17.8 M	-23.5%	
Other Non-Op. Expen. (Income)	-2.0 M	-1.8 M	15.2%	9.2 M	12.3 M	-25.1%	Reflects budgetary transfers to program and other funds
Net Increase in Available Fund Balance	6.9 M	5.1 M	34.8%	45.1 M	36.4 M	24.0%	

Customer Load Statistics:



Total Accounts	282,423
Opt-Out Accounts (Month)	40
Opt-Out Accounts (FYTD)	245
Opt-Up Accounts (Month)	(11)
Opt-Up Accounts (FYTD)	(25)

Program Funds:

	Beginning Balance	End Balance	YTD Contributions	YTD Expenditures
General Program Fund	\$ 77,436,658	\$ 83,852,909	\$ 10,530,000	\$ 4,113,749
CRCR Fund*	\$ 5,437,984	\$ 8,870,419	\$ 5,370,000	\$ 1,937,565
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	\$ 8,439,107	\$ -	\$ 11,505,531

* 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 March 31, 2025

ASSETS

Current Assets

Cash & Cash Equivalents*	\$	275,548,221
Accounts Receivable, net of allowance		31,771,254
Investments		67,663,231
Accrued Revenue		22,404,793
Other Receivables		8,555,924
Prepaid Expenses		1,473,413
Deposits		733,380

Total Current Assets **408,150,216**

Noncurrent assets

Capital assets, net of depreciation		12,322,503
Investments**		205,269,710
Deposits		

Total Noncurrent Assets **217,592,213**

Total Assets **625,742,429**

LIABILITIES

Current Liabilities

Accounts Payable		1,398,316
Accrued Cost of Electricity		52,290,476
Other accrued liabilities		1,876,967
User Taxes and Energy Surcharges due to other gov'ts		1,334,431
Supplier security deposits		225,000
Lease liability		138,620

Total Current Liabilities **57,263,810**

Noncurrent Liabilities

Supplier security deposits		23,228,125

Total noncurrent liabilities **23,228,125**

Total Liabilities **80,491,935**

NET POSITION

Net investment in capital assets 12,183,883

Unrestricted (deficit) 533,066,611

Total Net Position **\$ 545,250,494**

* 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 March 31, 2025

OPERATING REVENUES

Electricity Sales, Net	\$ 226,446,573
GreenPrime electricity premium	1,146,473
Liquidated damages	<u>7,573,869</u>

TOTAL OPERATING REVENUES **235,166,915**

OPERATING EXPENSES

Cost of Electricity	167,259,737
Contract services	6,475,876
Staff compensation and benefits	7,395,808
Other operating expenses	4,160,165
Depreciation	<u>384,173</u>

TOTAL OPERATING EXPENSES **185,675,759**

OPERATING INCOME(LOSS) **49,491,156**

NONOPERATING REVENUES (EXPENSES)

Investment Income	10,567,244
Financing costs	<u>(4,780)</u>

TOTAL NONOPERATING REVENUES (EXPENSES) **10,562,464**

CHANGE IN NET POSITION

	60,053,620
Net Position at beginning of period	<u>485,196,874</u>
Net Position at end of period	<u>\$ 545,250,494</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS October 1, 2024 through March 31, 2025

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers	\$ 250,148,984
Receipts of liquidated damages	7,573,869
Receipts of security deposits	23,500,894
Payments of security deposits	(2,700,000)
Payments to suppliers for electricity	(185,023,220)
Payments for other goods and services	(11,858,327)
Payments for staff compensation and benefits	(7,003,484)
Tax and surcharge payments to other governments	(4,439,698)
Net cash provided (used) by operating activities	<u>70,199,018</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Finance costs paid	<u>(1,729)</u>
Net cash provided (used) by financing activities	<u>(1,729)</u>

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Payments of lease liability	(267,180)
Acquisition of capital assets	<u>(11,728,699)</u>
Net cash provided (used) by capital and related financing activities	<u>(11,995,879)</u>

CASH FLOWS FROM INVESTING ACTIVITIES

Purchase of investments	(134,961,662)
Proceeds from investment sales	80,838,871
Investment income received	<u>9,995,720</u>
Net cash provided (used) by investing activities	<u>(44,127,071)</u>

Net change in cash and cash equivalents	14,074,339
Cash and cash equivalents at beginning of year	<u>261,473,872</u>
Cash and cash equivalents at end of period	<u>\$ 275,548,211</u>

NONCASH INVESTING ACTIVITIES

Unrealized appreciation (depreciation) and timing differences in investment income	\$ 571,524

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)

October 1, 2024 through March 31, 2025

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

Operating Income (loss)	\$ 49,491,156
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	384,173
(Increase) decrease in accounts receivable	11,290,192
(Increase) decrease in other receivables	7,885,268
(Increase) decrease in accrued revenue	7,174,692
(Increase) decrease in prepaid expenses	(847,084)
(Increase) decrease in current deposits	35,419
Increase (decrease) in accounts payable	(371,749)
Increase (decrease) in accrued cost of electricity	(12,143,476)
Increase (decrease) in accrued liabilities	(129,679)
Increase (decrease) in taxes and surcharges due to other governments	(344,894)
Increase (decrease) in supplier security deposits	7,775,000
Net cash provided (used) by operating activities	<u>\$ 70,199,018</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY
BUDGETARY COMPARISON SCHEDULE
October 1, 2024 through March 31, 2025

\$244,429,377

	FYTD	FYTD	Variance		FY 2024-25	FY 2024-25
	Actual	Mid-Year Budget	\$	%	Mid-Year Budget	Remaining Budget
OPERATING REVENUES						
Energy Sales	\$226,439,391	\$244,429,377 *	-\$17,989,986	-7%	\$521,650,000 *	\$295,210,609
Green Prime Premium	1,146,473	646,931 *	\$499,542	77%	\$1,884,000 *	737,527
Other Income	7,581,051	*	7,581,051	n/a	*	(7,581,051)
TOTAL OPERATING REVENUES	235,166,915	245,076,308	(9,909,393)	-4%	523,534,000	288,367,085
ENERGY EXPENSES						
Power Supply	167,259,737	178,662,476	(11,402,739)	-6%	349,478,000	182,218,263
Operating Margin	67,907,178	66,413,832	1,493,346	2%	174,056,000	106,148,822
	29%	27%				
OPERATING EXPENSES						
Data Management	1,651,424	1,723,977	(72,553)	-4%	3,549,000	1,897,576
PG&E Fees	599,026	705,592	(106,566)	-15%	1,516,000	916,974
Salaries & Benefits	7,395,808	8,796,253	(1,400,445)	-16%	18,805,000	11,409,192
Professional Services	1,823,440	3,312,301	(1,488,861)	-45%	7,797,000	5,973,560
Marketing & Promotions	345,049	734,268	(389,219)	-53%	1,885,000	1,539,951
General & Administrative	1,802,857	2,520,253	(717,396)	-28%	5,733,000	3,930,143
TOTAL OPERATING EXPENSES	13,617,604	17,792,644	(4,175,040)	-23%	39,285,000	25,667,396
OPERATING INCOME/(LOSS)	54,289,574	48,621,188	5,668,386	12%	134,771,000	80,481,426
NON-OPERATING REVENUES						
Investment Income	10,567,244	9,174,316	1,392,928	15%	19,756,000	9,188,756
TOTAL NON-OPERATING REVENUES	10,567,244	9,174,316	1,392,928	15%	19,756,000	9,188,756
NON-OPERATING EXPENSES						
Financing	1,720	5,302	(3,582)	-68%	12,000	10,280
CAPITAL EXPENDITURES, TRANSFERS, & OTHER						
Capital Outlay	6,361	25,000	(18,639)	-75%	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	21,433,000	(1,677,654)	-8%	56,458,000	36,702,654
NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE	\$ 45,099,752	\$ 36,357,202	\$ 8,742,550	24%	\$98,057,000	\$52,957,248

* While the Total Operating Revenues were correctly modeled, the Mid-Year budget incorrectly included actual revenues from Oct-Dec 2024 of \$0.6 million from Green Prime Premium and \$2.8 million from Other Income in the Energy Sales category. The breakdown of the budgeted Total Operating Revenues among Energy Sales, Green Prime Premium, and Other Income is shown according to the approved Mid-Year budget.

**SILICON VALLEY CLEAN ENERGY AUTHORITY
GENERAL PROGRAM FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2024 through March 31, 2025**

REVENUE & OTHER SOURCES:	<u>BUDGET</u>	<u>ACTUAL</u>	<u>BUDGET REMAINING</u>	<u>ACTUAL/ BUDGET</u>
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	4,113,749	13,438,315	23.4%
Net increase (decrease) in fund balance	<u>\$ (7,022,064)</u>	<u>\$6,416,251</u>		
Fund balance at beginning of period		77,436,658		
Fund balance at end of period		<u>\$83,852,909</u>		

**CUSTOMER RELIEF & COMMUNITY RESILIENCY FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2024 through March 31, 2025**

REVENUE & OTHER SOURCES:	<u>BUDGET</u>	<u>ACTUAL</u>	<u>BUDGET REMAINING</u>	<u>ACTUAL/ BUDGET</u>
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	512,314	312,686	62.1%
Total Program expenditures	<u>5,236,000</u>	<u>1,937,565</u>	<u>3,298,435</u>	
Net increase (decrease) in fund balance	<u>\$ 134,000</u>	<u>3,432,435</u>		
Fund balance at beginning of period		5,437,984		
Fund balance at end of period		<u>\$8,870,419</u>		

**ELECTRIFICATION DISCOUNT FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2024 through March 31, 2025**

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>BUDGET REMAINING</u>	<u>ACTUAL/ BUDGET</u>
REVENUE & OTHER SOURCES:				
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	<u>\$ (850,000)</u>	<u>(233,764)</u>		
Fund balance at beginning of period		9,159,383		
Fund balance at end of period		<u>\$8,925,619</u>		

**BUILDING FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2024 through March 31, 2025**

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>BUDGET REMAINING</u>	<u>ACTUAL/ BUDGET</u>
REVENUE & OTHER SOURCES:				
Transfer from Operating Fund *			\$ -	n/a
EXPENDITURES & OTHER USES:				
Capital outlay	-	11,505,531	(11,505,531)	
Other program expenditures		<u>55,362</u>		
		11,560,893		
Net increase (decrease) in fund balance	<u>\$ -</u>	<u>(11,560,893)</u>		
Fund balance at beginning of period		20,000,000		
Fund balance at end of period		<u>\$8,439,107</u>		

**NUCLEAR AND HANFORD PROGRAM FUNDS
BUDGETARY COMPARISON SCHEDULE
October 1, 2024 through March 31, 2025**

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>BUDGET REMAINING</u>	<u>ACTUAL/ BUDGET</u>
REVENUE & OTHER SOURCES:				
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 March 31, 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	\$ 34,904,798							\$ 226,446,573
Green electricity premium	\$ 216,009	\$ 177,897	\$ 192,481	\$ 188,052	\$ 178,307	\$ 193,727							1,146,473
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	35,098,525	-	-	-	-	-	-	235,166,915
OPERATING EXPENSES													
Cost of electricity	29,690,455	\$ 23,435,665	\$ 24,597,864	\$ 30,250,162	\$ 31,366,058	\$ 27,919,533							167,259,737
Staff compensation and benefits	1,153,708	\$ 1,135,297	\$ 1,503,015	\$ 1,268,232	\$ 1,111,324	\$ 1,224,232							7,395,808
Data manager	270,465	\$ 270,551	\$ 270,449	\$ 271,060	\$ 271,407	\$ 297,492							1,651,424
Service fees - PG&E	100,000	\$ 96,085	\$ 104,098	\$ 99,430	\$ 99,450	\$ 99,963							599,026
Consultants and other professional fees	806,956	\$ 771,641	\$ 713,688	\$ 488,719	\$ 758,117	\$ 686,305							4,225,426
Other operating expenses	462,895	\$ 852,622	\$ 1,008,087	\$ 522,513	\$ 628,025	\$ 686,023							4,160,165
Depreciation	53,537	\$ 53,341	\$ 65,816	\$ 65,817	\$ 65,679	\$ 79,983							384,173
Total operating expenses	32,538,016	26,615,202	28,263,017	32,965,933	34,300,060	30,993,531	-	-	-	-	-	-	185,675,759
Operating income (loss)	12,350,254	10,034,269	12,373,513	4,450,792	6,177,334	4,104,994	-	-	-	-	-	-	49,491,156
NONOPERATING REVENUES (EXPENSES)													
Grant income	-	\$ -											-
Interest income	428,694	\$ 1,712,666	\$ 1,742,311	\$ 2,102,525	\$ 2,556,286	\$ 2,024,762							10,567,244
Financing costs	(701)	\$ (625)	\$ (549)	\$ (472)	\$ (2,125)	\$ (308)							(4,780)
Total nonoperating revenues (expenses)	427,993	1,712,041	1,741,762	2,102,053	2,554,161	2,024,454	-	-	-	-	-	-	10,562,464
CHANGE IN NET POSITION	\$ 12,778,247	\$ 11,746,310	\$ 14,115,275	\$ 6,552,845	\$ 8,731,495	\$ 6,129,448	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 60,053,620

**SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2024 through March 31, 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	\$ 42,937,816						
California Asset Management Program (CAMP)	\$ 206,767,899	\$ 229,607,825	\$ 216,507,939	\$ 249,409,396	\$ 240,227,528	\$ 233,113,584						
PFM Asset Management Investment Portfolio	\$ 281,807,003	\$ 270,469,593	\$ 271,357,416	\$ 273,147,693	\$ 276,597,488	\$ 275,221,074						
Total Ending Balance	\$ 521,938,658	\$ 528,639,108	\$ 536,751,338	\$ 546,351,364	\$ 543,874,204	\$ 551,272,475						

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%	4.39%						
California Asset Management Program (CAMP)	5.03%	4.87%	4.73%	4.55%	4.51%	4.47%						
PFM Asset Management Investment Portfolio *	4.45%	4.45%	4.45%	4.40%	4.33%	4.25%						
Average Return On Investments:	4.69%	4.64%	4.57%	4.47%	4.41%	4.35%						

* 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	\$ 21,676						
California Asset Management Program (CAMP)	\$ 908,552	\$ 839,926	\$ 900,114	\$ 901,457	\$ 818,132	\$ 886,056						
Other Interest Income	\$ 4,447	\$ 2,470	\$ 2,313	\$ 2,322	\$ 2,242	\$ 2,243						
PFM Asset Management Investment Portfolio *	\$ (498,690)	\$ 844,234	\$ 803,202	\$ 1,159,987	\$ 1,715,130	\$ 1,115,010						
Total Interest and Investment Gains	\$ 428,694	\$ 1,712,666	\$ 1,742,311	\$ 2,102,525	\$ 2,556,286	\$ 2,024,985						

* 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	\$ 21,676						
Camp Pool Composition (based on market value):	\$ 908,552	\$ 839,926	\$ 900,114	\$ 901,457	\$ 818,132	\$ 886,056						
Other Interest Income	\$ 4,447	\$ 2,470	\$ 2,313	\$ 2,322	\$ 2,242	\$ 2,020						
PFM Asset Management Investment Portfolio *	\$ 945,927	\$ 954,874	\$ 1,046,439	\$ 1,048,124	\$ 1,144,192	\$ 895,923						
Total Interest and Investment Gains	\$ 1,873,311	\$ 1,823,305	\$ 1,985,548	\$ 1,990,662	\$ 1,985,349	\$ 1,805,676						

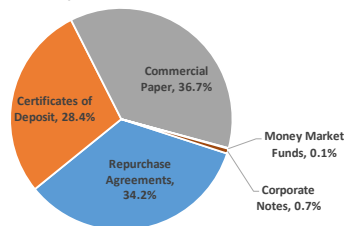
* Includes interest/dividends/coupons received, net realized gains/losses and monthly change in accrued interest.

CAMP Portfolio Statistics

As of March 31, 2025

Beginning of the Month Market Value	\$ 240,227,528
Ending of The Month Market Value	\$ 233,113,584
Monthly Distribution Yield	4.47%
Weighted Average Maturity (days)	48

Camp Pool Composition (based on market value)



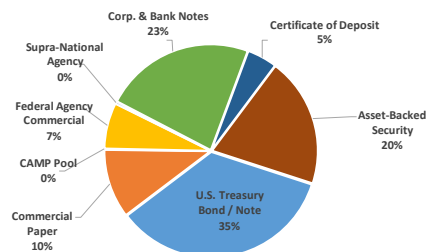
PFM Portfolio Statistics

As of March 31, 2025

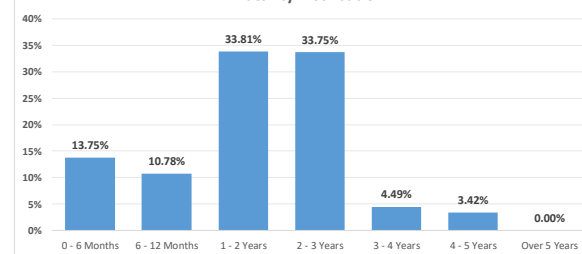
Portfolio Par Value	\$ 273,770,301
Portfolio Market Value (incl. Accrued Interest)	\$ 275,221,074
Yield to Maturity at Cost	4.57%
Yield to Maturity at Market	4.25%
Benchmark Yield*	3.96%
Portfolio Effective Duration (years)	1.34
Weighted Average Maturity (days)	662

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

SVCE PFM Portfolio Investments



Maturity Distribution



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	329.2							1,961
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	2,010
Load deviation from the Budget	0.0%	0.0%	0.0%	-6.1%	-8.7%	1.0%							-2.4%
Customer Participation Rate Res	96.1%	96.1%	96.2%	96.1%	96.2%	96.2%							
Customer Participation Rate Com	96.5%	96.5%	96.4%	96.5%	96.2%	96.4%							
Total Accounts	281,658	282,096	281,927	281,940	282,098	282,423							282,423
Opt-Out Accounts	41	25	31	66	42	40							245
Opt-Up Accounts	-7	17	-23	-9	8	-11							-25

Age Summary (as of 3/31/2025)

<30 days	\$29,049,613
<60 days	\$1,376,582
<90 days	\$869,690
<120 days	\$549,638
Older	\$3,363,143

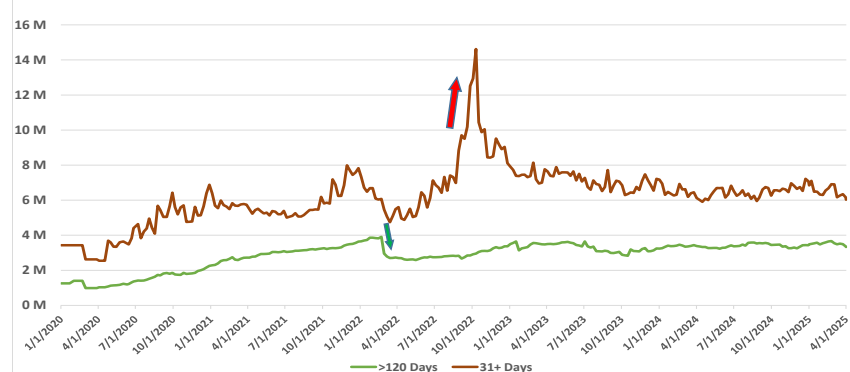
Accounts Receivable Days

25 Days

\$35,208,665

TOTAL DUE

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



	Date	Amount
High	11/29/2021	\$7.99M
Low	4/17/2020	\$2.54M
Current	7/31/2023	\$6.2 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.

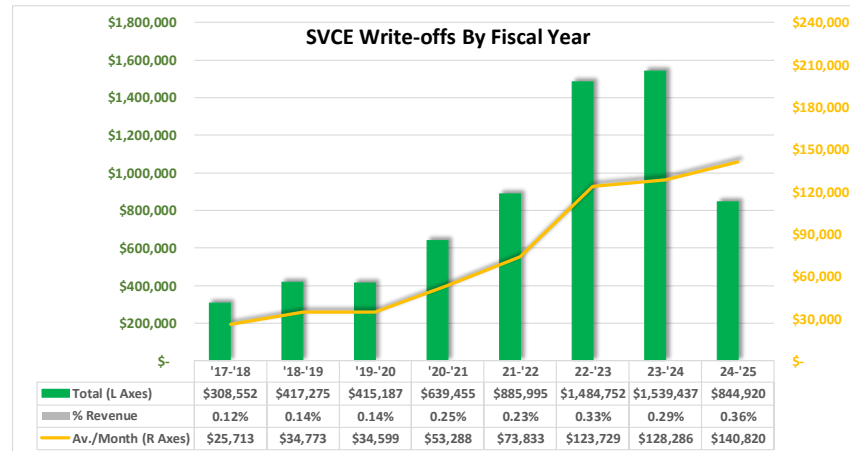
Bad Debt % (Budget)

0.75%

Bad Debt % (Actual)

March 2025 FYTD

0.36%



Silicon Valley Clean Energy

March 31, 2025

Certificate of Compliance

During the reporting period for the month ended March 31, 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 March 31, 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											
	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)			
	03/04/25	03/07/25	FHMS K076 A2 DTD 05/01/2018 3.900% 04/01/2028	3137FEZU7	1,200,000.00	(1,186,781.25)	(780.00)	(1,187,561.25)			
	03/04/25	03/12/25	HART 2025-A A3 DTD 03/12/2025 4.320% 10/15/2029	44935CAD3	1,695,000.00	(1,694,749.99)	0.00	(1,694,749.99)			
	03/05/25	03/10/25	FHMS K075 A2 DTD 04/01/2018 3.650% 02/01/2028	3137F4X72	1,250,000.00	(1,228,173.83)	(1,140.63)	(1,229,314.46)			
	03/05/25	03/10/25	FHMS K075 A2 DTD 04/01/2018 3.650% 02/01/2028	3137F4X72	225,000.00	(221,071.29)	(205.31)	(221,276.60)			
	03/05/25	03/12/25	MARS INC DTD 03/12/2025 4.450% 03/01/2027	571676AW5	480,000.00	(479,568.00)	0.00	(479,568.00)			
	03/06/25	03/14/25	COMMONWEALTH BK AUSTR NY DTD 03/14/2025 4.423% 03/14/2028	20271RAV2	390,000.00	(390,000.00)	0.00	(390,000.00)			
	03/10/25	03/24/25	ADVANCED MICRO DEVICES DTD 03/24/2025 4.212% 09/24/2026	007903BH9	1,835,000.00	(1,835,000.00)	0.00	(1,835,000.00)			
	03/17/25	03/21/25	BMW US CAPITAL LLC (CALLABLE) DTD 03/21/2025 4.650% 03/19/2027	05565ECU7	570,000.00	(569,572.50)	0.00	(569,572.50)			
	03/18/25	03/25/25	FORDO 2025-A A2A DTD 03/25/2025 4.470% 12/15/2027	34535KAB4	2,080,000.00	(2,079,876.86)	0.00	(2,079,876.86)			
	03/18/25	03/25/25	VALET 2025-1 A2A DTD 03/25/2025 4.510% 01/20/2028	92868MAB5	1,800,000.00	(1,799,943.12)	0.00	(1,799,943.12)			
	03/25/25	03/26/25	ALPHABET INC (CALLABLE) DTD 08/09/2016 1.998% 08/15/2026	02079KAC1	2,000,000.00	(1,939,300.00)	(4,551.00)	(1,943,851.00)			
	03/25/25	03/31/25	VZMT 2025-3 A1A DTD 03/31/2025 4.510% 03/20/2030	92348KDY6	1,510,000.00	(1,509,935.07)	0.00	(1,509,935.07)			
	03/26/25	04/01/25	MERCEDES-BENZ FIN NA DTD 04/01/2025 4.650% 04/01/2027	58769JBC0	1,000,000.00	(999,400.00)	0.00	(999,400.00)			
Transaction Type Sub-Total					18,535,000.00	(18,411,011.60)	(6,976.94)	(18,417,988.54)			

INTEREST

PFM Asset Management, a division of
U.S. Bancorp Asset Management, Inc.

Account 4025-002 Page 42


Managed Account Security Transactions & Interest

 For the Month Ending **March 31, 2025**

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

Transaction Type		Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L	Realized G/L	Sale
Trade	Settle							Cost	Amort Cost	Method
INTEREST										
03/01/25	03/25/25	FNA 2024-M6 A2	3136BTGM9		0.00	4,853.97	4,853.97			
		DTD 11/01/2024 2.912% 07/01/2027								
03/01/25	03/25/25	FHMS K733 A2	3137FJXQ7		0.00	1,665.70	1,665.70			
		DTD 11/01/2018 3.750% 08/01/2025								
03/01/25	03/25/25	FHMS KJ28 A2	3137FREE7		0.00	3,198.75	3,198.75			
		DTD 02/01/2020 2.308% 10/01/2027								
03/01/25	03/25/25	FHMS K739 A2	3137F64P9		0.00	2,672.00	2,672.00			
		DTD 11/01/2020 1.336% 09/01/2027								
03/01/25	03/25/25	FHMS K068 A2	3137FBBX3		0.00	2,297.83	2,297.83			
		DTD 10/01/2017 3.244% 08/01/2027								
03/01/25	03/25/25	FHMS K057 A2	3137BRQJ7		0.00	2,516.46	2,516.46			
		DTD 09/01/2016 2.570% 07/01/2026								
03/01/25	03/25/25	FHMS K054 A2	3137BNGT5		0.00	2,374.31	2,374.31			
		DTD 04/01/2016 2.745% 01/01/2026								
03/01/25	03/25/25	FNA 2015-M11 A2	3136APSZ6		0.00	597.36	597.36			
		DTD 07/01/2015 2.961% 04/01/2025								
03/01/25	03/25/25	FHMS K058 A1	3137BSP64		0.00	594.26	594.26			
		DTD 11/01/2016 2.340% 07/01/2026								
03/01/25	03/25/25	FHMS K065 A1	3137F1G36		0.00	1,135.69	1,135.69			
		DTD 07/01/2017 2.864% 10/01/2026								
03/01/25	03/25/25	FHMS K069 A2	3137FBU79		0.00	1,968.55	1,968.55			
		DTD 11/01/2017 3.187% 09/01/2027								
03/01/25	03/25/25	FHMS K736 A2	3137FNWX4		0.00	1,417.46	1,417.46			
		DTD 09/01/2019 2.282% 07/01/2026								
03/01/25	03/25/25	FHMS K737 A2	3137FOXJ7		0.00	2,209.37	2,209.37			
		DTD 01/01/2020 2.525% 10/01/2026								
03/01/25	03/25/25	FHMS K063 A2	3137BVZ82		0.00	6,359.79	6,359.79			
		DTD 03/01/2017 3.430% 01/01/2027								
03/01/25	03/25/25	FHMS K059 A2	3137BSRE5		0.00	1,820.00	1,820.00			
		DTD 11/01/2016 3.120% 09/01/2026								
03/04/25	03/04/25	AMERICAN EXPRESS CO (CALLABLE)	025816CS6		0.00	19,125.00	19,125.00			
		DTD 03/04/2022 2.550% 03/04/2027								
03/08/25	03/08/25	JOHN DEERE CAPITAL CORP	24422EXC8		0.00	11,262.50	11,262.50			
		DTD 09/08/2023 5.300% 09/08/2025								



Managed Account Security Transactions & Interest

For the Month Ending March 31, 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											
	03/11/25	03/11/25	TOYOTA MOTOR CREDIT CORP DTD 09/11/2023 5.600% 09/11/2025	89236TKZ7		0.00	15,400.00	15,400.00			
	03/12/25	03/12/25	COMMONWEALTH BK AUSTRIAN DTD 09/12/2023 5.499% 09/12/2025	20271RAS9		0.00	21,996.00	21,996.00			
	03/12/25	03/12/25	AMERICAN HONDA FINANCE DTD 03/13/2024 4.900% 03/12/2027	02665WFD8		0.00	7,472.50	7,472.50			
	03/15/25	03/15/25	TAOT 2024-B A2A DTD 04/30/2024 5.410% 03/15/2027	89237NAB3		0.00	1,860.35	1,860.35			
	03/15/25	03/15/25	WFCIT 2024-A1 A DTD 03/01/2024 4.940% 02/15/2029	92970QAA3		0.00	3,807.92	3,807.92			
	03/15/25	03/15/25	ALLYA 2024-2 A3 DTD 09/27/2024 4.140% 07/16/2029	02007NAC2		0.00	2,277.00	2,277.00			
	03/15/25	03/15/25	US TREASURY N/B DTD 03/15/2024 4.250% 03/15/2027	91282CKE0		0.00	106,250.00	106,250.00			
	03/15/25	03/15/25	BACCT 2023-A2 A2 DTD 12/14/2023 4.980% 11/15/2028	05522RDH8		0.00	1,473.25	1,473.25			
	03/15/25	03/15/25	TAOT 2024-C A2A DTD 07/30/2024 5.160% 05/17/2027	89237QAB6		0.00	1,294.01	1,294.01			
	03/15/25	03/15/25	CARMX 2022-2 A3 DTD 04/28/2022 3.490% 02/16/2027	14317HAC5		0.00	698.18	698.18			
	03/15/25	03/15/25	WOART 2024-C A2A DTD 08/20/2024 4.780% 01/18/2028	98164NAB1		0.00	3,736.94	3,736.94			
	03/15/25	03/15/25	TAOT 2025-A A2A DTD 01/29/2025 4.480% 11/15/2027	89240JAB7		0.00	6,608.00	6,608.00			
	03/15/25	03/15/25	FORDO 2024-C A2A DTD 09/20/2024 4.320% 08/15/2027	34532UAB5		0.00	2,322.00	2,322.00			
	03/15/25	03/15/25	FORDO 2024-A A2A DTD 03/19/2024 5.320% 01/15/2027	34535EAB8		0.00	1,144.38	1,144.38			
	03/15/25	03/15/25	CHAIT 2024-A1 A DTD 01/31/2024 4.600% 01/16/2029	161571HV9		0.00	2,664.17	2,664.17			
	03/15/25	03/15/25	FORDO 2024-D A2A DTD 11/22/2024 4.590% 10/15/2027	34535VAB0		0.00	1,969.88	1,969.88			
	03/15/25	03/15/25	COPAR 2024-1 A2A DTD 11/26/2024 4.610% 10/15/2027	14043NAB5		0.00	1,536.67	1,536.67			


Managed Account Security Transactions & Interest
For the Month Ending **March 31, 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											
	03/15/25	03/15/25	US TREASURY N/B DTD 09/15/2023 4.625% 09/15/2026	91282CHY0		0.00	69,375.00	69,375.00			
	03/15/25	03/15/25	NAROT 2024-A A2A DTD 05/22/2024 5.470% 12/15/2026	65479UAB4		0.00	2,378.93	2,378.93			
	03/15/25	03/15/25	WFCIT 2024-A2 A DTD 10/24/2024 4.290% 10/15/2029	92970QAE5		0.00	2,341.63	2,341.63			
	03/15/25	03/15/25	KCOT 2025-1A A2 DTD 02/19/2025 4.610% 12/15/2027	50117FAB7		0.00	2,114.20	2,114.20			
	03/15/25	03/15/25	DCENT 2023-A1 A DTD 04/11/2023 4.310% 03/15/2028	254683CY9		0.00	4,669.17	4,669.17			
	03/15/25	03/15/25	BAAT 2024-1A A3 DTD 05/22/2024 5.350% 11/15/2028	09709AAC6		0.00	557.29	557.29			
	03/15/25	03/15/25	FORDO 2023-C A3 DTD 11/21/2023 5.530% 09/15/2028	344940AD3		0.00	1,566.83	1,566.83			
	03/15/25	03/15/25	WOART 2024-B A2A DTD 05/22/2024 5.480% 09/15/2027	98164HAB4		0.00	1,298.74	1,298.74			
	03/15/25	03/15/25	TAOT 2024-D A2A DTD 10/17/2024 4.550% 08/16/2027	89239TAB8		0.00	2,312.92	2,312.92			
	03/15/25	03/15/25	HART 2024-C A2A DTD 10/16/2024 4.530% 09/15/2027	448976AB6		0.00	3,340.88	3,340.88			
	03/15/25	03/15/25	US TREASURY N/B DTD 09/16/2024 3.375% 09/15/2027	91282CLL3		0.00	33,750.00	33,750.00			
	03/15/25	03/15/25	NAROT 2024-B A2A DTD 10/23/2024 4.510% 06/15/2027	65479WAB0		0.00	3,965.04	3,965.04			
	03/15/25	03/15/25	BAAT 2023-2A A3 DTD 11/21/2023 5.740% 06/15/2028	06054YAC1		0.00	4,018.00	4,018.00			
	03/15/25	03/15/25	HAROT 2024-4 A2 DTD 10/24/2024 4.560% 03/15/2027	43816DAB1		0.00	5,966.00	5,966.00			
	03/15/25	03/15/25	KCOT 2024-1A A2 DTD 02/21/2024 5.390% 01/15/2027	50117BAB6		0.00	2,793.50	2,793.50			
	03/15/25	03/15/25	HDMOT 2023-B A3 DTD 09/27/2023 5.690% 08/15/2028	41285YAC9		0.00	4,433.46	4,433.46			
	03/15/25	03/15/25	HAROT 2024-1 A2 DTD 02/21/2024 5.360% 09/15/2026	437918AB1		0.00	2,688.91	2,688.91			


Managed Account Security Transactions & Interest
For the Month Ending **March 31, 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											
	03/15/25	03/15/25	US TREASURY N/B DTD 03/15/2023 4.625% 03/15/2026	91282CGR6		0.00	34,687.50	34,687.50			
	03/15/25	03/15/25	TAOT 2023-D A3 DTD 11/14/2023 5.540% 08/15/2028	89239FAD4		0.00	1,108.00	1,108.00			
	03/15/25	03/15/25	COPAR 2023-2 A2A DTD 10/11/2023 5.910% 10/15/2026	14044EAB4		0.00	1,538.69	1,538.69			
	03/15/25	03/15/25	COMET 2024-A1 A DTD 09/24/2024 3.920% 09/15/2029	14041NGE5		0.00	4,736.67	4,736.67			
	03/15/25	03/15/25	HART 2024-B A2A DTD 07/24/2024 5.150% 06/15/2027	44934QAB7		0.00	2,183.80	2,183.80			
	03/15/25	03/15/25	CHAIT 2023-A1 A DTD 09/15/2023 5.160% 09/15/2028	161571HT4		0.00	3,461.50	3,461.50			
	03/15/25	03/15/25	AMXCA 2024-1 A DTD 04/23/2024 5.230% 04/16/2029	02582JKH2		0.00	3,116.21	3,116.21			
	03/15/25	03/15/25	ALLYA 2024-1 A3 DTD 03/13/2024 5.080% 12/15/2028	02008FAC8		0.00	1,629.83	1,629.83			
	03/15/25	03/15/25	TAOT 2024-A A3 DTD 01/30/2024 4.830% 10/16/2028	89238DAD0		0.00	1,348.38	1,348.38			
	03/15/25	03/15/25	AMXCA 2025-1 A DTD 02/11/2025 4.560% 12/17/2029	02582JKM1		0.00	6,955.27	6,955.27			
	03/15/25	03/15/25	MBART 2023-2 A2 DTD 10/25/2023 5.920% 11/16/2026	58769FAB1		0.00	408.89	408.89			
	03/15/25	03/15/25	NAROT 2023-B A2A DTD 10/25/2023 5.950% 05/15/2026	65480MAB9		0.00	1,460.86	1,460.86			
	03/15/25	03/15/25	WOART 2025-A A2A DTD 01/29/2025 4.490% 04/17/2028	98164YAB7		0.00	4,302.92	4,302.92			
	03/15/25	03/15/25	ALLYA 2023-1 A3 DTD 07/19/2023 5.460% 05/15/2028	02007WAC2		0.00	2,275.00	2,275.00			
	03/15/25	03/15/25	HART 2022-C A3 DTD 11/09/2022 5.390% 06/15/2027	44933DAD3		0.00	1,642.76	1,642.76			
	03/15/25	03/15/25	BACCT 2024-A1 A DTD 06/13/2024 4.930% 05/15/2029	05522RDJ4		0.00	4,231.58	4,231.58			
	03/15/25	03/15/25	HART 2023-C A2A DTD 11/13/2023 5.800% 01/15/2027	44918CAB8		0.00	1,202.27	1,202.27			



Managed Account Security Transactions & Interest

For the Month Ending **March 31, 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											
	03/15/25	03/15/25	FORDO 2024-B A2A DTD 06/24/2024 5.400% 04/15/2027	34531QAB5		0.00	6,454.59	6,454.59			
	03/15/25	03/15/25	WOART 2024-A A2A DTD 02/14/2024 5.050% 04/15/2027	98164RAB2		0.00	744.37	744.37			
	03/15/25	03/15/25	WOART 2023-D A2A DTD 11/08/2023 5.910% 02/16/2027	98164DAB3		0.00	613.95	613.95			
	03/15/25	03/15/25	USAOT 2024-A A2 DTD 07/30/2024 5.250% 03/15/2027	90327VAB4		0.00	4,407.73	4,407.73			
	03/15/25	03/15/25	MBART 2025-1 A2A DTD 01/23/2025 4.500% 02/15/2028	58773DAB0		0.00	7,593.75	7,593.75			
	03/15/25	03/15/25	AMXCA 2023-3 A DTD 09/19/2023 5.230% 09/15/2028	02582JKD1		0.00	3,595.62	3,595.62			
	03/15/25	03/15/25	KCOT 2024-2A A2 DTD 06/25/2024 5.450% 04/15/2027	50117DAB2		0.00	1,362.50	1,362.50			
	03/16/25	03/16/25	GMCAR 2024-3 A2A DTD 07/10/2024 5.350% 06/16/2027	38013KAB6		0.00	2,713.11	2,713.11			
	03/16/25	03/16/25	GMCAR 2023-4 A3 DTD 10/11/2023 5.780% 08/16/2028	379930AD2		0.00	2,263.83	2,263.83			
	03/16/25	03/16/25	GMCAR 2025-1 A2A DTD 01/15/2025 4.440% 01/18/2028	362955AB2		0.00	5,383.50	5,383.50			
	03/16/25	03/16/25	GMCAR 2024-2 A2A DTD 04/10/2024 5.330% 03/16/2027	379931AB4		0.00	715.97	715.97			
	03/16/25	03/16/25	GMCAR 2024-1 A3 DTD 01/17/2024 4.850% 12/18/2028	36268GAD7		0.00	444.58	444.58			
	03/16/25	03/16/25	GMCAR 2024-4 A2A DTD 10/16/2024 4.530% 10/18/2027	38014AAB7		0.00	2,472.63	2,472.63			
	03/16/25	03/16/25	NATIONAL RURAL UTIL COOP (CALLABLE) DTD 09/16/2024 4.120% 09/16/2027	63743HFT4		0.00	9,682.00	9,682.00			
	03/18/25	03/18/25	AUST & NZ BANKING GRP NY DTD 03/18/2024 5.000% 03/18/2026	05253JB26		0.00	21,500.00	21,500.00			
	03/18/25	03/18/25	STATE STREET CORP (CALLABLE) DTD 03/18/2024 4.993% 03/18/2027	857477CL5		0.00	12,732.15	12,732.15			



Managed Account Security Transactions & Interest

For the Month Ending March 31, 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											
	03/20/25	03/20/25	VALET 2023-2 A2A DTD 11/21/2023 5.720% 03/22/2027	92867YAB0		0.00	1,109.28	1,109.28			
	03/20/25	03/20/25	VALET 2024-1 A2A DTD 11/26/2024 4.650% 11/22/2027	92868RAB4		0.00	5,134.38	5,134.38			
	03/21/25	03/21/25	HAROT 2023-4 A3 DTD 11/08/2023 5.670% 06/21/2028	438123AC5		0.00	921.38	921.38			
	03/21/25	03/21/25	HAROT 2024-3 A2 DTD 08/21/2024 4.890% 02/22/2027	43813YAB8		0.00	3,341.50	3,341.50			
	03/21/25	03/21/25	HAROT 2025-1 A2 DTD 02/11/2025 4.530% 08/23/2027	43814VAB3		0.00	13,590.00	13,590.00			
	03/22/25	03/22/25	PFAST 2023-2A A2A DTD 11/10/2023 5.880% 11/23/2026	732916AB7		0.00	184.59	184.59			
	03/22/25	03/22/25	PFAST 2024-1A A2A DTD 12/13/2024 4.450% 01/24/2028	73328EAB7		0.00	2,484.58	2,484.58			
	03/25/25	03/25/25	CHAOT 2024-5A A2 DTD 09/24/2024 4.400% 11/26/2027	16144QAB1		0.00	1,063.77	1,063.77			
	03/25/25	03/25/25	CHAOT 2024-2A A2 DTD 04/25/2024 5.660% 05/26/2027	16144CAB2		0.00	1,808.93	1,808.93			
	03/25/25	03/25/25	CHAOT 2024-4A A2 DTD 07/30/2024 5.250% 09/27/2027	16144YAB4		0.00	1,849.79	1,849.79			
	03/25/25	03/25/25	CHAOT 2024-1A A2 DTD 03/27/2024 5.480% 04/26/2027	16144BAB4		0.00	431.29	431.29			
	03/25/25	03/25/25	BMWOT 2025-A A2A DTD 02/12/2025 4.430% 10/25/2027	096924AB1		0.00	4,894.53	4,894.53			
	03/25/25	03/25/25	CHAOT 2024-3A A2 DTD 06/27/2024 5.530% 09/27/2027	16144LAB2		0.00	2,773.96	2,773.96			
	03/25/25	03/25/25	BMWOT 2024-A A3 DTD 06/11/2024 5.180% 02/26/2029	096919AD7		0.00	3,086.42	3,086.42			
	03/29/25	03/29/25	CITIBANK NA (CALLABLE) DTD 09/29/2023 5.864% 09/29/2025	17325FBA5		0.00	11,141.60	11,141.60			
	03/30/25	03/30/25	HOME DEPOT INC (CALLABLE) DTD 12/04/2023 4.950% 09/30/2026	437076CV2		0.00	5,816.25	5,816.25			
	03/30/25	03/30/25	AUST & NZ BANKING GRP NY DTD 09/30/2024 3.919% 09/30/2027	05253JB42		0.00	8,523.83	8,523.83			

PFM Asset Management, a division of
U.S. Bancorp Asset Management, Inc.

Account 4025-002 Page 48


Managed Account Security Transactions & Interest

 For the Month Ending **March 31, 2025**

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

Transaction Type		Security Description	CUSIP	Par	Principal	Accrued	Total	Realized G/L	Realized G/L	Sale
Trade	Settle				Proceeds	Interest		Cost	Amort Cost	Method
INTEREST										
03/31/25	03/31/25	US TREASURY N/B DTD 04/01/2024 4.500% 03/31/2026	91282CKH3		0.00	202,500.00	202,500.00			
03/31/25	03/31/25	HORMEL FOODS CORP (CALLABLE) DTD 03/08/2024 4.800% 03/30/2027	440452AK6		0.00	5,760.00	5,760.00			
03/31/25	03/31/25	US TREASURY N/B DTD 09/30/2024 3.500% 09/30/2026	91282CLP4		0.00	122,500.00	122,500.00			
Transaction Type Sub-Total					0.00	954,037.24	954,037.24			
PAYDOWNS										
03/01/25	03/25/25	FHMS KJ28 A2 DTD 02/01/2020 2.308% 10/01/2027	3137FREE7	2,439.86	2,439.86	0.00	2,439.86	89.87	87.62	
03/01/25	03/25/25	FHMS K736 A2 DTD 09/01/2019 2.282% 07/01/2026	3137FNWX4	69,823.67	69,823.67	0.00	69,823.67	5,037.67	2,528.87	
03/01/25	03/25/25	FNA 2015-M11 A2 DTD 07/01/2015 2.961% 04/01/2025	3136APSZ6	100,929.98	100,929.98	0.00	100,929.98	3,946.52	448.45	
03/01/25	03/25/25	FHMS K733 A2 DTD 11/01/2018 3.750% 08/01/2025	3137FJXQ7	48,688.67	48,688.67	0.00	48,688.67	1,601.40	419.01	
03/01/25	03/25/25	FHMS K065 A1 DTD 07/01/2017 2.864% 10/01/2026	3137F1G36	26,997.18	26,997.18	0.00	26,997.18	1,165.30	664.53	
03/01/25	03/25/25	FHMS K058 A1 DTD 11/01/2016 2.340% 07/01/2026	3137BSP64	16,158.33	16,158.33	0.00	16,158.33	828.12	399.78	
03/01/25	03/25/25	FHMS K054 A2 DTD 04/01/2016 2.745% 01/01/2026	3137BNGT5	2,337.45	2,337.45	0.00	2,337.45	118.24	48.37	
03/01/25	03/25/25	FHMS K069 A2 DTD 11/01/2017 3.187% 09/01/2027	3137FBU79	1,453.85	1,453.85	0.00	1,453.85	70.31	56.32	
03/15/25	03/15/25	KCOT 2024-1A A2 DTD 02/21/2024 5.390% 01/15/2027	50117BAB6	50,733.17	50,733.17	0.00	50,733.17	0.67	0.35	
03/15/25	03/15/25	WOART 2023-D A2A DTD 11/08/2023 5.910% 02/16/2027	98164DAB3	21,648.96	21,648.96	0.00	21,648.96	1.82	1.09	
03/15/25	03/15/25	HART 2024-B A2A DTD 07/24/2024 5.150% 06/15/2027	44934OAB7	39,130.92	39,130.92	0.00	39,130.92	1.58	1.24	
03/15/25	03/15/25	WOART 2024-B A2A DTD 05/22/2024 5.480% 09/15/2027	98164HAB4	33,439.34	33,439.34	0.00	33,439.34	3.36	2.57	


Managed Account Security Transactions & Interest

 For the Month Ending **March 31, 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											
	03/15/25	03/15/25	HAROT 2024-1 A2 DTD 02/21/2024 5.360% 09/15/2026	437918AB1	89,409.65	89,409.65	0.00	89,409.65	8.25	4.89	
	03/15/25	03/15/25	NAROT 2024-A A2A DTD 05/22/2024 5.470% 12/15/2026	65479UAB4	54,825.80	54,825.80	0.00	54,825.80	0.57	0.36	
	03/15/25	03/15/25	FORDO 2024-A A2A DTD 03/19/2024 5.320% 01/15/2027	34535EAB8	28,889.17	28,889.17	0.00	28,889.17	1.02	0.66	
	03/15/25	03/15/25	MBART 2023-2 A2 DTD 10/25/2023 5.920% 11/16/2026	58769FAB1	18,584.98	18,584.98	0.00	18,584.98	0.83	0.47	
	03/15/25	03/15/25	CARMX 2022-2 A3 DTD 04/28/2022 3.490% 02/16/2027	14317HAC5	27,769.50	27,769.50	0.00	27,769.50	721.36	399.73	
	03/15/25	03/15/25	TAOT 2024-B A2A DTD 04/30/2024 5.410% 03/15/2027	89237NAB3	43,964.05	43,964.05	0.00	43,964.05	3.16	2.25	
	03/15/25	03/15/25	TAOT 2024-D A2A DTD 10/17/2024 4.550% 08/16/2027	89239TAB8	656.11	656.11	0.00	656.11	0.04	0.03	
	03/15/25	03/15/25	WOART 2024-C A2A DTD 08/20/2024 4.780% 01/18/2028	98164NAB1	73,555.04	73,555.04	0.00	73,555.04	1.56	1.17	
	03/15/25	03/15/25	FORDO 2024-B A2A DTD 06/24/2024 5.400% 04/15/2027	34531QAB5	121,853.84	121,853.84	0.00	121,853.84	9.11	6.71	
	03/15/25	03/15/25	USAOT 2024-A A2 DTD 07/30/2024 5.250% 03/15/2027	90327VAB4	111,469.61	111,469.61	0.00	111,469.61	7.21	5.49	
	03/15/25	03/15/25	COPAR 2023-2 A2A DTD 10/11/2023 5.910% 10/15/2026	14044EAB4	62,984.68	62,984.68	0.00	62,984.68	5.56	3.04	
	03/15/25	03/15/25	HART 2023-C A2A DTD 11/13/2023 5.800% 01/15/2027	44918CAB8	38,229.39	38,229.39	0.00	38,229.39	1.79	1.06	
	03/15/25	03/15/25	HART 2022-C A3 DTD 11/09/2022 5.390% 06/15/2027	44933DAD3	30,610.67	30,610.67	0.00	30,610.67	235.56	145.76	
	03/15/25	03/15/25	TAOT 2024-C A2A DTD 07/30/2024 5.160% 05/17/2027	89237QAB6	25,958.76	25,958.76	0.00	25,958.76	0.25	0.16	
	03/15/25	03/15/25	WOART 2024-A A2A DTD 02/14/2024 5.050% 04/15/2027	98164RAB2	24,283.26	24,283.26	0.00	24,283.26	1.90	1.25	
	03/15/25	03/15/25	NAROT 2023-B A2A DTD 10/25/2023 5.950% 05/15/2026	65480MAB9	68,301.04	68,301.04	0.00	68,301.04	1.01	0.46	
	03/16/25	03/16/25	GMCAR 2024-2 A2A DTD 04/10/2024 5.330% 03/16/2027	379931AB4	19,281.43	19,281.43	0.00	19,281.43	1.28	0.88	



Managed Account Security Transactions & Interest

For the Month Ending March 31, 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											
	03/16/25	03/16/25	GMCAR 2024-3 A2A DTD 07/10/2024 5.350% 06/16/2027	38013KAB6	58,190.19	58,190.19	0.00	58,190.19	0.14	0.00	
	03/20/25	03/20/25	VALET 2023-2 A2A DTD 11/21/2023 5.720% 03/22/2027	92867YAB0	26,934.69	26,934.69	0.00	26,934.69	1.57	0.97	
	03/21/25	03/21/25	HAROT 2024-3 A2 DTD 08/21/2024 4.890% 02/22/2027	43813YAB8	24,858.88	24,858.88	0.00	24,858.88	1.95	1.50	
	03/22/25	03/22/25	PFAST 2023-2A A2A DTD 11/10/2023 5.880% 11/23/2026	732916AB7	37,670.62	37,670.62	0.00	37,670.62	1.16	0.66	
	03/22/25	03/22/25	PFAST 2024-1A A2A DTD 12/13/2024 4.450% 01/24/2028	73328EAB7	23,548.96	23,548.96	0.00	23,548.96	2.01	1.82	
	03/25/25	03/25/25	CHAOT 2024-5A A2 DTD 09/24/2024 4.400% 11/26/2027	16144QAB1	22,524.24	22,524.24	0.00	22,524.24	2.00	1.70	
	03/25/25	03/25/25	CHAOT 2024-4A A2 DTD 07/30/2024 5.250% 09/27/2027	16144YAB4	39,360.22	39,360.22	0.00	39,360.22	3.68	2.95	
	03/25/25	03/25/25	CHAOT 2024-2A A2 DTD 04/25/2024 5.660% 05/26/2027	16144CAB2	48,622.27	48,622.27	0.00	48,622.27	1.76	1.76	
	03/25/25	03/25/25	CHAOT 2024-3A A2 DTD 06/27/2024 5.530% 09/27/2027	16144LAB2	59,725.20	59,725.20	0.00	59,725.20	0.51	0.28	
	03/25/25	03/25/25	CHAOT 2024-1A A2 DTD 03/27/2024 5.480% 04/26/2027	16144BAB4	13,590.95	13,590.95	0.00	13,590.95	1.14	0.77	
Transaction Type Sub-Total					1,609,434.58	1,609,434.58	0.00	1,609,434.58	13,881.24	5,244.98	
SELL											
	03/05/25	03/10/25	US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026	91282CJV4	500,000.00	500,527.34	2,230.66	502,758.00	605.47	583.34	FIFO
	03/10/25	03/12/25	US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026	91282CJV4	1,050,000.00	1,051,394.53	4,930.94	1,056,325.47	1,558.59	1,511.42	FIFO
	03/14/25	03/14/25	US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026	91282CJV4	150,000.00	150,158.20	739.64	150,897.84	181.64	174.80	FIFO
	03/19/25	03/20/25	BANK OF AMERICA NA (CALLABLE) DTD 08/18/2023 5.650% 08/18/2025	06428CAC8	850,000.00	853,349.00	4,268.89	857,617.89	2,320.50	3,167.86	FIFO
	03/19/25	03/20/25	US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026	91282CJV4	3,750,000.00	3,752,050.78	21,132.60	3,773,183.38	2,636.72	2,458.00	FIFO


Managed Account Security Transactions & Interest

 For the Month Ending **March 31, 2025**

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

Transaction Type		Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L	Realized G/L	Sale Method
Trade	Settle							Cost	Amort Cost	
SELL										
03/25/25	03/26/25	US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026	91282CJV4	2,000,000.00	2,001,171.88	12,679.56	2,013,851.44	1,484.38	1,384.96	FIFO
03/28/25	03/31/25	US TREASURY N/B DTD 01/31/2024 4.250% 01/31/2026	91282CJV4	725,000.00	725,679.69	5,021.93	730,701.62	792.97	755.69	FIFO
03/28/25	03/31/25	US TREASURY N/B DTD 02/15/2023 4.000% 02/15/2026	91282CGL9	250,000.00	249,707.03	1,215.47	250,922.50	4,658.20	1,488.79	FIFO
03/28/25	04/01/25	US TREASURY N/B DTD 02/15/2023 4.000% 02/15/2026	91282CGL9	1,000,000.00	998,828.13	4,972.38	1,003,800.51	18,632.82	5,932.95	FIFO
Transaction Type Sub-Total				10,275,000.00	10,282,866.58	57,192.07	10,340,058.65	32,871.29	17,457.81	
Managed Account Sub-Total					(6,518,710.44)	1,004,252.37	(5,514,458.07)	46,752.53	22,702.79	
Total Security Transactions					(6,518,710.44)	\$1,004,252.37	(\$5,514,458.07)	\$46,752.53	\$22,702.79	

Bolded items are forward settling trades.



Staff Report – Item 1c

Item 1c: Adopt Resolution Amending SVCE Conflict of Interest Code to Remove and Retitle Decarbonization Programs & Policy Positions and Add Senior Regulatory Analyst & Associate General Counsel and Senior Data Engineer as Designated Positions for Filing Statements of Economic Interests

From: Monica Padilla, CEO

Prepared by: Gia Ilole, Director of Human Resources
 Michael Callahan, General Counsel
 Andrea Pizano, Sr. Executive Assistant and Board Clerk

Date: 5/14/2025

RECOMMENDATION

Adopt Resolution 2025-10 amending the Silicon Valley Clean Energy (SVCE) Conflict of Interest Code (Code) to add Senior Regulatory Analyst & Associate General Counsel and Senior Data Engineer, change the titles of Senior Manager, Manager, and Associate Manager of Decarbonization Programs & Policy to only reflect programs, and remove Deputy Director of Decarbonization Programs & Policy and Director of Decarbonization Programs & Policy in SVCE's list of designated positions for filing.

BACKGROUND

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

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

The last Code amendment was approved at the December 2024 Board of Directors meeting to add the following positions: Director of Customer Success, Director of Decarbonization Policy and Community Strategies, and Power Settlements Planner.

ANALYSIS & DISCUSSION

With the latest round of promotions, Senior Regulatory Analyst Adam Pearse was promoted to Senior Regulatory Analyst & Associate General Counsel, and Sangeetha Kumar was promoted to Senior Data Engineer. Both of these positions are new, and will need to be added to SVCE's Conflict of Interest Code. The Senior Regulatory & Associate General Counsel role works closely with SVCE's General Counsel with respect to legal issues for SVCE, and the Senior Data Engineer works within the Finance and Administration team to lead the design, implementation and management of an optimized and reliable overarching data architecture for SVCE's business functions to support achieving our decarbonization mission.

Agenda Item: 1c**Agenda Date: 5/14/2025**

The organizational realignment that occurred last year created two groups that were previously joined (formerly known as the Decarbonization Programs and Policy team). Since this group has been repurposed, staff is proposing to remove the previous titles held by the Director and Deputy Director of this group, and change the titles of manager and senior level to only reflect their work on programs.

In summary, SVCE staff feel the following positions should be added, removed or have title changes:

The following position is proposed to be added to the Conflict of Interest Code:

Designated Position	Assigned Disclosure Category
Senior Regulatory Analyst & Associate General Counsel	1
Senior Data Engineer	2

The following positions are proposed to be removed from the Conflict of Interest Code:

Existing Designated Position – Recommending Removal
Deputy Director of Decarbonization Programs & Policy
Director of Decarbonization Programs & Policy

The following position titles are proposed to be changed in the Conflict of Interest Code:

Existing Designated Position	Proposed New Position
Associate Manager of Decarbonization Programs & Policy	Associate Manager of Decarbonization Programs
Manager of Decarbonization Programs & Policy	Manager of Decarbonization Programs
Senior Manager of Decarbonization Programs & Policy	Senior Manager of Decarbonization Programs

In accordance with the requirements of the Political Reform Act and the County of Santa Clara, a new conflict of interest code must be adopted by resolution which includes the newly created or identified positions as well as any changes to the existing Conflict of Interest Code. The attached resolution amends Appendix A to SVCE's Code to reflect the addition of Senior Regulatory Analyst & Associate General Counsel, change of title of Senior Manager, Manager, and Associate Manager of Decarbonization Programs & Policy to reflect only Decarbonization Programs, and the removal of the Director and Deputy Director of Decarbonization Programs & Policy titles.

STRATEGIC PLAN

Not applicable.

ALTERNATIVES

None.

FISCAL IMPACT

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

ATTACHMENT

1. Resolution 2025-10 Amending the Authority's Conflict of Interest Code to Remove and Retitle Decarbonization Programs & Policy Positions and Add Senior Regulatory Analyst & Associate General Counsel and Senior Data Engineer as Designated Positions for Filing Statements of Economic Interests

RESOLUTION NO. 2025-10

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE AUTHORITY'S CONFLICT OF INTEREST CODE TO REMOVE AND RETITLE DECARBONATION PROGRAMS & POLICY POSITIONS AND ADD SENIOR REGULATORY ANALYST & ASSOCIATE GENERAL COUNSEL AND SENIOR DATA ENGINEER AS DESIGNATED POSITIONS FOR FILING STATEMENTS OF ECONOMIC INTERESTS

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

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

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

WHEREAS, the Board of Directors of the Authority has adopted a conflict of interest code, and has amended this code as appropriate due to changed circumstances, with the most recent code adopted by Resolution 2024-15; and

WHEREAS, the Board of Directors, after consultation with the County of Santa Clara as its code reviewing body, desires to amend the list of designated positions in Appendix A by removing Director of Decarbonization Programs & Policy and Deputy Director of Decarbonization Programs & Policy; retitling Senior Manager, Manager, and Associate Manager of Decarbonization Programs & Policy to reflect only Decarbonization Programs, and adding Senior Regulatory Analyst & Associate General Counsel and Senior Data Engineer.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Authority rescinds Resolution No. 2024-15 and adopts the following attached Conflict of Interest Code including its Appendices of Designated Positions and Disclosure Categories.

BE IT FURTHER RESOLVED that The Board of Directors of the Authority hereby directs the Secretary of the Board to coordinate the preparation of a revised Conflict of Interest Code in succeeding even-numbered years following notice and instructions from the County of Santa Clara as the code-reviewing body for the Authority, in accordance with the requirements of Government Code Sections 87306 and 87306.5. Future revisions to the Conflict of Interest Code should reflect changes in employee or official designations. If no revisions to the Code are required, the Authority shall submit a response as indicated in the instructions provided by the County of Santa Clara no later

than October 1st of the same year, stating that amendments to the Authority's Conflict of Interest Code are not required.

ADOPTED AND APPROVED this 14th day of May 2025, by the following vote:

JURISDICTION	NAME	AYE	NO	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	Alternate Director Ristow				
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

ATTEST:

Clerk

SILICON VALLEY CLEAN ENERGY AUTHORITY CONFLICT OF INTEREST CODE

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

The most current version of 2 Cal. Code of Regs. Section 18730 is available on the website of the Fair Political Practices Commission (<https://www.fppc.ca.gov>).

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

SILICON VALLEY CLEAN ENERGY AUTHORITY CONFLICT OF INTEREST CODE

APPENDIX "A"

DESIGNATED POSITIONS

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Member of Board of Directors	1
Alternate Member of Board of Directors	1
Audit Committee Member	2
Chief Executive Officer	1
Chief Financial Officer & Director of Administrative Services	1
Finance and Administration Committee Member	2
General Counsel	1
Administrative Services Manager	2
Associate Legislative Analyst	2
Associate Manager of Decarbonization Programs & Policy	2
Associate Power Analyst	1
Associate Power Resources Planner	1
Communications Manager	2
Deputy Director of Administrative Services	2
Deputy Director of Marketing and Communications	2
~~Deputy Director of Decarbonization Programs & Policy~~	~~2~~
Deputy Director of Power Resources	1
Director of Customer Success	2
Director of Decarbonization Policy and Community Strategies	2
~~Director of Decarbonization Programs & Policy~~	~~2~~

Director of Energy Services & Community Relations	2
Director of Government and Legislative Affairs	2
Director of Human Resources	2
Director of Power Resources	1
Director of Regulatory & Legislative Policy	2
Director of Regulatory, Policy and Planning	2
Director of Risk Management and Analytics	1
Director of Strategic Development	2
Energy Services Manager	2
Energy Trading Planner	1
Financial Analyst	2
Human Resources Generalist	2
Management Analyst	2
Manager of Data and Analytics	2
Manager of Decarbonization Programs & Policy	2
Manager of Finance	2
Manager of Technology & Administrative Services	2
Policy Analyst	2
Power Analyst	1
Power Data Analyst	1
Power Resources Manager	1
Power Resources Planner	1
Power Contracts & Settlements Manager	1
Power Settlements & Compliance Analyst	1
Power Settlements Planner	1
Principal Policy Analyst	2

Principal Power Analyst	1
Programs Marketing Manager	2
Rates Manager	2
Regulatory Analyst	2
Regulatory and Compliance Manager	2
Risk Controls Project Manager	2
Senior Data Analyst	2
Senior Data Engineer	2
Senior Financial Analyst	2
Senior Government Affairs Manager	2
Senior Management Analyst	2
Senior Manager of Communications	2
Senior Manager of Energy Policy and Regulatory Analysis	2
Senior Manager of IT and Administrative Services	2
Senior Manager of Decarbonization Programs & Policy	2
Senior Manager of Power Resources	1
Senior Manager of Public Sector Services	2
Senior Policy Analyst	2
Senior Power Analyst	1
Senior Power Resources Planner	1
Senior Quantitative Analyst	2
Senior Rates Analyst	2
Senior Regulatory Analyst	2
Senior Regulatory Analyst & Associate General Counsel	1
Senior Risk Manager	2
Technology Services Manager	2

Wholesale Energy Markets Manager	1
Wholesale Energy Markets Planner	1
Consultant	3
Newly Created Position	*

* Newly Created Position

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

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

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

SILICON VALLEY CLEAN ENERGY AUTHORITY CONFLICT OF INTEREST CODE

APPENDIX "B"

DISCLOSURE CATEGORIES

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

Category 1: Persons in this category shall disclose:

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

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

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

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

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

consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's written determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

DRAFT



Staff Report – Item 1d

Item 1d: Approve Real Time Pricing Rate Structure for Compliance

From: Monica Padilla, CEO

Prepared by: Citlalli Sandoval, Senior Regulatory Advisor

Date: 5/14/2025

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) approve the proposed real time pricing (RTP) rate structure.

EXECUTIVE COMMITTEE RECOMMENDATION

At the April 22, 2025 Executive Committee meeting, staff presented on the proposed real time pricing rate structure and recommended that the Executive Committee support the recommendation for the Board to approve the real time pricing rate structure; the presentation provided to the Executive Committee can be seen in Attachment 1. The Executive Committee unanimously voted to support staff's recommendation and include the item on the Consent Calendar for the May 14, 2025 Board of Directors meeting.

BACKGROUND

SVCE's Board of Directors ("Board") is the governing board responsible for setting SVCE rates. The California Energy Commission ("CEC") adopted Load Management Standards ("LMS" or "Standards") to promote electricity demand flexibility through either dynamic rates or through programs that respond to a dynamic rate signal. These standards require load serving entities in California, such as Silicon Valley Clean Energy (SVCE), to "apply" to their rate approving body for approval of at least one marginal cost-based rate ("real time pricing rate") for the customer classes for which the rate approving body (i.e., the SVCE Board) determines such a rate will materially reduce peak load by July 1, 2025.¹

This requirement is part of a series of requirements included in the Load Management Standards, the first of which was the submission of a Load Management Standards Compliance Plan that describes how load serving entities plan to meet the goals of the Load Management Standards through the development of real time pricing rates or public programs structured to respond to a real time rate signal.² The SVCE Board of Directors adopted SVCE's first Load Management Standards Plan on March 13, 2024, which stated that SVCE planned to participate in a real time pricing pilot program and gather learnings to inform its offerings. SVCE is now participating in this pilot ("Hourly Flex Pricing pilot"), which is currently ongoing. Ultimately, the Load Management Standards require customers to be offered voluntary participation in either a real time rate or a cost-effective program that automates response to real time prices by July 1, 2027.

¹ California Code of Regulations Title 20 § 1623.1(b)(2).

² The goals of the Load Management Standards are to: 1) encourage the use of electrical energy during off-peak hours; 2) control daily and seasonal peak loads; 3) improve equity, efficiency, and reliability; 4) lessen/delay need for new electrical capacity; 5) reduce fossil fuel consumption and 6) reduce greenhouse gas emissions.

Agenda Item: 1d**Agenda Date: 5/14/2025**

Further, SVCE is actively testing other real time rate designs to compare against the Hourly Flex Pricing pilot methodology. This includes the ChargeWise pilot happening through SVCE's GridShift app to automatically optimize EV charging against an hourly rate signal. These efforts are intended to help SVCE understand the value of various rate approaches to modify customer usage patterns in a cost-effective way. Both the Hourly Flex Pricing pilot and the ChargeWise pilot may continue to evolve as results are gathered and analyzed, and SVCE may explore new approaches to incentivize customers to shift their electricity usage.

The requirement to seek approval of a real time pricing rate two years before the rate is required to be offered presents challenges because learnings from the real time rate pilots have not yet been concluded. For this reason, SVCE requests approval of a preliminary real time pricing rate structure whose ultimate implementation is conditioned upon an analysis that evaluates the learnings from SVCE's participation in the Hourly Flex Pricing pilot and other SVCE-led rate efforts. Staff is therefore seeking Board approval of a preliminary rate structure whose implementation depends on the results from ongoing pilots and any regulatory changes that may occur between now and 2027. Staff will bring an update and implementation recommendation to the Board with final rate details and costs prior to July 1, 2027 as outlined below.

ANALYSIS & DISCUSSION

Under the California Code of Regulations Title 20 § 1623.1(b)(2), the Load Management Standards allow Large CCAs to apply for approval of marginal cost-based rates that are offered by the investor owned utility in a CCA's territory. The investor owned utility for SVCE is Pacific Gas and Electric Company ("PG&E"). PG&E, as an investor owned utility, was required to apply to its rate approving body, the California Public Utilities Commission ("CPUC"), for approval of at least one marginal cost-based rate by January 1, 2025. PG&E submitted its application as part of the 2023 General Rate Case Phase II. It applied for approval of a real time pricing rate proposal that mirrors the rate used in the CPUC's Hourly Flex Pricing pilots.

On November 13, 2024, the SVCE Board approved SVCE's participation in the CPUC's Hourly Flex Pricing pilots, which are administered by PG&E. Given SVCE's participation in the Hourly Flex Pricing pilots, staff is seeking approval of the marginal cost based rate structure proposal submitted by PG&E in the 2023 General Rate Case Phase II subject to change based on data gathered from the Hourly Flex Pricing pilots, SVCE-led rate efforts, and a post-pilot analysis.

The Hourly Flex Pricing pilots are pilots that are expected to operate from the end of 2024 through 2027, unless extended by the CPUC. SVCE's other real time rate efforts have varying end-dates but will be active during parts of this period as well.

Having pilot data incorporated into an analysis, instead of basing one on theoretical assumptions, is key to the development of a marginal cost-based rate that effectively meets the Load Management Standards' goals. SVCE will not have sufficient data and results from various ongoing efforts until after the upcoming July 1, 2025 date by which it must seek approval for a marginal cost-based rate. This is because of delays to the implementation of the CPUC's Hourly Flex Pricing pilots – pilots that are critical to a statewide understanding of real time pricing and likely the underpinning for how PG&E will implement its real time rates.

SVCE will evaluate how its customers respond to pilot efforts and conduct an analysis that uses impact data to determine which customer class will materially reduce peak load when enrolled in a marginal cost-based rate as well as which kind of rate designs and implementations hold the most promise. Based on the results of this analysis, SVCE will inform the Board of any updates to real time pricing rate structure and the customer classes, if any, that it recommends the rate be offered to in 2027.

Components of the Real Time Pricing Rate

The Real Time Pricing Rate proposed by PG&E in the 2023 General Rate Case Phase II contains the same rate components of the Hourly Flex Pricing pilots. These components are as follows:

Agenda Item: 1d**Agenda Date: 5/14/2025**

- 1) A generation component that collects Marginal Energy Costs ("MEC") equal to hourly forecasts of day-ahead energy prices in dollars per megawatt-hour or ¢/kWh at the PG&E Default Load Aggregation Point and the Marginal Generation Capacity Cost ("MGCC") annual value which will be determined in PG&E's General Rate Case Phase II application. SVCE will be able to modify the generation component and is working with PG&E to determine options for customizing the generation component along with the frequency with which adjustments could be made.
- 2) A distribution component that collects primary distribution capacity costs. The hourly distribution component prices will vary depending on the location of the customer and will be determined using a scarcity pricing concept. Prices will be dependent on the forecasted load on a representative circuit with similar load characteristics as the customer's circuit.
- 3) A transmission rate equal to the transmission rate the customer currently pays.³
- 4) A subscription component that collects revenue equal to a customer's Otherwise Applicable Tariff ("OAT"), i.e., the time-of-use rate they would have normally been billed, applied to a predefined, customer-specific load profile based on the customer's previous usage. The subscription component will help protect the customer from bill volatility because they will be subscribed and billed for their typical load profile using their OAT. Their usage above or below their typical load profile is what will be either billed or credited at the real time pricing rate.

As a generation-only service provider, the only rate component SVCE will have the option to alter is the generation component. The specifics for how the generation component may be altered by SVCE are still under consideration and will be shaped by the results of the abovementioned pilots and SVCE's analysis of impacts. Additionally, some customizations to the generation component depend on PG&E's billing system capabilities, which are currently undergoing an update expected to be completed by 2030. Furthermore, PG&E has shared that customizations that vary greatly from the fundamental generation component structure used by PG&E will incur additional implementation costs for which SVCE would be responsible. SVCE is evaluating all options and will determine the best approach for the generation component for its customers prior to any rate offering being made available in 2027.

STRATEGIC PLAN

Staff's recommendation supports SVCE's Strategic Plan Goal 3, "Create a long-term decarbonization plan that integrates supply and demand changes, opportunities, and challenges", Measure 2, "Advance understanding of load flexibility and distributed energy resources (DERs) portfolio and customer value".

ALTERNATIVE

If the July 1, 2025 requirement to seek approval of a rate is not met, SVCE would not be compliant with the Load Management Standards, which may result in the Executive Director of the California Energy Commission filing a formal complaint with the California Energy Commission or seeking injunctive relief. However, by presenting this Staff Report seeking approval of a rate to the Board, staff has met the requirement to "seek approval."

The July 1, 2025 requirement to seek approval of a rate does not require the Board to approve implementation of the rate because the SVCE Board has ultimate ratemaking authority over SVCE's rates. The SVCE Board could reject the rate, order modifications, or order alternative paths be utilized to meet the Load Management Standards requirement to offer customers voluntary participation in either a real time rate or a cost-effective program that automates response to real time prices prior to July 1, 2027.

³ This will change based on PG&E's plan to apply to FERC at the end of 2026 for an hourly transmission rate. PG&E has not yet determined what its proposal will be and is conducting research to develop the FERC application. Ultimately, the transmission rate that will be implemented will be the rate that FERC approves.

Agenda Item: 1d**Agenda Date: 5/14/2025**

FISCAL IMPACT

There is no fiscal impact because this is an approval of a rate structure, whose implementation depends on further analysis.

ATTACHMENT

1. Presentation provided to the Executive Committee on 4/22/25

Recommend Board Approve a Preliminary Real Time Pricing (RTP) Rate Structure

SVCE Executive Committee Meeting
April 2025



Purpose of Presentation & Agenda

Request:

For the Executive Committee to recommend that the Board approve a preliminary real time pricing rate structure.

Agenda:

1. Background on LMS requirement
2. RTP rate structure
3. Role of subscription component
4. Staff recommendation



Background – Load Management Standards (LMS)

LMS compliance requires a real time pricing (RTP) rate or program option for customers in 2027

LMS Compliance Milestones:



Today's Ask:

- This is a regulatory compliance action, allowing SVCE to meet Load Management Standards requirements for a RTP offering
- Staff will bring an implementation recommendation to the Board with final details and costs prior to 2027

SVCE is learning about customer response to hourly signals:

- HFP pilots

Same model as proposed rate structure discussed today

- ChargeWise

Just the hourly price signal, automated

- Seeking approval from Board for RTP rate
- SVCE can seek approval of RTP offered by PG&E
- Staff will present updates to Board prior to offering to customers based on:
 - ✓ Learnings from ongoing pilots
 - ✓ Regulatory changes between now and 2027



RTP rate structure is intended to better align prices with grid costs

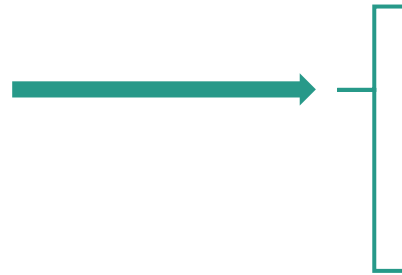
Proposed PG&E Rate Structure

RTP means hourly (or shorter) time intervals with price made up of:

1. **Generation* (SVCE's only portion of RTP)**

2. Distribution

3. Transmission



Cost to procure one additional **MWh** of energy at that time

+

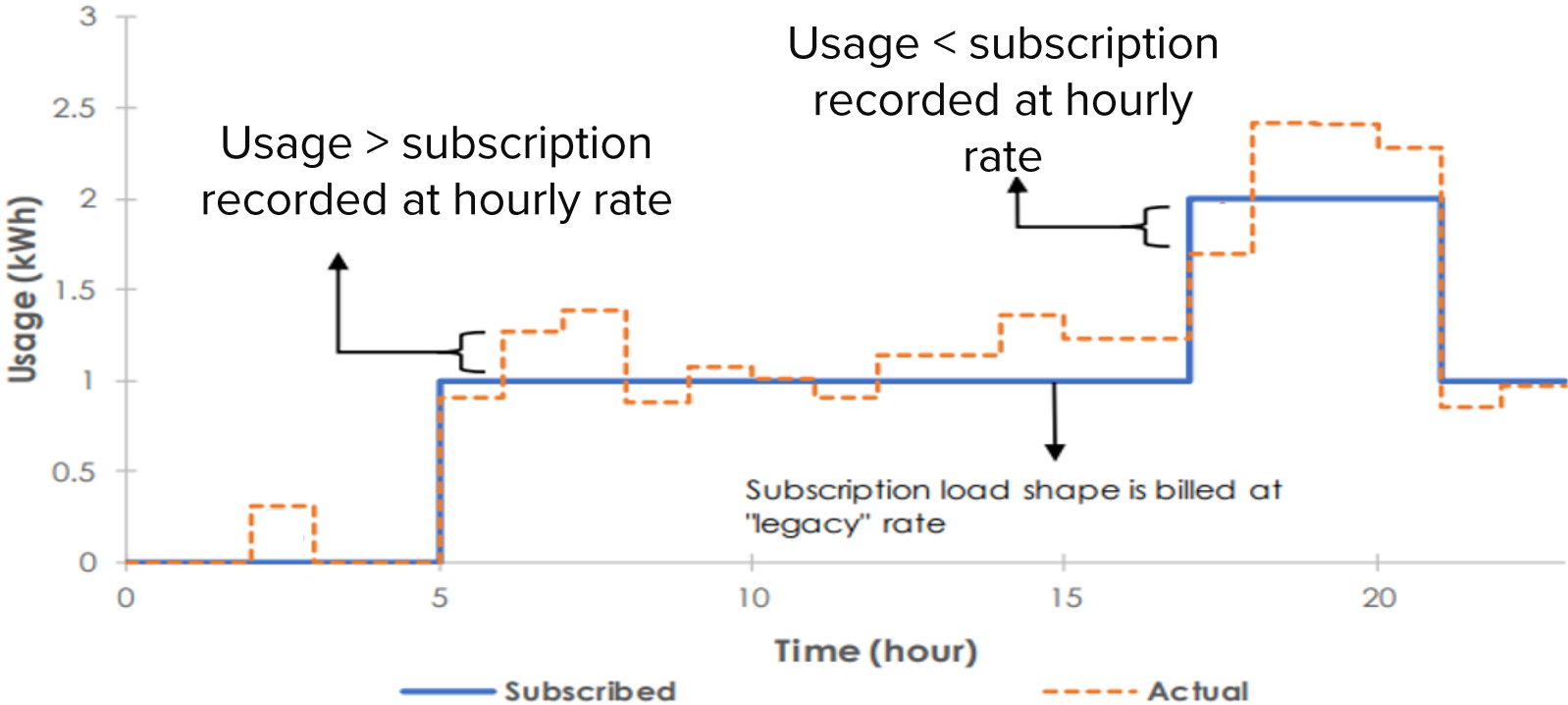
Cost to procure one additional **MW** of peak capacity at that time

* SVCE will be able to customize. Level of customization will be explored in coming year and depends on PG&E billing system capabilities and learnings from RTP pilots.



Subscription Design to Protect Customers

PG&E subscription proposal is similar to HFP pilot.



Protects customer from bill volatility by using a “subscription” model. (Good!)

Using the subscription model, the customer pays for their usage at their TOU rate, +/- the difference between their usage and historical load at the RTP price.



Staff Recommendation

Have Executive Committee recommend that the Board

- Approve preliminary RTP rate, based on PG&E's rate proposal at the May 14 BOD meeting
- Expectation that rate will be updated by staff based on learnings from ongoing pilots, regulatory changes

Staff will bring an update and implementation recommendation to the Board with final details and costs prior to 2027.

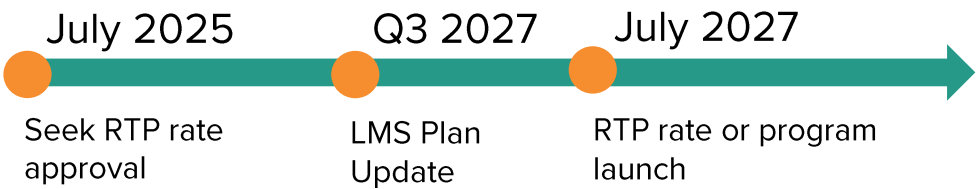
Appendix





Current Real Time Pricing Activities in Preparation for 2027

Implementation of the RTP rate is conditioned upon SVCE’s evaluation of pilot learnings.

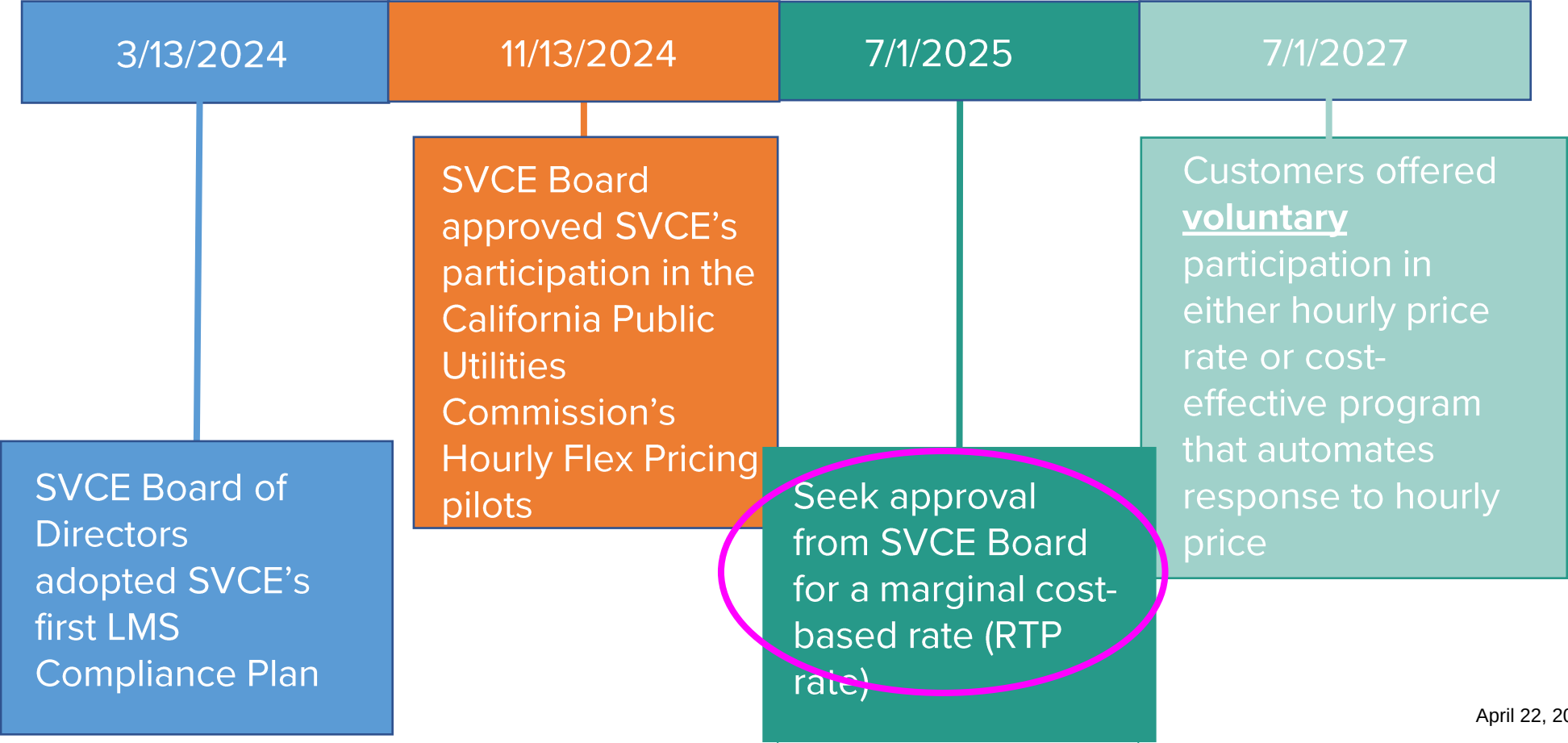


Name	Description	Pilot Start	Mid-term Evaluation	Final Evaluation
Hourly Flex Pricing (HFP or RTP Pilot)	Hourly pricing signal incentive mechanism (credit or charge) based on usage subscription.	Q1 2025	Q3 2026	Q1 2028
ChargeWise – Phase 1	Active managed EV charging based on hourly pricing signals.	Q4 2024	N/A	Q4 2025



LMS Requirements & Past SVCE Actions

The LMS Requirements culminate in customers having the option to sign-up for a RTP rate or a program that automates their response to a RTP signal in 2027.



SVCE will review its LMS Compliance Plan every 3 years and will update its approach to RTP rates in the Plan based on pilot learnings.



What are Marginal Cost-Based Rates?

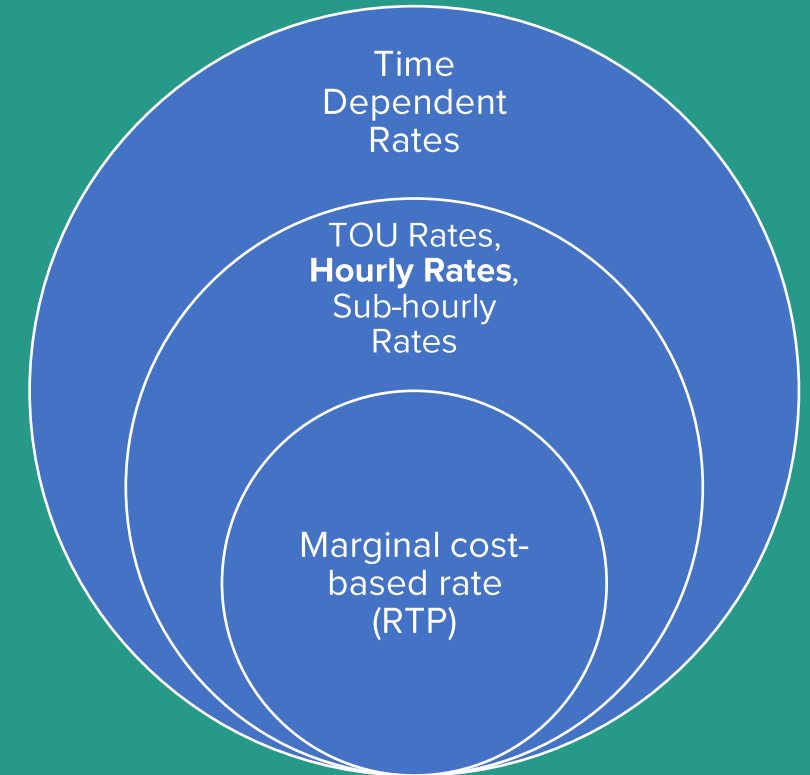
Marginal cost-based rates (RTP) = a rate that accounts for the

- ✓ marginal energy cost
- ✓ marginal capacity cost

for generation, transmission, and distribution services; and

- ✓ any other appropriate time and location dependent marginal costs

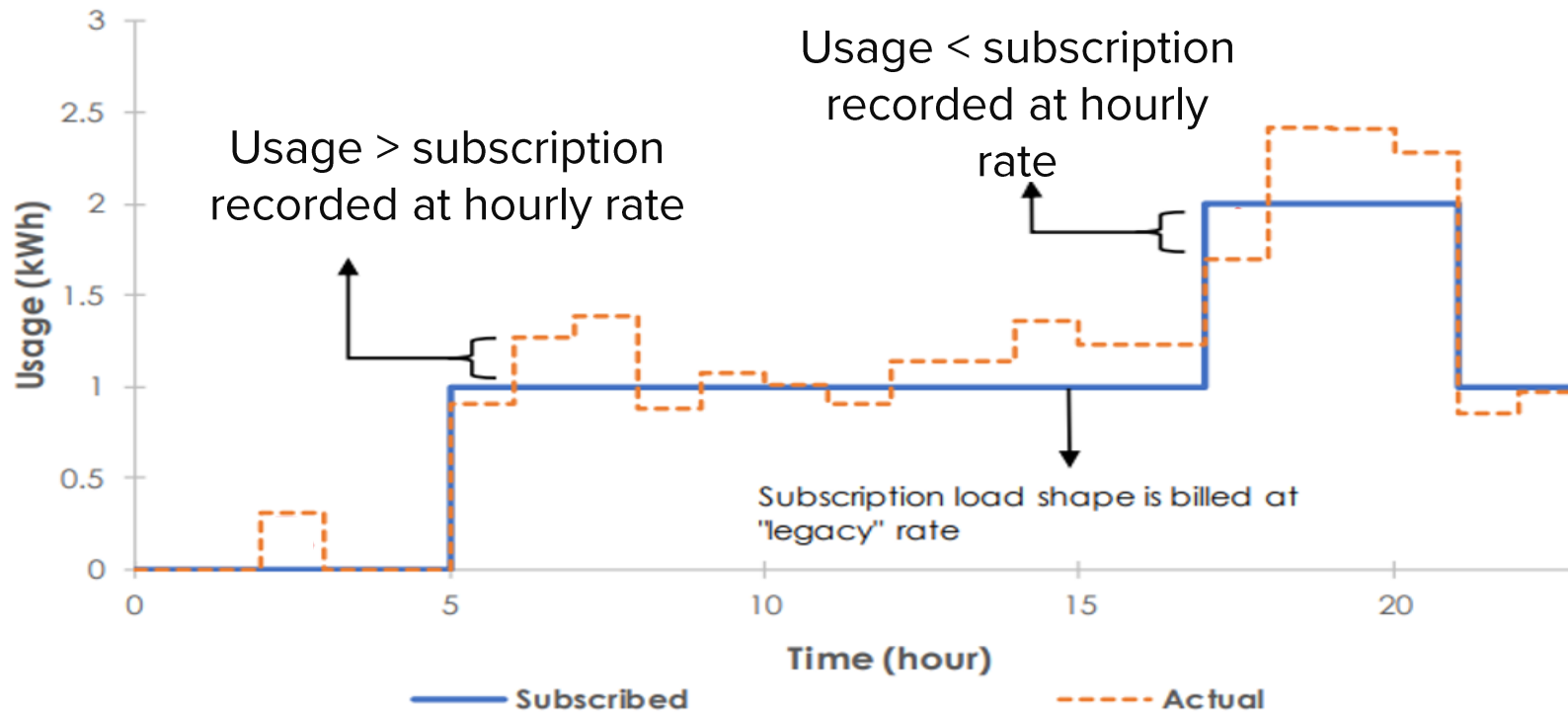
on a time interval of no more than one hour (hence the oft used term “hourly rates” or “real time pricing”).





Subscription Component

Protects the customer from bill volatility because they will be “subscribed”, i.e., billed for their typical load profile using their legacy rate (regular TOU rate).



- **Subscription based on 12 months of previous usage**
- **Scaled to match actual usage**
- **Allows for revenue neutrality**



SVCE's Role in Defining the Generation Component

*Customizations beyond the basic structure of the PG&E generation rate design will need to be funded directly by SVCE



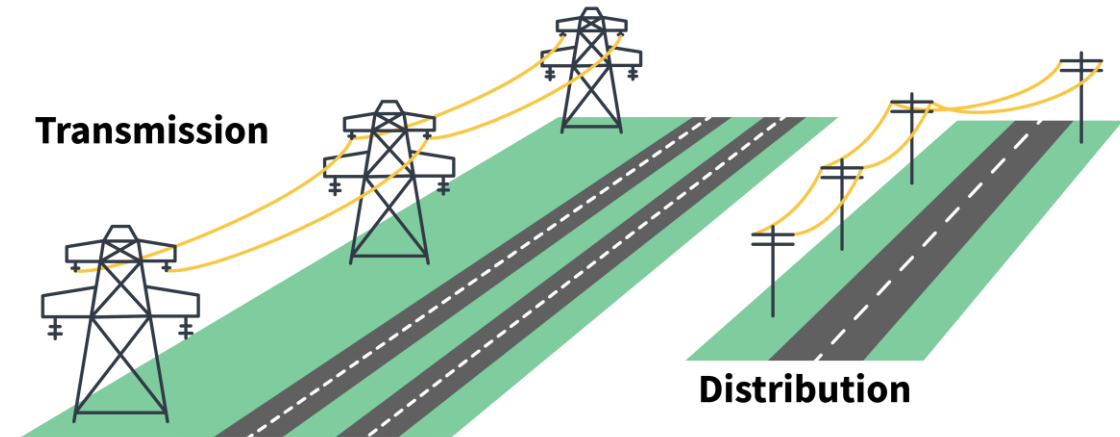
- Basic Customization:
 - SVCE will have the option to customize the MEC/MGCC by amending the hourly PG&E rate
- Fully Customized:*
- SVCE could also choose to develop a different generation marginal price and calculate its unbundled customer's generation component separately from PG&E's structure
- Exact details of how this will work are not yet known but SVCE will evaluate the options as more information becomes available between now and 2027



Transmission & Distribution Components

As a generation-only service provider, SVCE is not involved in the development of these components.

- A marginal transmission component must be approved by FERC. PG&E will seek approval of a marginal transmission component in Q3 of 2026
 - Until FERC approval is gained, the transmission component will equal the transmission rate the customer currently pays
- A distribution component will be location-specific and based on the forecasted hourly load of a representative circuit with a similar load profile to the customer's circuit
 - All circuits will collect the same average revenue





Difference Between RTP Pilot and RTP Rate

Full RTP implementation depends on PG&E's billing modernization effort (Q4 2029)

RTP Pilot

- Shadow-billed RTP rate with hourly generation and distribution prices
- Customers in RTP pilot pay the lower of their otherwise applicable rate or RTP shadow bill on a 12-month cumulative basis

RTP Rate

- Customers will be shadow-billed until PG&E's billing system can integrate RTP
- After that, bill protection in the form of customers paying the lower of their otherwise applicable rate or RTP shadow bill will only be provided to new residential customers for 1 year



Staff Report – Item 1e

Item 1e: Authorize the Chief Executive Officer to Execute a Three-Year Agreement with Strategic Energy Innovations to Host Climate Corps Fellows for the 2025-2028 Fellowship Cycles for a Not To Exceed Amount of \$750,000

From: Monica Padilla, CEO

Prepared by: Gia Ilole, Director of Human Resources

Date: 5/14/2025

RECOMMENDATION

Authorize Silicon Valley Clean Energy's (SVCE) Chief Executive Officer (CEO) to execute a three-year agreement with Strategic Energy Innovations (Attachment 1) and make any nonfinancial amendments, and agree to other related documents for Climate Corps Fellowship hosting services for an amount not-to-exceed \$750,000 for services starting September 1, 2025 through June 30, 2028.

BACKGROUND

The Strategic Energy Innovations (SEI) Climate Corps Fellowship ("fellows") program is a bridge-to-career fellowship program that recruits and places rising climate professionals with local governments, non-profits, educational institutions, and for-profit partners to implement sustainability and resiliency projects. SVCE was first introduced the Climate Corps fellowship program in 2017 through the City of Cupertino's Office of Sustainability, which had a fellow focused on outreach projects for SVCE's startup phase.

Since 2017, SVCE has hosted various Climate Corps fellows across teams, including fellows leading education initiatives for community outreach, working on small-to-medium business rebates and EV programs, and supporting emissions research and reporting.

In 2025, SVCE advertised a Request for Proposal for longer term participation in a partnership for fellows to ensure equitable opportunity for other agencies to offer services in this important pathway to energy careers. SEI was the only proposer and was selected for this three-year contract.

SEI's services include recruitment for fellows along with preliminary interviews, monthly trainings for fellows, and opportunities for professional development. The Climate Corps fellowship extends over a 10-month period and the fellows receive a UC Climate Stewards certificate after the program.

ANALYSIS & DISCUSSION

The mission of the Climate Corps Fellowship is aligned with SVCE's mission to reduce the dependence on fossil fuels and fight climate change locally. Hosting Climate Corps fellows not only helps individuals interested in energy and decarbonization industries gain experience, but they also help SVCE staff with executing programs and projects that achieve our goals outlined in the board-adopted strategic plan.

An added benefit of working with this defined fellowship program is that SEI performs the recruitment effort and manages all administrative support for the fellows. Also, the fellows belong to a cohort where many SVCE

Agenda Item: 1e**Agenda Date: 5/14/2025**

member agencies also host fellows, which becomes a valuable professional network. The scope of work for SEI includes:

- Recruitment assistance
- Ongoing training and support of selected fellows
- Development of metrics for fellows to measure and track progress
- Monthly follow-ups to review progress

With the proposed agreement, SVCE plans to host three fellows yearly over a three-year period. The annual cost for the scope provided above is based on SVCE hiring three fellows per year and the cost breakdown is listed below. SEI will only bill SVCE for the actual number of fellows hired.

Year 1 \$75,525 per fellow x 3=\$226,575

Year 2 \$82,000 per fellow x 3=\$246,000

Year 3 \$88,500 per fellow x3=\$265,500

The fees paid to SEI cover the following for each Fellow:

- Monthly living stipend
- End-Of-Program Award
- Expense reimbursements
- Payroll taxes and fees
- Healthcare
- SEI Fellow training
- Fellow recruitment
- Fellow supervision
- Program administration

The fellowship cycles start in September and run until June annually with options to extend depending on project timelines. The following process is used to determine fellow needs and placement:

1. Departments annually request a fellow by outlining the project focus and workplan. Leadership reviews requests and determines which projects will be prioritized or selected for alignment with a fellow for the following year.
2. Fellows will work in various departments supporting real time projects to move forward the agency's mission and strategic focus areas in areas including youth engagement activities, community relations, outreach, data and analysis, program development, research, policy and technology.
3. Each fellow will be assigned the selected project which culminates in an agency presentation of the outcomes and valuable work attached to the fellowship.

Past fellows have gone on to receive full-time employment and job growth opportunities with SVCE, other CCAs or other energy and climate-related industries. SEI's Climate Corp Fellowship program has proven to be an effective channel for professional development in a growing field.

STRATEGIC PLAN

Hiring Climate Corps fellows will help achieve the following goals from the October 2024 Board-adopted Strategic Plan:

Goal 8: Engage customers and community stakeholders to build trust of SVCE and advance decarbonization. (SFA1, SFA3, SFA4)

Goal 9: 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).

Agenda Item: 1e**Agenda Date: 5/14/2025**

Goal 10: Hire, retain and develop high-performing talent via competitive benefits and rewarding work culture. (SFA5)

ALTERNATIVE

The alternative is to not hire three Climate Corps fellows annually, hire fewer fellows, or do not hire any fellows and the work outlined within the fellow job descriptions will be distributed among staff.

FISCAL IMPACT

The fiscal impact of this agreement would be \$750,000, which will be included, pro-rated over the appropriate fiscal years including fiscal year 2025-2026, 2026-2027, and 2027-2028 operating budgets, should it be approved by the SVCE board. The current 2024-2025 FY budget does account for temporary staff, inclusive of the annual Climate Corps fellows.

ATTACHMENT

1. SEI Climate Corps Fellowship Agreement

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
STRATEGIC ENERGY INNOVATIONS
FOR
CLIMATE CORPS FELLOW HOSTING SERVICES**

THIS AGREEMENT, is entered into this 24th day of April 2025, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and STRATEGIC ENERGY INNOVATIONS, a nonprofit organization whose address is 100 Smith Ranch Road, Suite 124, San Rafael, CA 94903 (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 Climate Corps Fellow hosting upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on June 1, 2025, and shall terminate on June 30, 2028, 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 seven hundred and fifty thousand and no/100 (750,000.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

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

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

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

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

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

8. **NON-DISCRIMINATION**

In the performance of this Agreement, Consultant, and any subconsultant under the Consultant, shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender

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

9. **HOLD HARMLESS AND INDEMNIFICATION**

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

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

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

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

10. **INSURANCE**

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

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

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

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

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

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

11. **CONFLICT OF INTEREST**

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

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

Consultant agrees to include within their subcontract(s) with any and all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Subcontractors

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

14. **REPORTS**

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

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. Steven King (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:

Steven King
Strategic Energy Innovations
100 Smith Ranch Rd., Suite 124
San Rafael, CA 94903

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

Gia Ilole, Director of Human Resource

CONSULTANT NAME
STRATEGIC ENERGY INNOVATIONS

By: _____
Name: Stephen M. Miller
Title: Deputy Director
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

DRAFT

Exhibit A
Scope of Services

Through Climate Corps, SEI agrees to:

Recruit and assist in selection of up to three (3) Fellows per year. Fellows will average 40 hours per week including on-site work with partners, professional development, attending program training, and using their vacation, holiday, and sick time.

160 hours of vacation, holiday and sick time (VHS) per 10 month Fellowship

Train and support the selected Fellows with a comprehensive training program that includes a training manual, an orientation led by an array of experts, monthly trainings, and two Professional Development Assessment reviews.

Work with the Authority to develop a specific Fellowship Scope for specific Authority initiatives that aligns with Climate Corps goals and defines the Training Plan for the Fellows.

Provide assistance in defining and developing metrics for the Fellow to measure and track the progress of project activities throughout their Fellowship.

Provide monthly follow-ups to review progress with Site Supervisor and Fellows.

Define and implement any corrections to Fellows' plan determined to be necessary based on feedback collected from Fellows and Authority.

Authority agrees to:

Take part in the final candidate interview process to identify Fellows best fitted for the specific projects' needs, with the understanding that Authority has right of refusal of any proposed Fellows.

Provide one to three specific climate resiliency initiatives that each Fellow can work on during their term of service.

Initiatives must be well-defined, approved for implementation, and include specific learning objectives.

Authority will work with SEI to finalize a mutually agreed-upon Fellowship Scopes no later than one month after the Fellows arrives on site.

Assign Site Supervisors who will be available to meet at least weekly with the Fellows for one-on-one project meeting time, coordinate other necessary staff supervision needed for successful implementation of the Fellowship Scope.

Support Fellows to complete monthly reporting to SEI indicating whether progress is being made on the initiatives.

Provide feedback on Program and Fellows effectiveness by:

Filling out and submitting a Professional Development Assessment providing feedback on Fellows activities two times a year;

Participating in program-wide conference calls to discuss program progress; and

Responding to Authority feedback surveys as requested.

Refrain from using the Fellows for displacement of a Authority employee during the

- Fellowship term.
- Allow SEI to share results from this program through grant reporting, program marketing, and fundraising.
- Provide program-wide support through either:
- Sponsoring a venue and staff presentations for a monthly training event for all Fellows; or
 - Participating in a program sponsored training session or professional development event.
 - Being receptive to informational interview requests from 1 or more current Fellow

Program Plan

Fellow service information

[A] Number of Fellows	3 Fellows per year for three years
Service Term	Full Cycle each year: 10 months from Fellow start date, not to exceed the terms of this agreement unless agreed upon in writing by the Parties herein. Tentative cycle dates: Year 1: September 1, 2025 to June 30, 2026 Year 2: September 1, 2026 to June 30, 2027 Year 3: September 1, 2027 to June 30, 2028
Standard Hours	Fellows will average 40 hours per week including on-site work with partners, professional development, attending program training, and using their vacation, holiday, and sick time. 160 hours of vacation, holiday and sick time (VHS)
Human Resources	SEI's People Resources Department requires that any Fellow hired for work at the partner site complete a satisfactory comprehensive background check, including a Federal Criminal Search, National Criminal Search, Sex Offender Search, Social Security Number Trace and Global Watchlist Search, and County Criminal Search. Any additional background or medical-related checks that the Partner requires will be the sole responsibility of the Partner. This responsibility includes administration, record-keeping, coordination and financial obligation, and/or cost of such additional checks. Additional checks required by the partner must be administered in compliance with all applicable state, federal, and/or local regulations.

Position fee

[B] Amount	Year 1 Fees \$75,525 per non-profit Fellow. Includes: • Monthly Living Stipend: \$4500 • End-Of-Program Award: \$1,000 • Expense Reimbursements: \$0 Remaining funds are used to cover Fellow payroll taxes and fees, health care, SEI Fellow training, Fellow recruitment, Fellow supervision, and program administration. Year 2 Fees \$82,000 per non-profit Fellow. Includes: • Monthly Living Stipend: \$4500 • End-Of-Program Award: \$1,000 • Expense Reimbursements: \$0 Remaining funds are used to cover Fellow payroll taxes and fees, health care, SEI

	Fellow training, Fellow recruitment, Fellow supervision, and program administration. Year 3 Fees \$88,500 per non-profit Fellow. Includes: • Monthly Living Stipend: \$4500 • End-Of-Program Award: \$1,000 • Expense Reimbursements: \$0 Remaining funds are used to cover Fellow payroll taxes and fees, health care, SEI Fellow training, Fellow recruitment, Fellow supervision, and program administration. Note: The calculation of the above fees may be adjusted from time to time by agreement between both parties. Total Fee: Not to Exceed \$750,000 for the life of the contract
Timing of Payments	Partner will pay the annual fees according to the below multi-year schedule: 75% payment due on October 31, 2025, October 30, 2026, and October 29, 2027 and 25% of payment due on December 31, 2025, December 31, 2026, and December 31, 2027 Invoices will be sent one month in advance of the above dates.

Authority contact information

Contact person and title	Gia Ilole
Email address	gia.ilole@svcleanenergy.org
Phone number	(408) 549-2670
Mailing address	333 W. El Camino Real, Ste. 330 Sunnyvale, CA 94087
Billing contact information (if different from above)	
P.O. Number (if applicable)	

SEI contact information

Contact person and title	Steven King, Program Director
Email address	stevenking@seiinc.org
Phone number	415-507-2181
Mailing address	100 Smith Ranch Rd., Suite 124 San Rafael, CA 94903

1. Additional Terms	<u>1. Program Initiation</u> 1. Recruitment and Selection SEI will recruit, screen, and select a Fellow to serve at Authority during the service term set out in the Program Plan (“Service Term”). Authority will assist in the recruitment and selection of Fellow, including, without limitation, developing a job description specific to Authority’s activities and needs, conducting final interviews, and participating in the final selection. If Authority ultimately fails to select a Fellow, Authority will pay to SEI a \$3,200 fee for the recruiting effort promptly following receipt of an invoice from SEI. 2. Employment Relationship SEI and Authority acknowledge that Fellow is an employee of SEI. SEI will notify each Fellow that Fellow is not an employee of Authority. 3. Fellow Orientation At the start of the Service Term, SEI will provide Fellow with an orientation to the Program. Authority will provide Fellow with an orientation to Authority’s mission, programs, operations, systems, and facilities. 4. Fellowship Scope Authority will cooperate with SEI to develop a written scope of work (“Fellowship Scope”) for each Fellow. The Fellowship Scope will: (a) outline the training plan for the Fellow, (b) describe one to three specific climate change resiliency projects that the Fellow will work on during the Service Term, and (c) define anticipated deliverables and Fellow performance and learning goals. Authority and SEI will complete the Fellowship Scope within one month after the Fellow’s first day of service. <u>2. Training and Support</u> 1. Fellow Training SEI will train and support the Fellow with a training program that includes: monthly trainings, and two professional development assessment reviews. Time spent by the Fellow in this training program will count as training hours under the Program Plan. 2. Training Calendar SEI will provide a calendar of training activities to Authority and will notify Authority of any schedule changes in advance. 3. Ongoing Support and Assistance SEI will help Authority and Fellow develop metrics for evaluating the Fellow’s progress. SEI will schedule monthly sessions with Fellow and Authority to review the Fellow’s progress, and will assist the Fellow and Authority with defining or implementing any changes to the Fellowship Scope or other documents as appropriate. 4. Authority’s Program-wide Support

Authority will carry out Program-wide activities reasonably requested by SEI, such as: (a) sponsoring a venue and staff presentations for a monthly training event for all Fellows, (b) participating in a Program-sponsored training session or professional development event, or (c) accepting informal interview requests from one or more other Fellows in the Program.

5. Ownership of Materials

For clarity, SEI owns all training and professional development materials and documents.

1.

3. Fellow Responsibilities, Scheduling, and Supervision

1. Fellow Responsibilities

Authority may assign specific responsibilities to Fellow so long as they are consistent with the Fellowship Scope.

Fellow shall be required to attend or complete training as directed by Authority regarding data security, and confidentiality and other Authority policies and comply with such policies for the duration of the Term.

2. Payment to Fellow; Additional Funding

SEI will pay a living stipend (“Living Stipend”) and end of program award (“End of Program Award”) to Fellow during the Service Term. Authority may provide additional funding for Fellow as may be set out in the Program Plan.

3. Hours and Work Schedule

The standard number of service hours for Fellows (“Standard Hours”) is set out in the Program Plan. Authority will provide Fellow with a reasonably consistent schedule during the Service Term so that Fellow can fulfill his or her Target Hours. If a Fellow is required to serve as a juror, they will log that time as on-site hours with Authority and continue receiving a living allowance, healthcare coverage and, if applicable, childcare coverage regardless of any reimbursements for incidental expenses received from the court.

4. Work Environment and Resources

When in-person work is allowed, Authority will provide Fellow with adequate workspace, a reasonably comfortable work environment, access to a computer with internet connectivity, and other support resources reasonably necessary for Fellow to complete his or her work.

While working remotely, individual Site Supervisors will plan for IT logistics like computer, WiFi, and other technological equipment needed at the Fellows’ home, account and software access, and/or setting up remote VPNs. Fellows should alert their Site and Regional Supervisors immediately if they face any logistical hurdles to remote work, such as WiFi challenges, remote account access or VPNs.

5. Fellow Attendance at Climate Corps Events

Authority will allow Fellow to attend all Program events, including, without limitation, orientation, monthly trainings, retreats, field trips to other Climate Corps partner sites, , so that Fellow can fulfill his or her Program training

requirements and enhance his or her professional development. Time spent by the Fellow at these events will count as training hours under the Program Plan.

6. Site Supervisor

Authority will designate a paid staff supervisor ("Site Supervisor") to supervise Fellow's day-to-day activities and performance. The responsibilities of Site Supervisor include, without limitation: (a) guiding Fellow towards achieving the goals set out in the Fellowship Scope, (b) meeting with Fellow one-on-one at least weekly to discuss project(s), and (c) helping Fellow complete monthly reporting to SEI to track the progress made on the project(s). If Authority changes the Site Supervisor, Authority will provide SEI with at least 30 days' written notice setting out the name and title of the new Site Supervisor, the reason for the change, and the expected impact, if any, on the Fellowship Scope or Fellow.

4. Reporting and Recordkeeping

1. Program Reports

Authority will complete and submit all Program forms, surveys, assessments, progress reports, Fellow evaluations, and other documents requested by SEI, including a biannual professional development assessment providing feedback on Fellow activities. SEI may share results related to the Program for the purpose of grant reporting, program marketing, and fundraising.

2. Site Visits

SEI may visit Authority sites and film, photograph, and otherwise document Program and Fellow activities during normal business hours and with reasonable advance notice.

3. Recordkeeping

SEI and Authority will each maintain records relating to its Program responsibilities in a manner such that the other can evaluate compliance with this MOU. SEI and Authority will make those records available for review by the other on reasonable notice during the term of this MOU and for a period of three years after its termination.

5. Communication

1. Program Contacts

SEI and Authority will each appoint one individual to act as principal contact person and to coordinate activities in connection with the Program. The initial appointees are identified in the Program Plan. SEI and Authority each may change its contact person at any time and will so advise the other.

2. Cooperation

SEI and Authority acknowledge Fellow's success in the Program depends in large part on the effectiveness of collaboration between the parties. Both parties will provide timely access to data, information, and personnel, ensure the accuracy and completeness of data and information provided, and promptly notify one another about challenges, concerns, and successes.

3. Fellow Performance

SEI cannot guarantee specific performance results for any Fellow. Authority will

	notify SEI immediately of any significant problems with Fellow’s professional performance or conduct, including, without limitation, failure to report to a site or unprofessional behavior. SEI will work with Authority to provide assistance or discuss an appropriate response.

DRAFT

Exhibit B
Schedule of Performance

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

Task	Begin	Complete
1. Fellow Recruitment and Interviews	June of each year	August of each year
2. Fellowship Cycle	First business day of September each year	June 30 of each year

DRAFT

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 seven hundred and fifty thousand dollars and no/100 (\$750,000) as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	Estimated Budget
1. 2025 Fellow Position Fee x 3	\$226,575
2. 2026 Fellow Position Fee x 3	\$246,000
3. 2027 Fellow Position Fee x 3	\$265,500
4. Contingency funds	\$11,925
Total	\$750,000

Invoices

Invoicing: In order to request payment, Consultant shall submit two invoices per the schedule identified in Exhibit A. Authority shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth herein. Authority does not pay interest on past due amounts.

Reimbursable Expenses

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

Additional Services

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

Exhibit D
Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

- (1) **Workers' Compensation:**
Statutory coverage as required by the State of California.
- (2) **Liability:**
Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required.
- (3) **Automotive:**
Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
- (4) **Professional Liability**
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.
- (5) **Privacy and Cybersecurity Liability**
Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs of at least \$2,000,000 US per occurrence.



Staff Report – Item 1f

Item 1f: Receive March 2025 Decarbonization Strategy and Programs Quarterly Report

From: Monica Padilla, CEO

Prepared by: Justin Zagunis, Director of Customer Success
Douglas Bernard, Decarbonization Management Analyst

Date: 5/14/2025

RECOMMENDATION

Staff recommends the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) accept the current update of the Decarbonization Strategy and Programs quarterly report, reflecting project statuses as of the end of March 2025.

BACKGROUND

To achieve its mission to reduce dependence on fossil fuels by providing carbon-free, affordable and reliable electricity and innovative programs for the community, SVCE established a decarbonization strategy and programs roadmap ("Roadmap"), which can be found on SVCE's website: [SVCE Decarbonization Strategy and Programs Roadmap](#). In December 2018, the Board approved the Roadmap, and since that time, staff have been working on implementation of this Roadmap - as well as subsequent joint action plans and other additions to the programs portfolio as approved by the Board. The quarterly report included here presents a summary of all approved program activity to date.

ANALYSIS & DISCUSSION

Attachment 1 is an update of the Decarbonization Strategy and Programs quarterly report. The quarterly update includes a table with a summary of updates from last quarter and the target for next quarter.

STRATEGIC PLAN

This item supports SVCE's 2024-2025 Strategic Plan Goals 7 and 8, to support "SVCE communities to decarbonize through local investments that reduce barriers and demonstrate sensible, scalable, and equitable solutions" and to "engage customers and community stakeholders to build trust of SVCE and advance decarbonization."

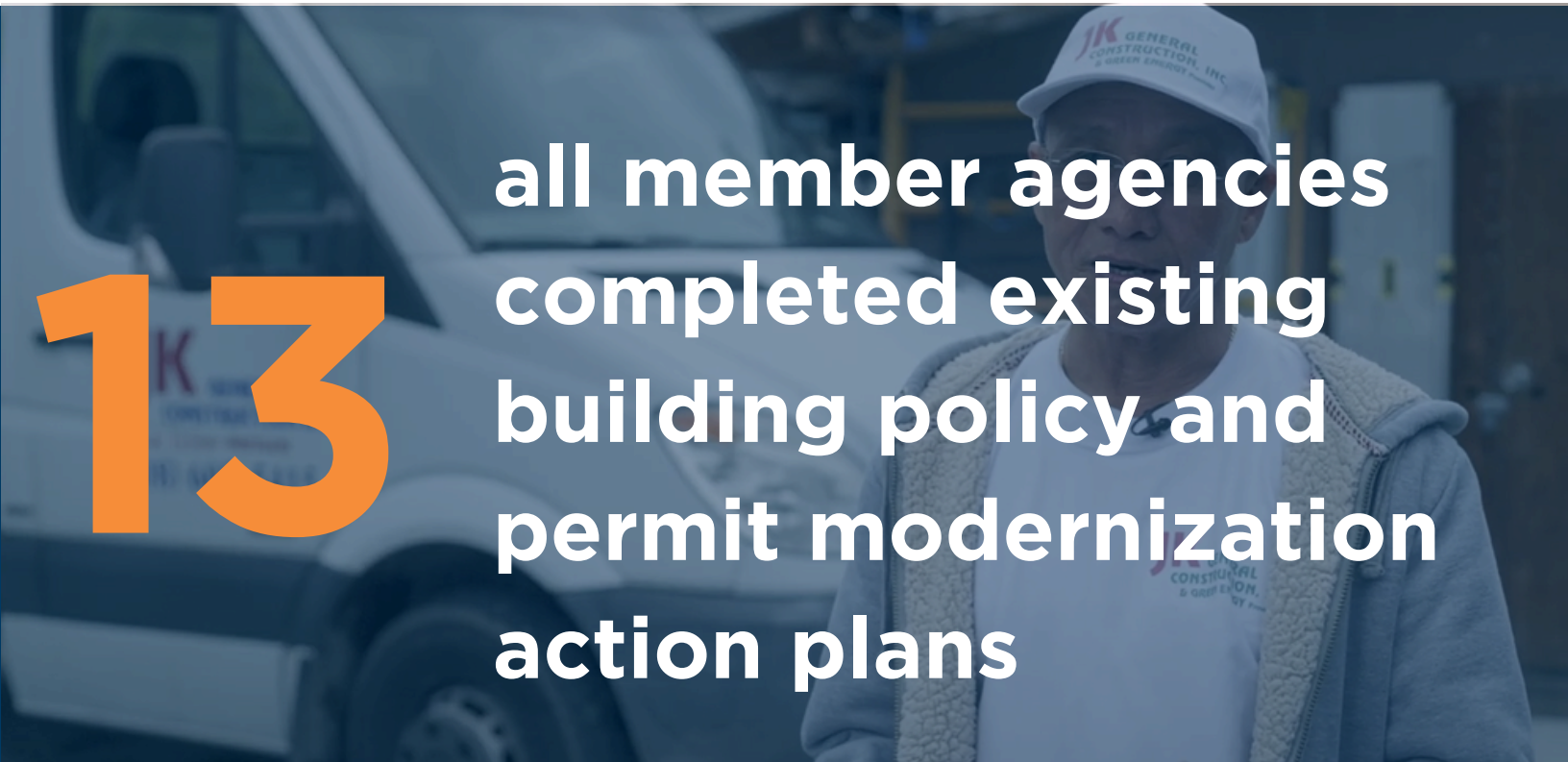
FISCAL IMPACT

Accepting the March 2025 Update of the Decarbonization Strategy and Programs quarterly report has no fiscal impact.

ATTACHMENT

1. Decarbonization Strategy & Programs Quarterly Report – March 2025 Update

Quarterly Report March 2025 Milestones



13

all member agencies
completed existing
building policy and
permit modernization
action plans



1,131

customers engage
with Go Electric
Advisor service



5,300

customers enrolled
in all-electric
E-ELEC rate

PROGRAMS PORTFOLIO

MAR 25

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	Reissued RFP for General Contractor and evaluated responses.	Select contractor and start construction at 2 sites.
EV Charging Incentives	\$11.4M	80 MUDs with EVI (720 ports) 4,000 L1/L2 chargers at affordable housing	30 MUD active reservations (328 ports) 19 sites completed (177 L1/L2 ports)	Saw increase in applications, bringing total active reservations to \$1.68M.	Process 25 total claims.
Full-Service Home Upgrades	\$11.4M	600 single-family homes electrified	Launched program in November 2024	Began enrolling customers and scoping projects. Adjusted program process for smoother delivery.	Complete installations for 5 projects.
Home Rebates	\$10.05M	2,800 homes fully/partially electrified	1,900 homes fully/partially electrified	Fully transitioning application intake/review to Salesforce.	Hit 2,200 claims and upload all historic data into Salesforce.
Electrification Rate Discount	\$9.5M	5,000 customers enrolled	5,300 enrolled	E-ELEC (4%) rate established by Calpine; CEO approved E-ELEC Version 2.	Present E-ELEC 2.0 and EV-SOP rate designs to Exec Committee and BOD.
Member Agency Grants	\$6.5M	13-18 member agency projects focused on community engagement and capital decarb projects	Received 13 competitive grant proposals; Executed 1 noncompetitive grant agreement	Closed the competitive grant solicitation.	Select awardees for competitive grant.
Community Energy Resilience	\$5.15M	13 agencies complete projects	7 completed agency projects	8 agency projects still underway.	Monitor and reimburse agencies as projects are completed.
C&I Decarbonization Program	\$5M	8,000 metric tons of CO2e removed through carbon saving measures	6 customers enrolled in the program, 4 treasure hunts completed	Held first cohort workshop with highly engaged attendees.	Enroll 3 new high profile customers and schedule workshop #2.
Decarbonization Demonstration Grants	\$3.2M	8 local public facing electric projects	1 project complete	6 agency projects still underway.	Support grantee community engagement efforts.

PROGRAMS PORTFOLIO

MAR 25

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	All 13 agency action plans in place. Work underway in many agencies.	Continue deploying resources in all member agencies.
Emergency Water Heater Replacement	\$2.6M	700 emergency water heaters upgraded	2 emergency water heater installations completed	Program paused to adjust process for smoother delivery.	Complete installations for 5 projects.
CALeVIP 1.0	\$2.5M	85 DCFC installed 1,100 L2 installed	10 DCFC installed 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	800K email opens 100K unique web visits	378K email opens (53% open rate) 29K web visits	26K Unique Visits. 188K Unique Opens. EV Finder Launched.	30K Unique Visits. 200K Unique Opens.
Fast Charger Incentives	\$1.875M	10 DCFC installations near MUD hotspots	10 of 10 ports are constructed; 2 are not energized currently	Continued to explore ways to support one site through ownership transition.	Complete ownership transition for one site and close program.
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 effort	All action plans are now in place. Model ordinances for 2025 adoption are being developed and staff has been briefed.	Hold workshop for elected officials and continue educating agency staff on model approaches.
Contractor Training	\$1.7M	300 contractors trained 500 graduate incentives	296 contractors completed training 197 approved graduate incentive claims	Integrated program with Salesforce.	Try new marketing approaches such as NextDoor to grow enrollment to 300.
EV Rebates	\$1.5M	600 EV purchase incentives for income qualified customers	48 claims paid	Conducted 2 email campaigns. Held 1 virtual financial incentives webinar.	Increase marketing. Hold additional community education events. Grow dealership network.
Programs Marketing Fund	\$1M	4,500 new program participants	Marketing for 10 programs. Over 2,000 program participants added. Analytics configured.	Allocated marketing fund to programs and planned broad marketing campaign (Power Squad).	First broad marketing campaign completes (Power Squad) and \$130k spent.
GridShift EV Charging and Rebates	\$973K	Bill/emissions savings and load shifting capacity	1,594 EVs enrolled (incl. ChargeWise pilot participants) 62 charger rebates	Conducted e-mail campaign for GridShift and ChargeWise recruitment.	Re-analyze ChargeWise dynamic rate adders.

PROGRAMS PORTFOLIO

MAR 25

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	1,131 customers use service	434 contacts. Updated electrification plan template. Adjusted and increased electrification support.	450 contacts (with more non-program-inquiry). Implement program plan opportunities.
Business Rebates	\$750K	20-30 SMBs electrified	9 SMBs fully/partially electrified	Implemented new project caps (\$40k per business and \$55k for nonprofits) and new rebates for electric-to-electric upgrades.	Launch Site Assessment Pilot Program. Complete 10-15 site assessments and award 2-4 new rebates.
EV Charging Planning	\$725K	60 assessments, 36 projects done, 250 ports installed	87 applications (49 reports completed)	Received 22 new applications. Program closed to new enrollments on 3/31.	Prepare solutions reports for enrolled participants. Help connect participants with incentives and installers.
EM&V	\$640K	Evaluate 80% of SVCE programs within 2 years of launch	11 reports completed	Set up new Task Order for Member Agency Grants. Continued scoping EM&V for additional programs.	Define EM&V scope for 5 additional programs.
SV Building Electrification Stronger Together	\$600K	Educate stakeholders about building electrification	35 new stakeholders engaged to date	Hosted first contractor focus group. Collected information and produced summary.	Host second contractor focus group. Start CBO program design bench.
Decarbonization Engagement Grants	\$442K	5 communities engage residents on climate action topics	1 project complete	Cupertino soft launched virtual reality headset at member agency meeting.	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	Extended report deadline to incorporate additional data	Present findings to Air District to inform rule updates
Fleet Electrification	\$300K	Complete fleet electrification and charger installation planning for 10 fleets	13 fleets in progress	4 agencies have completed the planning program. Remaining 9 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

MAR 25

Planning

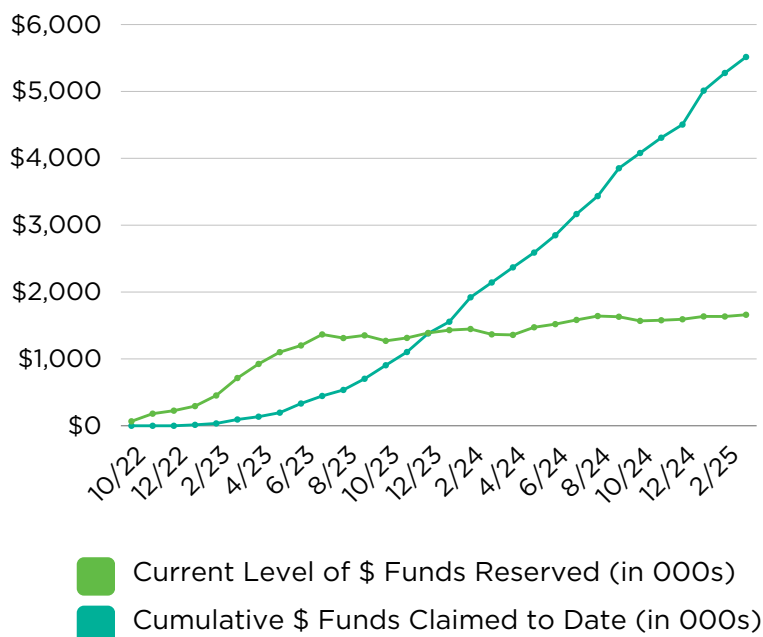
Name	Budget	Potential Impact	Last Quarter (Update)	Next Quarter (Target)
Tariffed On Bill (TOB) Financing	\$5.2M	200 customers finance electrification	Pilot completed design.	Launch OBF pilot and begin enrollment.
Community Grants	\$3.5M	Fund resiliency, engagement, and decarbonization projects for schools, community groups, and non-profits	Begin program design.	Complete survey to potential applicants on project interest.
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.	Complete V2 program design and release RFP for vendor.
Workforce Development Partnerships	\$1.3M	Increase capacity to coordinate and train skilled workforce for residential electrification jobs	Continued to meet with contractors and workforce stakeholders to identify workforce needs.	Continue to gather information for program design and incorporate into 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. Evaluated responses.	Execute contracts with selected vendor(s).
Innovation Onramp (EV Charging Pilot)	\$1M	Demonstrate innovative and scalable solutions to reduce the cost of EV charging for MF residents.	Selected 3 pilots (2 for submetering solutions and 1 for direct wiring). Began finalizing contracts.	Launch 3 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	Soft launched in January. 24 Contractors enrolled and 1 resident tested the quote function.	Full launch and receive 20 submissions for incentives or quotes. Complete integration with Salesforce.

PROGRAMS HIGHLIGHTS

MAR 25

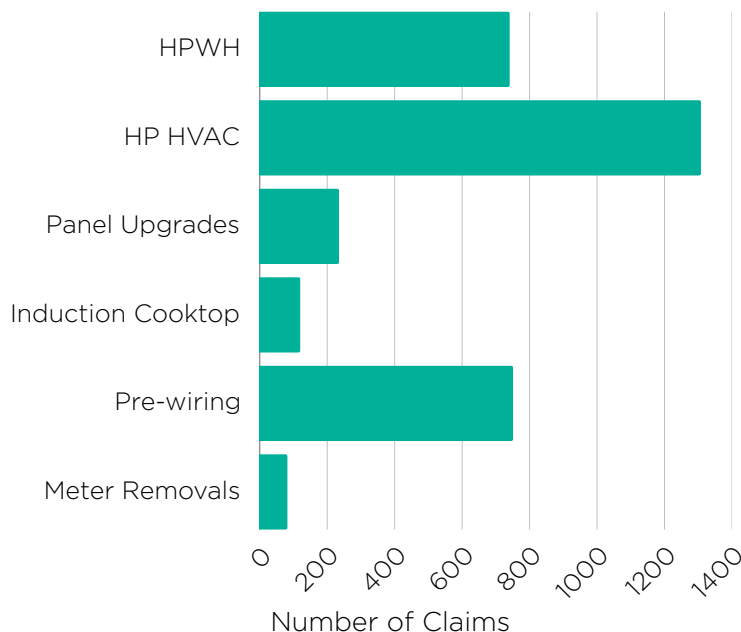
Home Rebates

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.



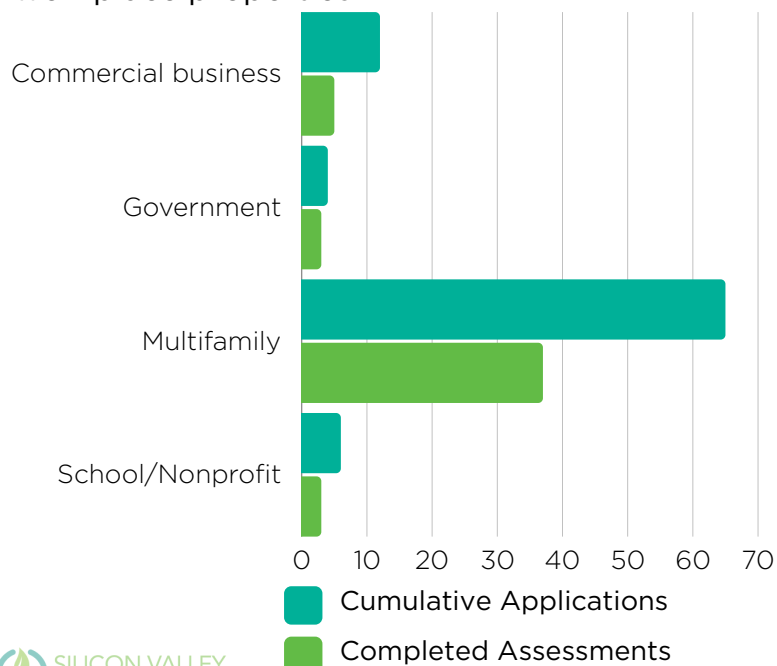
Rebates claimed: \$5.5M

Rebates reserved: \$1.7M



EV Charging Planning

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



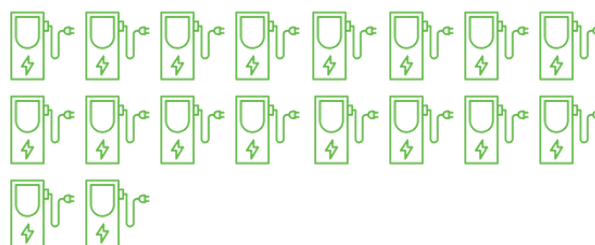
EV Charging Incentives

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

Funds Reserved: \$1.68M

Funds Claimed: \$720k

Ports Installed: 177 L1/L2



 = 10 Installed EVSE Ports

PROGRAMS HIGHLIGHTS

MAR 25

Contractor Training

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



Funding: \$1.5M

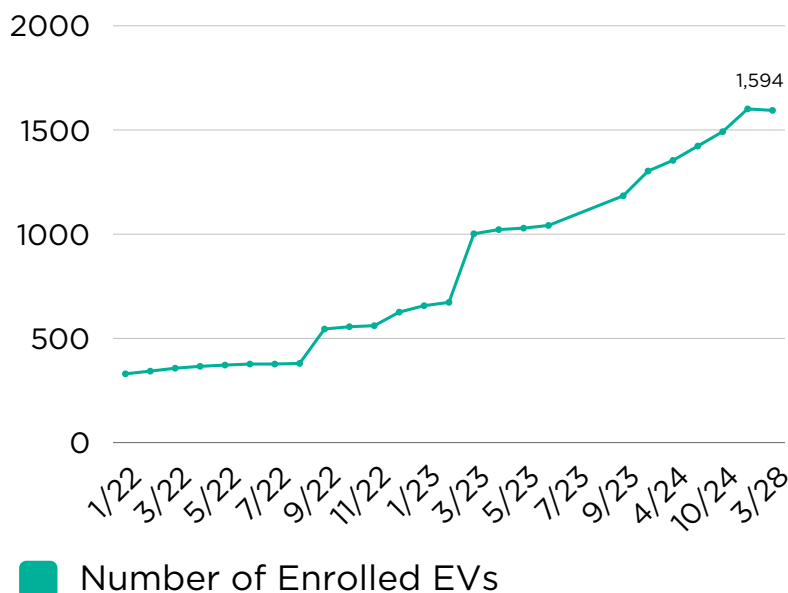
Goal: 300 Participants Complete the Course (Phase 2)



🎓 = 10 Participants Complete Course

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



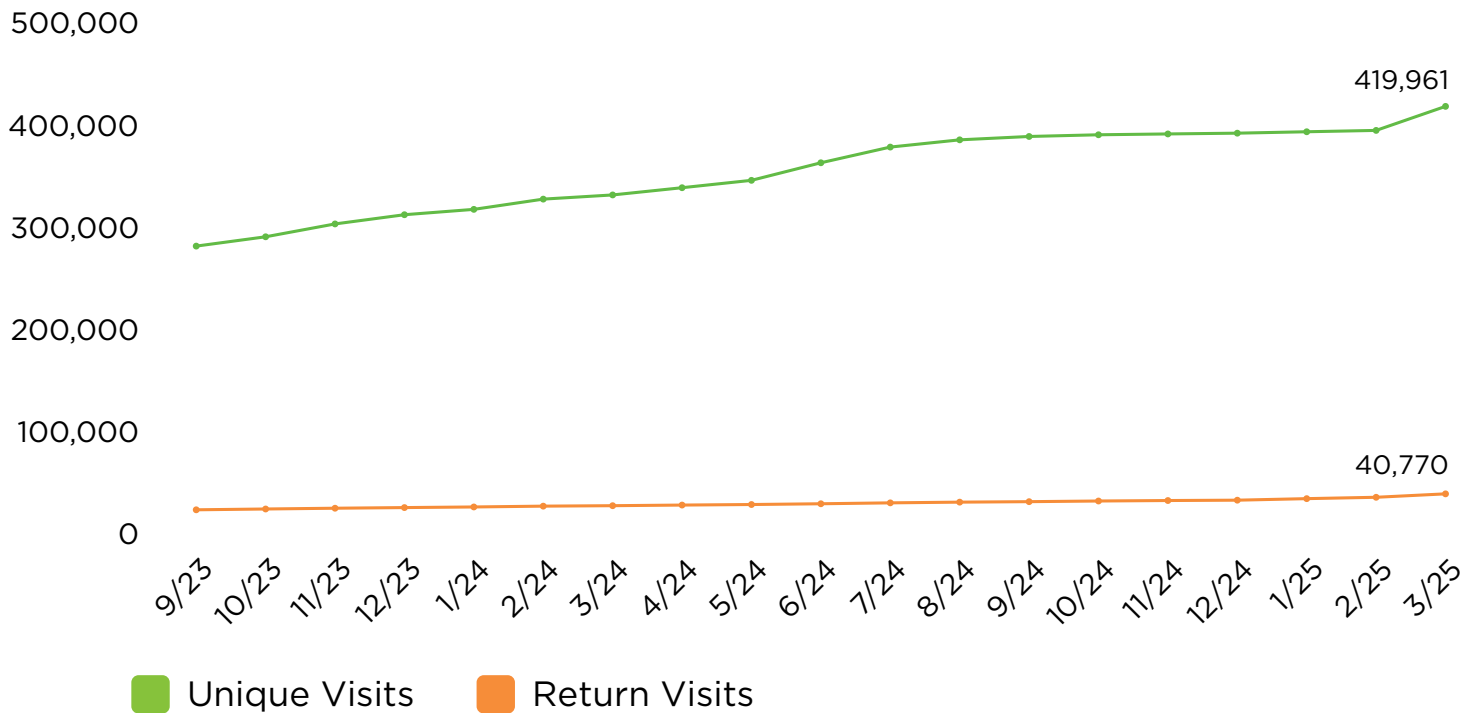
Charger Rebates Issued: 62

PROGRAMS HIGHLIGHTS

MAR 25

eHub Report

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



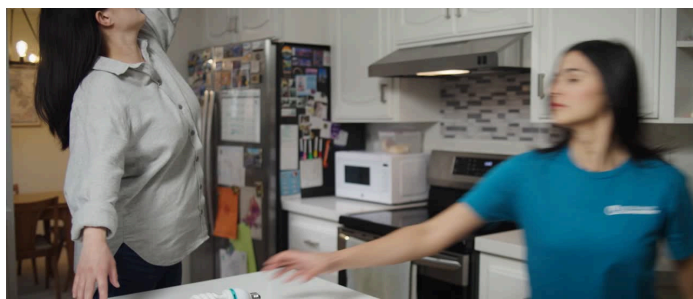
MARKETING HIGHLIGHTS

MAR 25

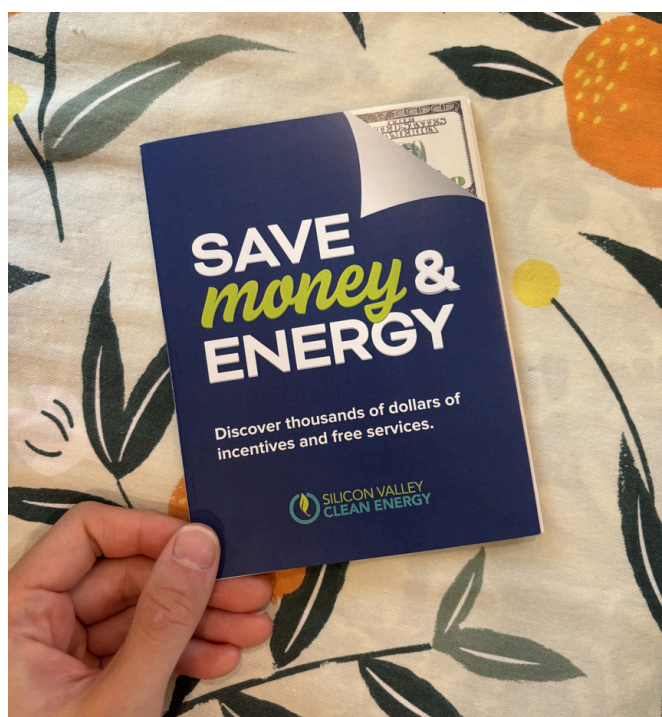
Power Squad Ad Campaign

Goal: Boost [eHub](#) website visits from March 17 to May 18 through an engaging ad campaign promoting [Power Squad](#), a team dedicated to helping customers go electric.

Tactics: The campaign will reach customers through digital channels like Google and Meta ads, as well as non-digital channels including transit shelters and print weeklies.



New! Programs Pocket Guide



Goal: Share our program info in one easy-to-takeaway brochure for customers

Results: Hundreds of these are flying off the table at Earth Month events in our communities. Consolidating programs all in one resource, rather than having an individual flyer for each, has made it easier to introduce customers to our programs and offerings.

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.

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: 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 1g

Item 1g: Receive Updates to E-TOU-C Summer Rates

From: Monica Padilla, CEO

Prepared by: Justin Zagunis, Director of Customer Success
Kaley Dodson, Sr. Energy Services Specialist

Date: 5/14/2025

RECOMMENDATION

Receive updates to the E-TOU-C summer peak and off-peak rates to maintain a four percent (4%) discount relative to corresponding PG&E rates, per the discount approved by the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) on December 11, 2024 with the adoption of Resolution 2024-16, Resolution Approving Customer Generation Rates and The Fiscal Year 2024-2025 Updated Budget.

BACKGROUND

At the December 11, 2024 SVCE Board of Directors meeting, the Board adopted a 4% generation rate discount relative to PG&E for calendar year 2025. Following this direction, SVCE staff provided a full accompaniment of final SVCE generation rates for the Board's approval at the February 10, 2024 meeting. In March, PG&E amended the summer peak versus off-peak price (POPP) rate differential for the generation component of the E-TOU-C rate in accordance with CPUC Decision (D.) 21-11-016 of PG&E General Rate Case of 2020. This decision instructs PG&E to increase the POPP differential in a revenue-neutral manner in three phases. PG&E's March adjustment of the rates are the third and final differential adjustment and will come into effect on June 1, 2025.

ANALYSIS & DISCUSSION

PG&E published the new E-TOU-C summer peak and off-peak differential generation rates on March 1, 2025, which will be implemented when customers transition to summer rates on June 1. SVCE's E-TOU-C rate schedule has been updated, as referenced in Attachment 1, in order to reflect a 4% discount from PG&E's comparable generation rates. The rates have been loaded into the billing system and will be effective as of June 1, 2025.

STRATEGIC PLAN

Rate alignment is reflected in SVCE Strategic Plan Goal 8, to "Engage customers and community stakeholders to build trust of SVCE and advance decarbonization."

FISCAL IMPACT

The fiscal impact of this rate change relative to the existing budget is negligible, as this rate change is revenue-neutral and has been modeled and accounted for as presented at the December 11, 2024 board meeting.

ATTACHMENTS

1. SVCE Residential Rate Schedule effective June 1, 2025

Silicon Valley Clean Energy



Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates (\$/kWh) ¹	SVCE Generation Service (\$/kWh) ²	PG&E Generation Service (\$/kWh) ³	Notes
E-1	Year-round	\$ 0.13768	\$ 0.14946	\$ 0.15569	Rates applicable to all usage throughout the year
EV-A, EV-B	Summer (May-Oct)				
	SUMMER PEAK	\$ 0.30697	\$ 0.31875	\$ 0.33203	2:00 p.m. to 9:00 p.m. Monday through Friday, 3:00 p.m. to 7:00 p.m. Saturday, Sunday and Holidays
	SUMMER PART-PEAK	\$ 0.16924	\$ 0.18102	\$ 0.18856	7:00 a.m. to 2:00 p.m. and 9:00 p.m. to 11:00 p.m. Monday through Friday, except holidays
	SUMMER OFF-PEAK	\$ 0.12471	\$ 0.13649	\$ 0.14218	All other hours
	Winter (Nov-Apr)				
	WINTER PEAK	\$ 0.12028	\$ 0.13206	\$ 0.13756	2:00 p.m. to 9:00 p.m. Monday through Friday, 3:00 p.m. to 7:00 p.m. Saturday, Sunday and Holidays
	WINTER PART-PEAK	\$ 0.09642	\$ 0.10820	\$ 0.11271	7:00 a.m. to 2:00 p.m. and 9:00 p.m. to 11:00 p.m. Monday through Friday, except holidays
	WINTER OFF-PEAK	\$ 0.09642	\$ 0.10820	\$ 0.11271	All other hours
EV-2A	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.19614	\$ 0.20792	\$ 0.21658	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	SUMMER PART-PEAK	\$ 0.15322	\$ 0.16500	\$ 0.17187	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	SUMMER OFF-PEAK	\$ 0.11372	\$ 0.12550	\$ 0.13073	All other hours
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.14154	\$ 0.15332	\$ 0.15971	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	WINTER PART-PEAK	\$ 0.12955	\$ 0.14133	\$ 0.14722	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	WINTER OFF-PEAK	\$ 0.10701	\$ 0.11879	\$ 0.12374	All other hours

Silicon Valley Clean Energy



Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates (\$/kWh) ¹	SVCE Generation Service (\$/kWh) ²	PG&E Generation Service (\$/kWh) ³	Notes
SVCE E-ELEC Summer (Jun-Sep)					
	SUMMER PEAK	\$ 0.31087	\$ 0.32265	\$ 0.29332	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	SUMMER PART-PEAK	\$ 0.18243	\$ 0.19421	\$ 0.19421	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	SUMMER OFF-PEAK	\$ 0.09260	\$ 0.10438	\$ 0.14911	All other hours
Winter (Oct-May)					
	WINTER PEAK	\$ 0.13253	\$ 0.14431	\$ 0.13119	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	WINTER PART-PEAK	\$ 0.09944	\$ 0.11122	\$ 0.11122	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	WINTER OFF-PEAK	\$ 0.05673	\$ 0.06851	\$ 0.09787	All other hours
E-ELEC Summer (Jun-Sep)					
	SUMMER PEAK	\$ 0.26981	\$ 0.28159	\$ 0.29332	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	SUMMER PART-PEAK	\$ 0.17466	\$ 0.18644	\$ 0.19421	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	SUMMER OFF-PEAK	\$ 0.13137	\$ 0.14315	\$ 0.14911	All other hours
Winter (Oct-May)					
	WINTER PEAK	\$ 0.11416	\$ 0.12594	\$ 0.13119	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	WINTER PART-PEAK	\$ 0.09499	\$ 0.10677	\$ 0.11122	3:00 p.m. to 4:00 p.m. and 9:00 p.m. to 12:00 a.m. every day including weekends and holidays
	WINTER OFF-PEAK	\$ 0.08218	\$ 0.09396	\$ 0.09787	All other hours

Silicon Valley Clean Energy



Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates (\$/kWh) ¹	SVCE Generation Service (\$/kWh) ²	PG&E Generation Service (\$/kWh) ³	Notes
E-TOU-B	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.24971	\$ 0.26149	\$ 0.27239	4:00 p.m. to 9:00 p.m. Monday through Friday
	SUMMER OFF-PEAK	\$ 0.13158	\$ 0.14336	\$ 0.14933	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.14795	\$ 0.15973	\$ 0.16639	4:00 p.m. to 9:00 p.m. Monday through Friday
	WINTER OFF-PEAK	\$ 0.11071	\$ 0.12249	\$ 0.12759	All other times including Holidays
E-TOU-C	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.21353	\$ 0.22531	\$ 0.23470	4:00 p.m. to 9:00 p.m. everyday
	SUMMER OFF-PEAK	\$ 0.11465	\$ 0.12643	\$ 0.13170	All other times
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.14564	\$ 0.15742	\$ 0.16398	4:00 p.m. to 9:00 p.m. everyday
	WINTER OFF-PEAK	\$ 0.12003	\$ 0.13181	\$ 0.13730	All other times

Silicon Valley Clean Energy



Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates (\$/kWh) ¹	SVCE Generation Service (\$/kWh) ²	PG&E Generation Service (\$/kWh) ³	Notes
E-TOU-D	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.21253	\$ 0.22431	\$ 0.23366	5:00 p.m. to 8:00 p.m. Monday - Friday
	SUMMER OFF-PEAK	\$ 0.11177	\$ 0.12355	\$ 0.12870	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.17330	\$ 0.18508	\$ 0.19279	5:00 p.m. to 8:00 p.m. Monday - Friday
	WINTER OFF-PEAK	\$ 0.13962	\$ 0.15140	\$ 0.15771	All other times including Holidays
GreenPrime			+ \$ 0.01700		Same as applicable rate, with 0.017/kWh adder for 100% Renewable energy

¹ SVCE Generation Rates, without added PG&E fees, effective 6/1/2025

² SVCE Generation Service reflects our price for Generation, with added PG&E fees (PCIA and Franchise Fees), effective 6/1/2025

³ PG&E Generation service rate effective 6/1/2025



Staff Report – Item 1h

Item 1h: Receive Executive Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Yvonne Martinez Beltran, Executive Committee Chair

Date: 5/14/2025

The Executive Committee met April 22, 2025 and reviewed SVCE’s proposed strategy for demand flexibility, received an update on the existing E-ELEC pilot in addition to a request for a replacement pilot, heard a request to approve a proposed Real Time Price Rate, discussed SVCE’s best practices and potential amendments to SVCE’s Operating Rules and Regulations, and received a presentation from staff on a programs portfolio tool.

Don Bray, Director of Strategic Development, Joseph Lande, Energy Services Manager, and Maren Wenzel, Director of Regulatory Policy and Planning presented information on customer demand flexibility services reviewing needs, goals and opportunities in SVCE’s service area and reviewing the scope and contracting approach for demand flexibility services. Staff shared information on an RFP that was issued to identify teaming partner(s) for SVCE’s Demand Flexibility efforts, and plans to bring one of the agreements to the May 14, 2025 Board of Directors meeting for approval.

Peter Mustacich, Technical Manager of Decarbonization Planning and Strategy, presented a request to the Executive Committee to support a recommendation to close the existing E-ELEC 1.0 pilot and launch an E-ELEC 2.0 pilot; a new residential Electric Vehicle (EV) rate was also previewed for informational purposes. Staff reviewed the lessons learned from the E-ELEC 1.0 pilot and how those lessons contributed to the new proposed opt-in rate pilot program for customers with heat pumps (E-ELEC 2.0). The Executive Committee voted unanimously to support staff’s recommendation to bring a proposal to the Board of Directors to end the E-ELEC 1.0 pilot and adopt the new E-ELEC 2.0 pilot. This item will be agendized for the May 14, 2025 Board of Directors meeting.

Citlalli Sandoval, Senior Regulatory Advisor, presented a request for the Executive Committee to support a recommendation to the SVCE Board of Directors to approve a preliminary Real Time Pricing (RTP) rate structure. Senior Regulatory Advisor Sandoval reviewed background information on the Load Management Standards (LMS) compliance requirements for a RTP offering, noting the ask was a regulatory compliance action and that staff would bring an implementation recommendation to the Board of Directors with final details and costs prior to 2027. Due to the compliance requirement associated with the recommendation, the Executive Committee voted unanimously to support recommending the SVCE Board of Directors approve the RTP rate and include the item on the Consent Calendar for the May Board of Directors meeting.

Board Chair George Tyson presented an item for the Executive Committee’s support to recommend the SVCE Board of Directors form an Ad Hoc Committee to review SVCE’s Operating Rules and Regulations for potential amendments. Board Chair Tyson noted the current governance is effective. However, but given the growth of the organization it would be beneficial to perform a review to position SVCE for future growth, and to fulfill SVCE’s mission long term. Also mentioned, was to consider the Executive Committee structure.

Agenda Item: 1h

Agenda Date: 5/14/2025

This Ad Hoc Committee would review SVCE's Operating Rules and Regulations, research neighboring CCA bylaws, identify potential amendments and present a recommendation to the Executive Committee first, then to the SVCE Board of Directors. ~~The Chair proposed a~~The slate for this committee ~~was proposed~~ to be Chair George Tyson, Vice Chair Larry Klein, and Director Pat Showalter. ~~There was discussion to open the Ad Hoc Committee to the Board and the number of members to include.~~ The Executive Committee voted unanimously to recommend the SVCE Board of Directors form an Ad Hoc Committee to review SVCE's Operating Rules and Regulations for potential amendments and the proposed slate of committee members, support the recommendation, including membership for the proposed Ad Hoc Committee, which will be presented at the May Board of Directors meeting.

Doug Bernard, Management Analyst, shared information on SVCE's simplified process for submitting and processing SVCE program applications using a programs portfolio tool. The project's objectives included improving the customer experience, improving internal business processes, and scaling the number of customer accounts engaging with SVCE programs/services.

Materials from this meeting can be found on SVCE's website: [SVCE Executive Committee Meeting, April 22, 2025](#)

The next meeting of the Executive Committee will be May 23, 2025 at 10:00 a.m.; materials will be posted no later than 72 hours in advance of the meeting.

**Staff Report – Item 1i**

Item 1i: Receive Additional Committees Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Sr. Executive Assistant and Board Clerk

Date: 5/14/2025

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 will meet May 16, 2025 and the Finance and Administration Committee will meet June 2, 2025 at 10:00 a.m. The Audit Committee is expected to meet in September based on member availability. Materials for our public Brown Act meetings will be posted 72 hours in advance of the meeting dates.

**Staff Report – Item 1j**

Item 1j: Receive California Community Power Report

To: Silicon Valley Clean Energy Board of Directors

From: Monica Padilla, CEO

Date: 5/14/2025

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, April 23, 2025.

Attached is a April summary report from General Manager Alex Morris; materials from the April board meeting can be found here on the CC Power website: [CC Power Meeting, 4/23/25](#)

The next meeting of the board will be May 21, 2025 at 1:00 p.m.; meeting materials can be found on the CC Power website: <https://cacomunitypower.org/meetings/>

ATTACHMENT

1. CA Community Power Board Meeting Summary from General Manager Alex Morris, April 23, 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:** 4/24/25
FROM: Alex Morris – General Manager
SUBJECT: **Report on CC Power Regular Board of Directors Meeting – April 23, 2025**

The CC Power Board of Directors held its December Board Meeting on April 23, 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 March 19, 2025.
- **Regular Agenda Items:**
 - **Resolution 25-04-01 – Approval of Coordinated Operations Agreement for Tumbleweed Project:** The Board authorized an amendment to the Tumbleweed Energy Storage Project’s Project Participation Share Agreement (“PPSA”) to incorporate a Coordinated Operations Agreement (“COA”). This COA specifies decision-making protocols and roles and responsibilities amongst CC Power and participating members for operating the Tumbleweed Energy Storage Project, scheduled to come online in April 2026. The COA directs the establishment of an Operations Advisory Subcommittee by which relevant input from participating members is provided to CC Power, the entity ultimately tasked with daily operating responsibilities, including schedule coordinator management, outage management, settlements validation, required compliance activities, etc.
 - **General Manager Report:** the General Manager provided updates to the Board on plans to launch negotiations and or further contract explorations for geothermal projects, a wind demonstration project in California coastal waters, and a non-lithium-ion long-duration energy storage project. Members must opt in to these project opportunities to participate. Funding for these joint-procurement activities was previously approved via the 2024-2025 CC Power Budget Authorization (Resolution 24-06-02). CC Power will host its Member Forum on October 21-22, 2025, near Camp Mather, CA, where members will assess the role of long-lived resources, including, benefits, operations, and ownership models through a tour of Hetch Hetchy hydropower facilities.

- **Work-Planning and Budget *Ad Hoc* Committee Update:** Chair Lori Mitchell (SJCE), on behalf of the *Ad Hoc* Budget Committee, shared a draft 2025-2026 CC Power budget. The Ad Hoc Committee will provide a final recommended budget for Board consideration at the May 21, 2025, CC Power Board Meeting. For some members, budget approval at a CC Power Board meeting would be contingent upon related approvals from those members' respective Boards. In remarks and related discussion with the Board, Chair Mitchell and members of the Ad Hoc Committee highlighted deliberations of the Ad Hoc Committee and conclusions on key features of the budget, including the accompanying work-plan, invoicing approaches, cost-allocation approaches, the reserve-build goal, and the rollover of some funds from the current budget cycle. The *Ad Hoc* Budget Committee includes Chair Mitchell, Treasurer Mitch Sears (VCE), Monica Padilla (SVCE), and Shawn Marshall (PCE).



Staff Report – Item 2

Item 2: CEO Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Monica Padilla, CEO

Date: 5/14/2025

REPORT

Staff Updates

Sangeetha Kumar was recently promoted from Data Engineer to Senior Data Engineer. Sangeetha joined SVCE as a Decarbonization Data Engineer in December 2022. She quickly became a critical member of the Data Team, taking over DAISY development and becoming an expert in SVCE's demand-side data. Her work on DAISY has been instrumental to SVCE's data maturation process and many of those best practices will be carried over to SVCE's upcoming central repository, RADaR. In addition to her data engineering functions, Sangeetha engages all teams at SVCE to support data requests, data exploration, and strategic analyses, while fostering a growing community of DAISY Power Users. Sangeetha holds a M.S./Ph.D. in Civil Engineering from The University of Texas at Austin as well as a B.S. in Environmental Science and Mathematics from The University of North Carolina at Chapel Hill.

Personnel Officer Update

Staff is actively recruiting for three (3) summer interns including a Data Analytics Intern, Electric Project Cost Analyst Intern, and a Clean Energy Operations Intern, all slated to be hired for a 10-week summer cohort. Full time recruitment efforts also include a Power Resource Planner and continue for the Senior Financial Operations Analyst and the internal recruitment for Rotational Power Analyst.

Job descriptions and applications for the above positions can be found on SVCE's website: [Current Job Openings](#)

2025 Building Codes: Maintaining Momentum in Uncertain Times – May 29th 6:00-8:00pm, Ameswell, Hotel, Mountain View

One of SVCE's cornerstone initiatives is supporting our member agencies in developing and adopting codes and permitting processes that facilitate the transition to pollution-free buildings. The 2025 building code cycle is of particular importance as our cities work to prepare for upcoming air district rules, but it is also one of challenge given the legal changes after the Berkeley ruling, shifts happening at the federal level, and potential new California legislation. To help you all wade through this time SVCE and Peninsula Clean Energy are hosting an event for elected officials and city managers on May 29th at the Ameswell Hotel in Mountain View. The theme is maintaining momentum in uncertain times. You all have received email invites from CEO, Monica Padilla, and Board Chair, George Tyson. We encourage you to attend, but more so to encourage your colleagues to attend. Please Register [here](#).

Power Resources & Clean Energy Update

In November 2024, the Board approved new clean targets for SVCE's electricity portfolio. At the same meeting, the Board directed staff to return by March 2025 with an update on progress towards meeting clean energy targets along with a proposal to assess contributions towards meeting clean energy on a 24x7 hourly basis. The latter directive was met via the inclusion of a 24x7 reporting requirement as part of the Board's recently approved Power Purchase Agreement Project Selection Policy.

As for the update towards meeting clean energy targets, at the April 22, 2025 Executive Committee staff provided an expanded clean update and agreed to provide such update on a quarterly basis to the Executive Committee.

Agenda Item: 2**Agenda Date: 5/14/2025**

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

Staff completed 12 Earth Day events this month, which is always a busy and fun time connecting directly with our customers. Thank you to the directors who came by to visit our booth. More than 1,000 people toured the Dream Home at four events, and another ~850 customers interacted with the SVCE booth.

In April, SVCE began offering additional home electrification rebates through its Home Rebates program for two cities. Customers can receive higher rebates for a heat pump water heater (Milpitas and Mountain View customers), as well as higher rebates for a heat pump HVAC, an induction cooktop/range, or an electrical panels upgrade (Milpitas only). The extra incentives, on top of SVCE's standard rebates, are funded by these cities.

The Payment Assistance and Efficiency Resources communications campaign launched in April. SVCE placed advertisements throughout the service area at bus shelters and select billboard locations to increase awareness around the available payment assistance programs. A Nextdoor ad campaign is also running from April, late spring/early summer. All ads direct customers to the [SVCE Payment Assistance webpage](#); this campaign will run through into summer.

The marketing team held a residential programs webinar on May 6 to cover a wide range of energy topics - from bills and rates to rebates and heat pumps. More than 300 people RSVP'd and over 100 attended the event. The webinar had high engagement with lots of questions about rates, tech efficiency and SVCE rebates. Another webinar is scheduled on [May 15 at 12 p.m.](#) Webinars are being recorded and will be posted to the SVCE YouTube channel.

A list of recent media mentions and prior or upcoming community engagement events are listed below.

Press and Media

- Press Releases
 - [SV Clean Energy Dream Home Wins Excellence in Public Information & Communications Award](#), Press Release, 4-11-25
 - [Battery Project Supports Reliability and Reduces Emissions](#), Press Release, 4-21-25
- Media Mentions or Features
 - [The Hidden Savings in EV Charging](#), Clean Technica, 3-27-25
 - [Acterra Exergy TV – SVCE EV Charging](#), 4-24-25
 - [Heat Pumps Can Lower Energy Bills for Californians Today](#), RMI, 4-28-25
 - [Kumar: New Bay Area heating equipment standards will help us breathe easier, San Jose Spotlight](#), 5-5-25

Recent & Upcoming Events

May 4—Greentown Los Altos Electrification Fair - 11am - 3pm - Sponsorship and tabling - Downtown Los Altos	May 17 – Acterra Promise to Our Planet - 5pm – 9pm - Sponsorship and attendance - Hidden Villa, 26870 Moody Road, Los Altos Hills, CA 94022
May 17 – 18 – Campbell Boogie Fest - Saturday 10am – 6pm; Sunday 10am - 5pm	May 24 – 25 – Morgan Hill Mushroom Fest - Saturday 10am – 7pm; Sunday 10am - 6pm - Sponsorship

Agenda Item: 2**Agenda Date: 5/14/2025**

- SVCE scholarship competition, Dream Home, and sponsorship - Downtown Campbell	- Downtown Morgan Hill
June 7- 8 – Sunnyvale Arts & Wine Festival - Saturday 10am – 7pm; Sunday 10am - 5pm - Sponsorship and tabling - Downtown Sunnyvale	June 21 – Milpitas Juneteenth - 11am - 4pm - Sponsorship and tabling - Albert Augustine Park, 399 Coelho St, Milpitas, CA 95035

Regulatory & Legislative UpdateRegulatory:

PG&E Rule 30 Application: SVCE is engaged, along with other CCAs, in PG&E's Rule 30 Application. This application would alter interconnection rules for transmission level customers, such as data centers. The Joint CCAs are seeking to ensure that CCAs receive information about new loads in their service territories in a timely manner to allow for sufficient time to procure resources to meet the additional requirements associated with such loads. Additionally, the Joint CCAs are working to establish customer protections to ensure such loads do not result in cost shifts for other customers or delay their energization.

Integrated Resource Planning: On April 29, 2025 the CPUC released the long awaited updated Staff Proposal for the Reliable Clean Power Procurement Program ("RCPPP") which is intended to ensure a stable and predictable procurement process that no longer relies on strict procurement orders. The proposal includes two options for reliability procurement, both of which would extend the "look ahead" period for contracting of new and existing resources. The Staff Proposal also includes a long-term mechanism for ensuring GHG-free goals are met. This standard would be based up an annual GHG-free target, which may exceed existing legislative requirements such as those in SB1020. SVCE staff is reviewing the proposals and developing comments which are due on June 5th.

Legislative:

June 6, 2025, is the deadline for bills in the state legislature to pass their house of origin, and bills have been moving through the policy committee process. A few updates on priority bills:

- Senator Becker released an omnibus package to address energy affordability, SB 254, in late April. The bill contains policies including more oversight of wildfire mitigation spending, a new state program to fund public purpose programs currently paid for on electric utility bills, and a new state agency to fund transmission projects. SVCE is analyzing SB 254.
- SVCE is supporting SB 540 (Becker) on regional energy markets, which has passed both the Senate Energy and Utilities Committee and the Senate Judiciary Committee. SB 540 took amendments in the Senate Judiciary Committee that among other things added specificity on the circumstances when California would withdraw from the new regional organization. A support position on SB 540 aligns with the Board-adopted legislative policy platform policy on a clean and reliable grid.
- AB 306 (Schultz/Rivas), which would temporarily pause state codes updates and new local reach codes, moved through the Assembly and is awaiting policy committee hearings in the Senate. SVCE remains concerned about the broad impact of the bill and is seeking amendments to narrow the scope of the pause to new construction only so local governments can continue to adopt existing building electrification codes. A concerns position on AB 306 aligns with the Board-adopted legislative policy platform on climate change mitigation/fuel switching.

Agenda Item: 2**Agenda Date: 5/14/2025**

On the federal level, Congressional Republicans have started releasing language for the Budget Reconciliation Package. House leadership's goal is to pass a bill to extend the Tax Cuts and Jobs Act provisions, pay for immigration enforcement, and cut spending programs and tax credits by Memorial Day. SVCE and other CCAs sent a letter to California's delegation about important climate and energy issues including protecting key Inflation Reduction Act tax credits and municipal tax-exempt bonds. SVCE also worked closely with CalCCA to send letters to California Republican delegation members about the job creation and investment impact of renewable projects in their districts.

Strategic Plan – FY 2024/2025 Q2 Update

At the September 11, 2024 meeting, the SVCE Board of Directors adopted the five Strategic Focus Areas and Strategic Plan for fiscal year 2024-25. Staff has been busy working toward the focus areas and goals outlined in SVCE's FY 24/25 Strategic Plan; Attachment 3 provides highlights of the accomplishments and progress from January – March 2025. Staff is currently discussing the development of the fiscal year 2025-26 Strategic Plan; an overview will be discussed at the August 13, 2025 Board of Directors meeting.

New SVCE Headquarters

Staff issued a request for proposals (RFP) in April to select a project manager to oversee the design and construction of SVCE's new headquarters. Staff selected Cumming Group based on their extensive experience, particularly with public agencies, and the thoroughness of their proposal.

The RFP for design and engineering services is live on SVCE's website. Proposals are due Wednesday, May 21, 2025. Staff hopes to select a firm by the end of May and bring a contract to the Board for consideration at the June 2025 meeting. The selected firm will take input received from staff, the Board, and other key stakeholders to develop the architectural, engineering, and other design documents necessary to obtain permits. Staff will launch a second RFP to select the construction firm once the plan documents are submitted for permit.

CalCCA Annual Conference

The California Community Choice Agency held its annual conference on April 27-30 in Irvine California. The event sold out with 900 in attendance making it the largest event to date for CalCCA. SVCE was well represented by staff and Board members. Through a very competitive selection process, SVCE staff was invited to present and/or moderate six different panels and participate in a poster presentation – a testament to our ability to innovate and our deep knowledge of industry trends, challenges and opportunities.

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 June through September 2025:



Agenda Look Ahead: June – September 2025

June

11th: BOD Meeting

- Stress Test Analyses – *Discussion*
- Introduction to FY 25-26 Budget Framework – *Discussion*
- IRP Preview – *Discussion*
- Authorize Energy Prepay Transaction #4 – *Action*

August

13th: BOD Meeting

- Feedback Request for FY 25-26 Proposed Operating Budget – *Discussion*
- Intro to 2026 Strategic Plan and Strategic Focus Areas – *Discussion*
- Marketing and Outreach Deep Dive – *Informational*

September

10th: BOD Meeting

- Decarbonization Roadmap Update – *Discussion*
- Adopt FY 25-26 Proposed Operating Budget – *Action*
- Adopt FY 25-26 Strategic Focus Areas and Strategic Plan – *Action*

*Please note the items on this schedule may change depending on priorities

** No regular meeting scheduled in July

ATTACHMENTS

1. Clean Power Update, May 2025
2. Regulatory and Legislative Update, May 2025
3. Strategic Plan Quarter 2 Update

Agenda Item: 2**Agenda Date: 5/14/2025****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
Amendment – Task 8	SMUD	Home Rebates Program Support	New NTE - \$802,330 (\$293,600 added)	Extends term to 12/31/2025	Board Approved (12/13/23)
Amendment	DataSpaceDigital	Website Analytics Improvements	NTE - \$12,180	Extends term to 12/31/2025	CEO Spending Authority
Agreement	Accel Air Systems, Inc.	Air Systems Maintenance (new office)	NTE - \$1,145	4/1/2025-12/31/2025	CEO Spending Authority
Agreement	Orion Security Patrol	Security Patrol (new office)	NTE \$7,200	4/1/2025 to 12/31/2025	CEO Spending Authority
Agreement	Dinsmore Landscape Company	Landscaping Services (new office)	NTE- \$7,200	4/1/2025 to 12/31/2025	CEO Spending Authority
Agreement	Crane Pest Control	Pest Control (new office)	NTE- \$1,980	4/1/2025 to 12/31/2025	CEO Spending Authority
Amendment	Aiqueous	Software as a Service (SaaS)	No new money	No change to term	Board Approved (12/13/23)
Grant Agreement	Town of Los Gatos	Member Agency Grant Program Agreement	NTE - \$173,184	4/4/2025 to 12/31/2028	CEO Spending Authority
Amendment	Acterra	EV Rebate Community Outreach Events	No new money	Extended term to 12/31/2025	CEO Spending Authority
Amendment	CreativeF5	Graphic and Web Design, Security and Maintenance	Increased NTE to \$250,000	No change to term	CEO Spending Authority
Agreement	Intelligent Technologies and Services	Fire Alarm System (new office)	NTE- \$2,996	4/1/2025 to 12/31/2025	CEO Spending Authority
Amendment	School of Thought	Marketing and Advertising Services	New NTE- \$530,000	No change to term	Board Approved (4/9/2025)
Amendment	Carroll Street Associates	Clean and Healthy Affordable	New NTE- \$450,000	No change to term	Board Approved

Agenda Item: 2**Agenda Date: 5/14/2025**

		Multifamily Properties Program Grant Agreement			Program Funding (12/14/22)
Agreement	Aurora	Fundamental Forecast Services	NTE- \$75,000	4/4/2025 to 4/23/2026	CEO Spending Authority
Agreement	Hitachi Energy	Fundamental Forecast Services	NTE- \$83,850	4/4/2025 to 4/23/2026	CEO Spending Authority
Amendment	City of Gilroy	Community Resilience Program- Capital Projects Grant Agreement	No new money	No change to term	Board Approved Program Funding (5/13/20)
Agreement	Cumming Management Group Inc.	Construction Project Management Services	NTE- \$250,000	4/25/2025 to 12/31/2026	CEO Spending Authority


Exhibit 2 - CEO Power Supply Agreements Executed Under Delegated Authority

Counterparty Name	Execution/Effective Date	Transaction Type	Product	Start Date	End Date	Notional Value
East Bay Municipal Utility District	3/13/2025	Purchase	Renewable Energy PCC-1	7/1/2025	6/30/2030	\$14,279,990
Morgan Stanley Capital Group	3/21/2025	Purchase	Carbon-Free Energy	6/1/2026	9/30/2026	\$6,000,000
Morgan Stanley Capital Group	3/21/2025	Purchase	Resource Adequacy	6/1/2026	9/30/2026	\$463,500
Yuba County Water Agency	3/25/2025	Purchase	Carbon-Free Energy	3/26/2025	12/31/2025	\$700,000
Shell Energy North America	4/2/2025	Purchase	Resource Adequacy	5/1/2027	10/31/2027	\$6,000,000
Shell Energy North America	4/2/2025	Purchase	Resource Adequacy	7/1/2027	9/30/2027	\$1,107,000

CEO Report Clean Power Update

SVCE Board Meeting
May 14, 2025



Mission Statement

Reduce dependence on fossil fuels by providing carbon free, affordable, and reliable electricity and innovative programs for the SVCE community





Regulatory Landscape



CALIFORNIA

Public Utilities Commission

- The CPUC oversees California's Load Serving Entities by regulating rates and ensuring grid reliability and safety



**CALIFORNIA
ENERGY COMMISSION**

- The CEC is the state's primary energy policy agency, responsible for forecasting energy demand and supporting long-term planning



- SVCE's Board, comprised of officials from its 13 member communities, ensures compliance and fiscal responsibility for the community



California's Clean Energy Goals

Item 2
Attachment 1

SVCE's procurement targets are primarily driven by regulatory requirements and Board goals

SB100

- 60% Renewable Energy by 2030
- 100% Carbon Free by 2045

SB350

- 65% of Renewable Energy must be from Long-Term (10yr or more) contracts

MTR

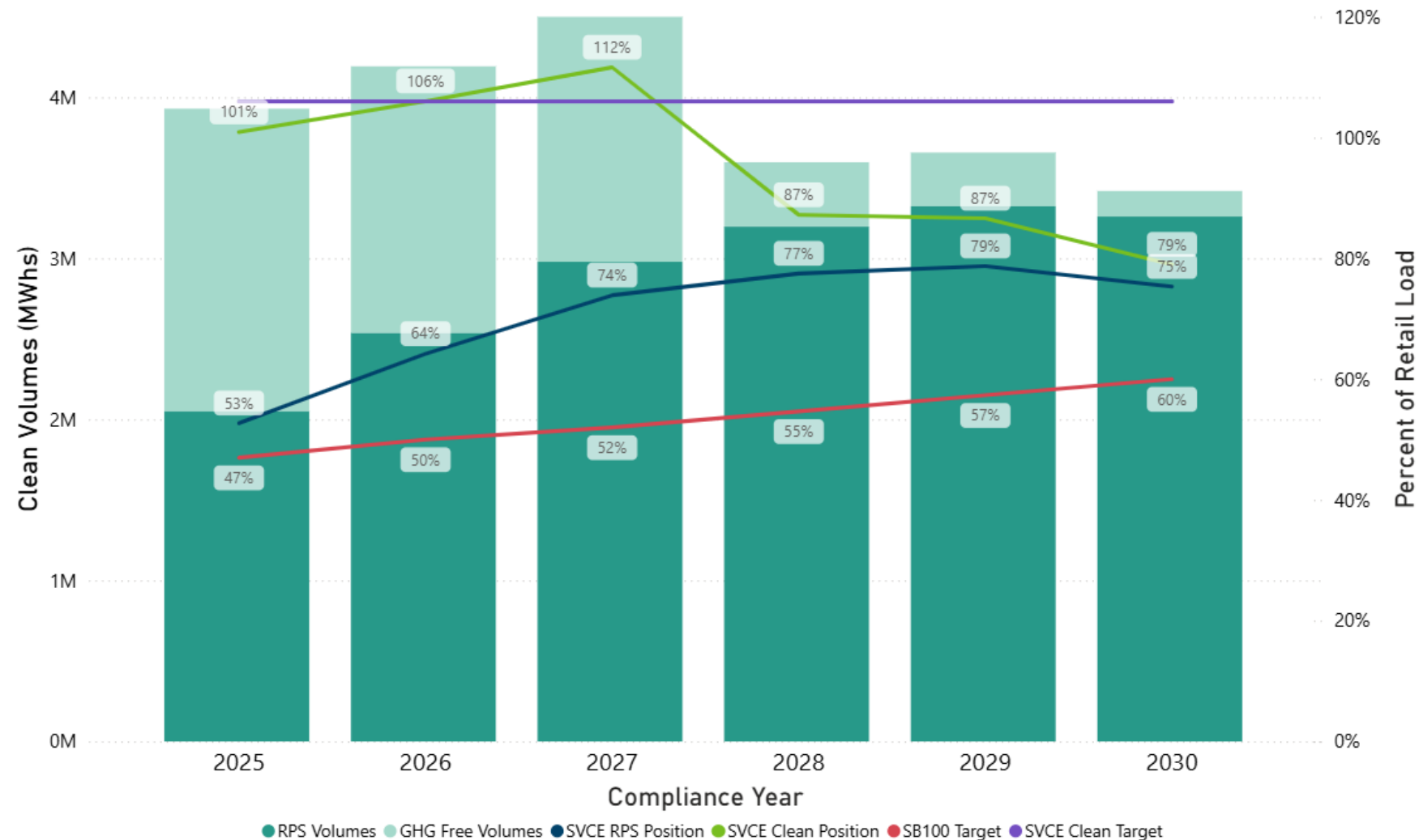
- Mid-Term Reliability
- Established by the CPUC to focus on securing sufficient online resources to meet expected demand in the coming few years

SVCE BOD

- 100% Clean – annually, with line losses
- 75% Renewable by 2030
- 100% Renewable by 2035 (adopted late 2024)



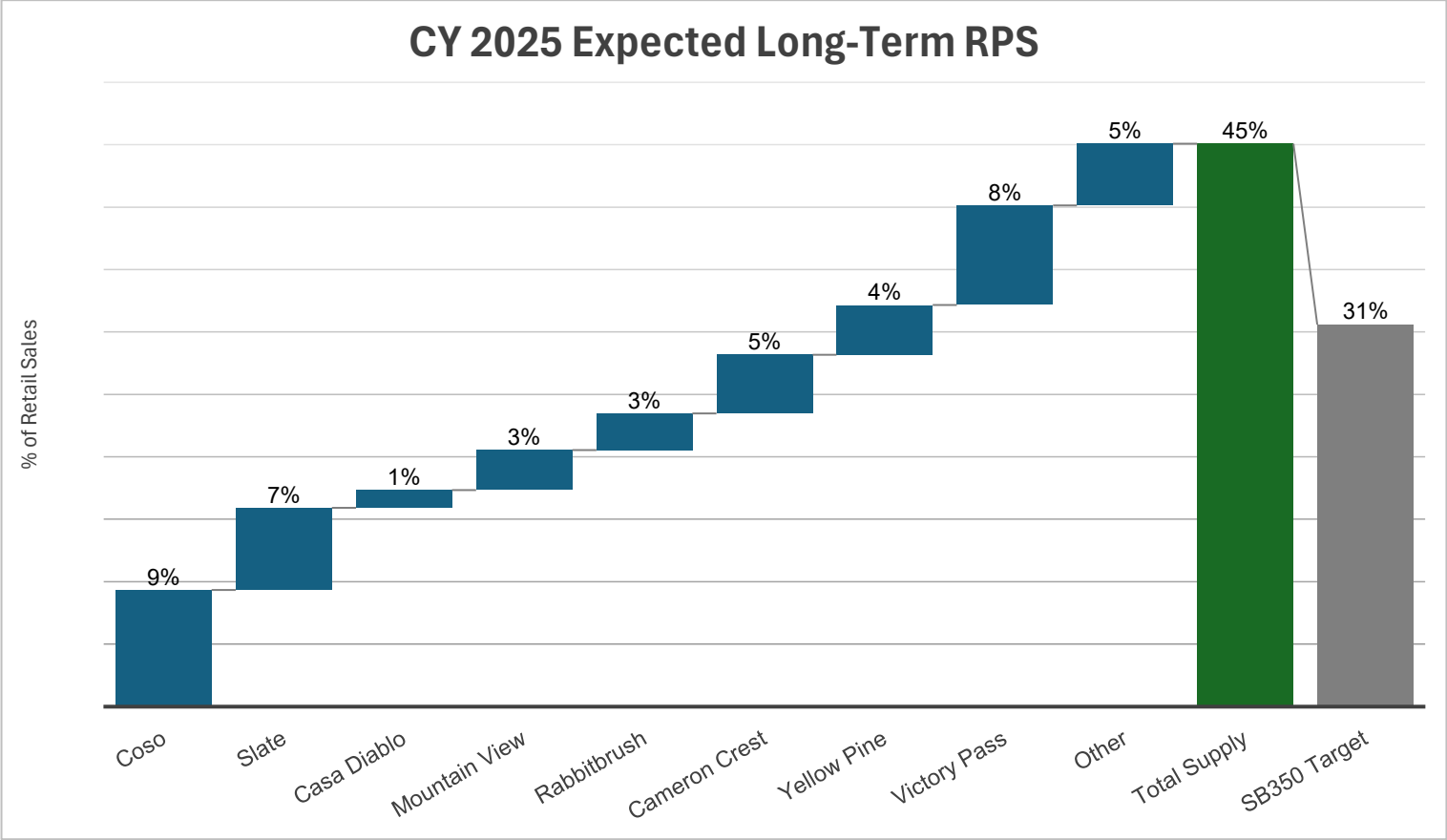
SVCE is On Track to Meet SB100 and Agency Goals for Clean and RPS...





And Making Significant Progress Toward Meeting Long-Term RPS Targets

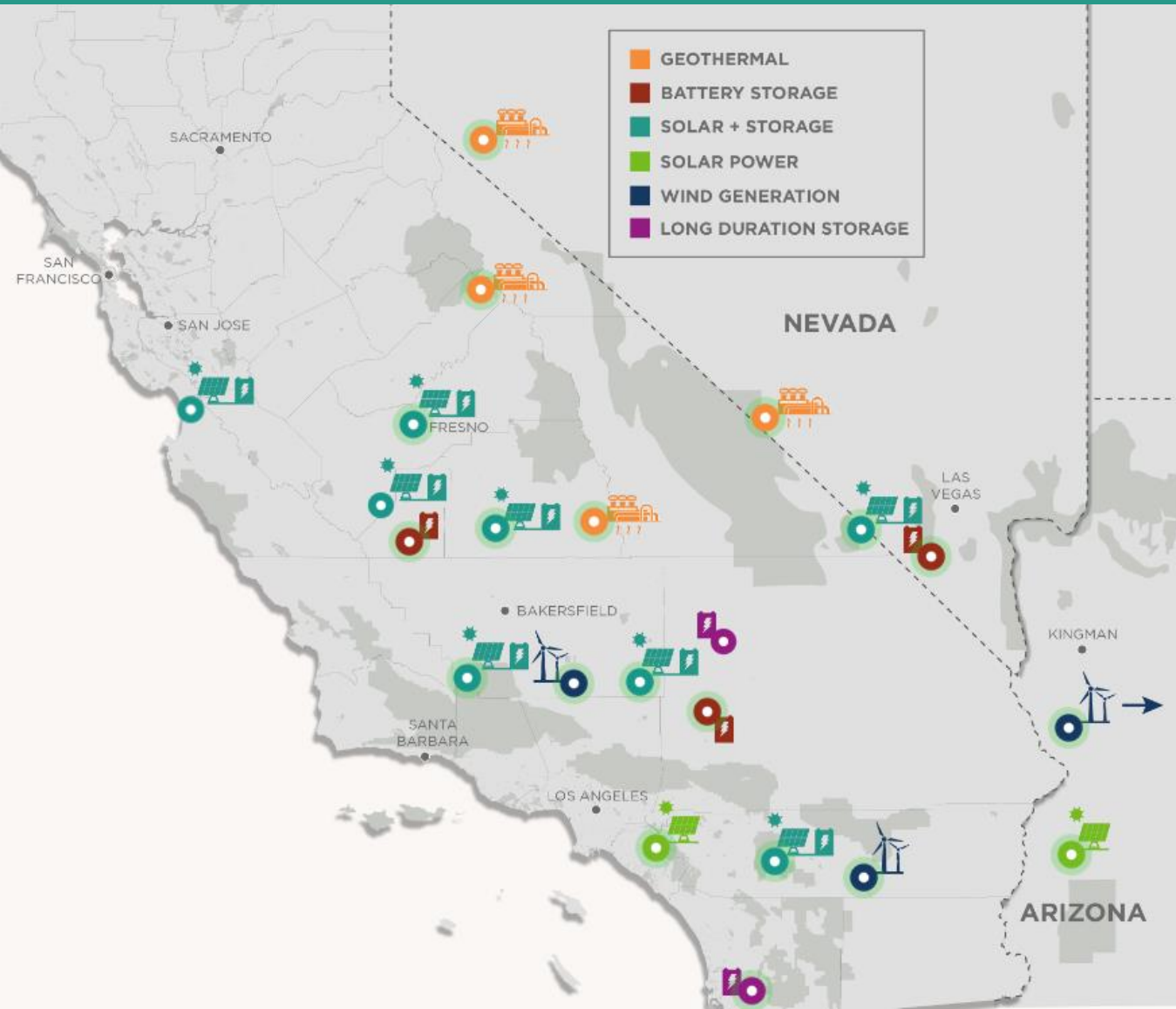
SB350 is a multi-year compliance period obligation, which has interim annual targets



- **Currently in Compliance Period 5: 2025-2027**



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



SVCE Value-Stacks As Much As Possible

Item 2
Attachment 1

Victory Pass

Solar + Storage

- 100 MW Solar
- 25 MW Battery
- 15-year term
- 8% of SVCE Load

Meets:

- ✓ SB 100
- ✓ SB 350
- ✓ MTR
- ✓ Board-adopted Clean Goals





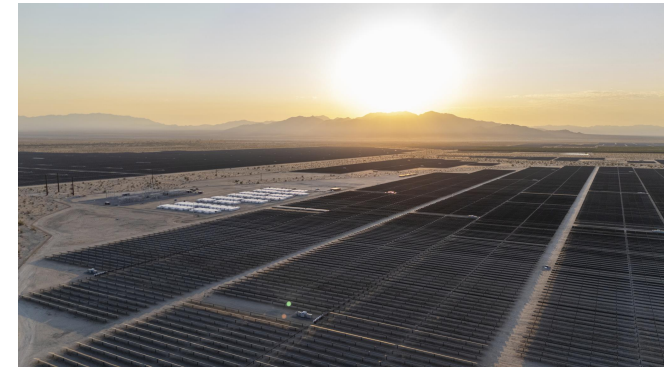
Long-Term Contracts: Online

Item 2
Attachment 1

	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



Clean Energy Resources Online Progress

as of April 29, 2025

2025 – H1

- Goal Line Long Duration Storage: *Pre-construction – delayed*

2025 – H2

- Hanford BESS on Peaker: *Construction mode*
- Atlas Solar: *Pre-construction – delayed*
- San Luis West Solar + Storage: *Pre-construction – delayed*

2026 – H1

- Yellow Pine III Storage: *Pre-construction*
- Tumbleweed Long Duration Storage: *Construction mode*
- Fish Lake Geothermal: *Pre-construction*
- Aratina Solar + Storage: *Pre-construction*

2026 – H2+

- Ormat Geothermal Portfolio: *Pre-construction*
- SunZia Wind: *Construction mode*
- Angela Solar + Storage: *Pre-construction – delayed*
- Grace Solar: *Pre-construction*
- Glossy Garlic: *Pre-construction*

THANK YOU!



SVCE Legislative and Regulatory Update

May 14, 2025



Policy Updates

Regulatory Update:

1. PG&E's Rule 30 Application
2. CPUC's Integrated Resource Planning

Legislative Update:

1. State Legislation
2. 2025 Legislative Calendar



Regulatory Update



Key Regulatory Activities

Activity	Purpose	Status
Rule 30 Application A.24-11-007	To establish new rules for transmission level interconnections of large customers.	In November of 2024 PG&E submitted an application to adopt new rules for interconnection level customer connections. This application follows a significant increase in such customer requests, largely due to new data center loads in the greater Bay Area, much of which is concentrated in Silicon Valley. As of March 2025, PG&E has reported nearly 8,500 MW of requested new load to interconnect. Among other things, adoption of this rule would allow large loads to pay up front costs for interconnection, with PG&E reimbursing the customers once the load is on the system. SVCE, as part of a group of Joint CCAs from the PG&E service area, is engaged in the regulatory proceeding to review the application. The Joint CCAs along with other parties, have protested PG&E's request for interim implementation of the rule. The Joint CCAs are also focused on ensuring that CCAs have timely access to information about these new loads to ensure they can plan for them. Additionally, the Joint CCAs are working to establish customer protections to ensure that such loads do not result in cost shifts for other customers or delay their energization.



Key Regulatory Activities

Activity	Purpose	Status
Integrated Resource Planning R.20-05-003	To ensure CPUC jurisdictional entities are on track to collectively plan for and procure resources sufficient to meet the State's clean goals and reliability targets.	On April 29, 2025 the CPUC released the long awaited updated Staff Proposal for the Reliable Clean Power Procurement Program ("RCPPP") which is intended to ensure a stable and predictable procurement process that no longer relies on strict procurement orders. The Staff Proposal puts forth two separate options for reliability planning. The first allows LSEs to procure to meet their reliability requirements with new and existing resources, without an explicit new build requirement. The second option set a new build requirement but loosens the definition of "new" allowing LSEs to procure new build on a rolling basis to help incentivize early build. Additionally staff is proposing a Clean Energy Standard to ensure GHG-free goals are met. This standard would be based upon an annual GHG-free target, which may exceed existing legislative requirements such as those in SB1020. SVCE staff is reviewing the proposals and developing comments, which are due on June 5th.



Legislative Update



SVCE Bill Positions

Bill Number	Summary	SVCE Position	Position Taken Under which Board-Adopted Legislative Platform Policy
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	Clean, Reliable Grid
AB 306 (Schultz/Rivas)	Would prohibit local governments from adopting new reach codes, unless the reach codes were related to emergency health and safety or home hardening.	Concerns + amendment suggestions.	Climate Change Mitigation/Fuel Switching



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

Silicon Valley Clean Energy STRATEGIC PLAN

FY 24/25 Q2 Progress Update January - March 2025

Strategic Focus Areas

SFA 1: Expand Affordability Efforts

Staff brought an update in March 2025 to the SVCE Board of Directors on the broad scope of affordability actions SVCE has taken and is working on. Staff finalized marketing materials and plan for the 2025 rate education and payment assistance outreach campaign (with focus on CARE/FERA, CARE/FERA-eligible, and fixed-income customers) to connect customers with new SVCE webpages to help them easily find resources to better manage their utility bills. Staff is continuing to work on many other affordability actions including the Board approved creation of the SVCE Community Fund, tracking bills, and working on novel rate design.

SFA 2: Expand Clean & Reliable Grid Actions

At the March 2025 Board of Directors meeting, the Board approved the establishment of the SVCE Community Fund which sets aside funding, when available, to fund initiatives and services in three mission-aligned priority areas: 1) Rate Stabilization and Bill Affordability, 2) Scalable Support for Pollution Free Appliances, and 3) Local and Emerging Power Supply Technology. Approval of the fund has enabled staff to prepare and design initiatives that will better serve customers and meet the SVCE mission to “reduce dependence on fossil fuels by providing carbon-free, affordable, and reliable electricity and innovative programs for the SVCE community.”

SFA 3: Expand Offerings and C/I Customers

Staff is continuing to work with members of the Commercial & Industrial (C&I) Decarbonization program on projects at their properties; Working through EcoInvestment proposals with two large C&I customers; and Developing updates to overall offers for key accounts (e.g. additional billing support, technical assistance, and relationship building).

SFA 4: Prepare Region for Electrification at Scale

Grants have been awarded as part of SVCE's 2024 Member Agency Resilience Grants, which support electrification and resilience projects in our community. These investments are in direct support of SVCE's mission.

SFA 5: Attract & Retain Employees

SVCE continues to offer engaging strategies including fun activities, trainings, office hours, all hands and more to ensure staff is updated with agency information in ways that meet various learning preferences. Staff utilized both technology and in-person time to make meaningful gains toward productivity including offering connections time and focus time for important administrative hygiene. Q2 continued with no turnover for year-to-date 2024/2025.

Silicon Valley Clean Energy STRATEGIC PLAN

FY 24/25 Q2 Progress Update

Goal Accomplishments

Goal 1 - Advance policies which support SVCE's mission to reduce dependence on fossil fuels. (SFA1, SFA4)

- Staff continues to participate in local policy development, state legislative advocacy, and regulatory advocacy to advance policies that increase affordability and reduce emissions.
- Particular focus in Q2 was on both the PCIA and High DER proceedings, both of which could significantly impact affordability, especially for CCA customers.
- Through CalCCA, SVCE is advocating on a number of bills to address issues identified in the affordability platform including SB 540 (Becker) on regionalization and SB 254 (Becker) on electricity affordability.
- All 13 member agency action plans completed, supporting improvements to the Air District's rules, coordinating all Bay Area CCAs on policy approaches.

Goal 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. (SFA1, SFA2)

- Assumptions for load scenarios have been established, and are now being modeled by staff.
- Supply side scenarios, a virtual power plant valuation model, and load flexibility scenario have been established or scoped, with development to continue into the next two quarters.

Goal 3 - Create a long-term decarbonization plan that integrates supply and demand changes, opportunities, and challenges. (SFA1, SFA2)

- Launched internal tiger team and began initial research.
- Electrification scenarios drafted that are informing SVCE's portfolio planning efforts.
- Plan development is in process and will take approximately 12-15 months to complete.
- Update on Decarbonization Plan anticipated to be brought to the Board of Directors in September 2025.

Goal 4 - Acquire power supply resources in a cost-effective manner to meet legislative and regulatory obligations, Board directives and customer specific products. (SFA2, SFA3)

- Purchased small hydroelectric qualifying for Renewable Portfolio Standard (RPS) energy from East Bay Municipal Utilities District for a five-year term.
- Enrolling customers in Hourly Flex Pricing pilots and monitoring PG&E roll-out and testing automated real time pricing through managed electric vehicle (EV) charging app for ~100 customers.
- Re-evaluating SVCE's E-ELEC rate design to better promote consumption in solar hours, which is being presented to the Board of Directors in May.
- Reviewing solicitation responses and working through details of SVCE program concept for demand flexibility / virtual power plant with top respondents. Presentation and request for SVCE Board approval for one agreement agendized in May.
- SVCE has met all compliance and agency goals to date.

Goal 5 - Manage and optimize load and power resources to meet affordability, GHG reduction and reliability objectives. (SFA1, SFA2)

- Load scheduling services transitioned to new third party vendor, Tenaska Power Services.
- Fully optimizing power contract curtailment provisions to maximize delivery of renewable energy certificates.

Goal 6 - Maintain healthy financial position; avoid failures in management of market risk, credit risk, liquidity risk, operational risks, and enterprise risks.

- Received A3 investment-grade credit rating upgrade from Moody's Investor Service.
- Approval to establish rate stabilization fund under Government Accounting Standard Board (GASB) Standard 62, and FY 2024-25 mid-year budget approved by the SVCE Board in March 2025.
- In March 2025, SVCE Board approved amendments to SVCE's Energy Risk Management Policy to further strengthen risk management controls, clarify existing policy, and reflect current energy procurement activities.
- Using SVCE's Enterprise Risk Management framework, comprehensively assessed risks, updated the risk register, and proposed financial stress scenarios to the Finance and Administration Committee. Stress testing process underway with anticipated reporting to the SVCE Board in June 2025.

Goal 7: Support all SVCE communities to decarbonize through local investments that reduce barriers and demonstrate sensible, scalable, and equitable solutions. (SFA1, SFA2, SFA3, SFA4)

- Launched additional marketing campaigns to promote participation in SVCE programs.
- Continuing adjustments to improve offers across the board. Final design work for financing program wrapped up.
- Deployed new "assisted home upgrades" pathway that can help residents apply across multiple rebate programs all in one app. Preparing for hard launch of single-family direct installation program.
- Continuing to work with members of the Commercial and Industrial (C&I) Decarbonization program on projects at their properties.
- Working through EcolInvestment proposals with two major C&I customers.
- Developing updates to overall offers for key accounts (e.g. billing support, technical assistance, relationship building).

Goal 8 - Engage customers and community stakeholders to build trust of SVCE and advance decarbonization. (SFA1, SFA3, SFA4)

- Data management and billing services agreement with Calpine Community Energy finalized and signed.
- Performed deep dive into call center data.
- Developed the Power Squad marketing campaign to personify SVCE as customers' trusted energy advisor for all electrification needs.
- Completed open call and selection for annual student sponsorships and promoted the new education nonprofit grants.
- Continued delivering direct marketing to customers about available offers and services.

Goal 9 - 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).

- Table Top Exercise, Security Assessment Remediation and Annual Data Privacy Audit completed.
- Organization-wide standards approved and socialized; trainings with staff in progress
- Continued ongoing work to remediate identified vulnerabilities

Goal 10 - Hire, retain and develop high-performing talent via competitive benefits and rewarding work culture. (SFA5)

- Kicked-off annual Learning Strategy for the agency with curated Power Hours, Departmental Interactive sessions and Quarterly Workshops and Speakers to meet the agencies learning and development goals.
- Held successful quarterly in-person retreat in March, with guest speaker focused on productivity and performance.
- Planning underway for May Quarterly in-person retreat, which will incorporate activities across and within departments and functions.



Staff Report – Item 3

Item 3: Authorize the Chief Executive Officer to Execute Two 10-Year Power Purchase Agreements with SunZia Wind South LLC and SunZia Wind North LLC

From: Monica Padilla, CEO

Prepared by: Kris Van Vactor, Director of Power Resources
Britta Bradshaw, Power Resource Manager

Date: 5/14/2025

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) delegate authority to the Chief Executive Officer (CEO) to finalize and execute two Power Purchase Agreements (PPA), and any subsequent amendments and ancillary agreements, for clean wind power with Pattern Energy for SunZia Wind South LLC and SunZia Wind North LLC ("Agreements"), with the following provisions:

1. SunZia Wind South LLC

- a. 17.25 MW or approximately 55,000 MWh per year
- b. 10-Year term PPA with expected commercial operation dates (COD) and term from June 1, 2026, through May 31, 2036.
- c. Total amount not-to-exceed \$58,000,000.

2. SunZia Wind North LLC

- a. 7.75 MW or approximately 25,000 MWh per year
- b. 10-Year term PPA with expected COD and term from June 1, 2026, through May 31, 2036.
- c. Total amount not-to-exceed \$26,000,000.

Execution of the Agreements will help SVCE meet SVCE Board-directed clean energy targets, California's Renewable Portfolio Standard (RPS) requirements for Portfolio Category Content One ("PCC1") resources and clean procurement mandates, and Resource Adequacy (RA) requirements, including Mid-Term Reliability requirements for new clean capacity. The Agreements are provided in substantive form (Attachments 1 and 2) are mutually exclusive and are incremental to SVCE's existing PPA for SunZia Wind. Any future amendments to the two recommended contracts shall be subject to the not-to-exceed (NTE) limit and authority set forth in Resolution 2022-08 or any subsequent authority.

BACKGROUND

In August 2024, Silicon Valley Clean Energy (SVCE) issued a Request for Offers (RFO) for long-term clean resources. The goal of the RFO was to secure a diverse set of renewable energy and clean capacity to meet SVCE's (RPS) and carbon-free objectives, while also complying with California's RPS and clean mandates. The SunZia agreements were selected resulting from this RFO.

SVCE has an existing PPA with SunZia Wind PowerCo LLC for 100 MW, approved by SVCE's Board and executed in November 2023, covering the same wind facilities represented by these proposed incremental Agreements. The proposed incremental Agreements are substantially similar to SVCE's existing PPA for the project. SVCE's existing SunZia PPA includes a provision which allows for a Replacement PPA which would bifurcate the project into the two separate resources of SunZia South and SunZia North; this bifurcation is reflected in these incremental Agreements.

Agenda Item: 3**Agenda Date: 5/14/2025**

As a load serving entity (LSE), SVCE is subject to clean energy and RPS targets under Senate Bill 100 ("SB 100") which set a goal of achieving a 60% RPS by 2030 and a 100% clean energy grid by 2045 with interim targets of 90% by 2035 and 95% by 2040 as provided for under Senate Bill 1020. Additionally, SVCE's Board set a 100% clean energy target on an annual basis and directed staff to achieve a 75% RPS in 2030-2034 (with a 10% margin of error) as approved by the Board in the [November 13, 2024 SVCE Board of Directors Meeting, Item 4.](#)

Clean resources were also sought to meet obligations as ordered in the California Public Utilities Commission (CPUC) issuing Decisions (D.) 21-06-035 and (D.) 23-02-040—together, the Mid-term Reliability Procurement Orders (MTR Orders)—requiring CPUC-jurisdictional LSEs, such as SVCE, to procure and/or develop a collective 15,500 MW of new capacity by 2028. 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.

In support of SVCE's goals and mandates, SVCE has 22 long-term contracts for clean energy, capacity and/or reliability products totaling over \$3 billion over the life of the contracts. Currently, nine resources are online and estimated to meet approximately 41% of SVCE's retail sales in 2025 with the following RPS mix: Solar + Storage: 22%, Geothermal: 11%, Wind: 8%.

In 2030, when all resources are on-line, SVCE will have achieved a 75% RPS from long-term resources and 61% of its peak capacity will be met from clean resources. Tables 1 and 2 summarize the PPAs executed to date to meet RPS, resource adequacy and/or MTR requirements.

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 - 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
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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

SunZia Wind, the large project comprised of both SunZia South and SunZia North, is a 3,515 MW new build wind facility resource capable of producing over 11 million MWh of PCC1 RPS energy and renewable energy certificates (RECs). Pattern Energy ("Pattern") is the parent company and developer of SunZia Wind.

The Incremental SunZia Wind Agreements for SVCE will be for a combined 25 MW of the 3,515 MW facility and contribute around 80,000 MWh of PCC1 RPS energy and renewable energy certificates (RECs) annually, which will account for approximately 2% of SVCE's retail sales and count towards annual and long-term RPS requirements. The resource is offered at a fixed-price in dollars per MWh under a ten-year term with an expected COD of June 1, 2026. The project is in New Mexico (it spans Torrance, Lincoln and San Miguel Counties) and will be interconnected to the California Independent System Operator (CAISO) at the Palo Verde Inter-tie. SunZia Wind will have full deliverability status from the CAISO and provided SVCE is awarded the necessary Import Allocation Rights, the project will be able to provide resource adequacy attributes to help SVCE meet its annual compliance obligation.

Tables 3 and 4 are a summary of the key features of the SunZia Wind PPAs.

Table 3: Summary of SunZia Wind South

Counterparty	SunZia Wind South LLC
Parent Company	Pattern Energy, Inc.
Product	New build wind PCC1 RPS Energy
Need and/or Compliance Obligation	SVCE's 100% Clean energy goal and RPS target

	SB100, SB350 and B1020 MTR Order and RA starting in 2026
Expected Delivery Term	10 years, June 1, 2026, through May 31, 2036.
Contract Capacity	17.25 MW wind
Location	New Mexico
Percentage of Retail Load Served/RPS	~1.3%

Table 4: Summary of SunZia Wind North

Counterparty	SunZia Wind North LLC
Parent Company	Pattern Energy, Inc.
Product	New build wind PCC1 RPS Energy
Need and/or Compliance Obligation	SVCE's 100% Clean energy goal and RPS target SB100, SB350 and B1020 MTR Order and RA starting in 2026
Expected Delivery Term	10 years, June 1, 2026, through May 31, 2036.
Contract Capacity	7.74 MW wind
Location	New Mexico
Percentage of Retail Load Served/RPS	~0.6%

RPS Compliance & Integrated Resource Plan

SB100 sets annual RPS targets starting in 2020 growing to 60% in 2030 and further sets a 100% clean energy goal by 2045. SVCE's board-approved IRP further sets an RPS target of 75% by 2030. The Incremental SunZia Wind Agreements provide an estimated 80,000 MWh of RPS eligible energy, bringing SVCE's expected RPS in 2028 to 79%.

SB350, passed in 2016, requires Load Serving Entities (LSE) such as SVCE to acquire a minimum of 65% of the state mandated RPS requirement through long-term PPAs (10 years or greater) starting with Compliance Period No. 4 "CP4" (2021-2024). SunZia Wind is expected to come on-line in 2026, helping meet long-term obligations in CP5. With the inclusion of SunZia Wind, SVCE's long-term RPS is 64% in CP5 and 77% in CP6, which is above California's mandated long-term RPS requirement of 33% and 37% respectively. These numbers represent SVCE's position assuming all contracts are operational based on the on-line dates specified in the PPAs and that the resources perform consistent with the generation profiles provided in the PPAs as well. Table 5 shows SVCE's progress towards meeting its RPS and clean goals.

Table 5: Impact to SVCE RPS and Clean Energy Targets

Calendar Year	SB 100 RPS Target	Board RPS Target	Expected SB 100 Position (without incremental SunZia Volumes)	SB 100 Position with expected incremental SunZia Volumes	Clean Position (expected)	Clean Position with expected incremental SunZia Volumes
2026	50%	52%	64%	65%	106%	107%
2027	52%	54%	74%	76%	112%	114%
2028	55%	57%	77%	79%	87%	89%
2029	57%	59%	79%	81%	87%	89%
2030	60%	65-75%	75%	77%	79%	81%

Mid-term Reliability Procurement Order & Resource Adequacy Capacity

SVCE has made significant progress towards meeting its allocation in all tranches of procurement mandates per the MTR Order. SVCE is slightly deficient in meeting its generic 2026, 2027 and 2028 requirements which orders the procurement of new clean energy capacity including standalone storage. SVCE's 25 MW incremental share of SunZia Wind will contribute approximately 9 MW of qualifying capacity helping to close SVCE's obligation starting in 2026¹.

SVCE has an obligation to procure sufficient capacity to meet grid reliability as prescribed by the CPUC's RA Program. New Mexico wind resources such as SunZia Wind provide an RA profile that is beneficial to SVCE's portfolio under the state's Slice of Day RA program.

Clean Energy and Capacity

SVCE works towards a 100% clean energy goal measured annually. This will be 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 energy. 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 co-located, help achieve a more sustainable grid by pushing out solar generation into later hours of the day, when demand peaks. These types of resources are necessary to meet current retail product needs including GreenStart, GreenPrime and GreenPrime Direct in addition to help us build a pathway to 24/7 clean energy.

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

SVCE does not have a clean capacity goal. Currently, short-term natural gas RA-only capacity contracts account for the vast majority of SVCE's RA portfolio. In 2024, 69% of SVCE's requirements were from RA-only contracts. By including the incremental SunZia Agreements into the portfolio, Energy Source from Wind increases by 2% and RA credit increases by just over 1%. Table 6 is an illustration of SVCE's energy and capacity portfolio in 2028.

¹ For MTR credit, in 2026 New Mexico Wind has an Effective Load Carrying Capacity rating of 35%.

Table 6: Energy and RA Capacity Portfolio with SunZia Wind – Estimated for 2028

Estimated for 2028	Annual Energy (GWh)	Energy Source as a Percent of Total Retail Sales	Capacity Source as a Percent of Total RA Requirement
Biomass	0	0%	0%
Geothermal	378	9%	22%
Solar	1,835	44%	11%
Wind with SunZia	713	17%	10%
Large Hydroelectric	1,130	27%	0%
Battery Storage	0	0%	9%
Natural Gas RA-only	0	0%	33%
Hanford - Natural Gas	70	2%	15%
Total	4,126	100%	100%

PPA Project Selection Policy

On April 9, 2025, the Board adopted PPA Project Selection Policy ("Policy") which set evaluation criteria for new PPAs. The two incremental PPAs were selected and negotiated prior to the Board-adopted policy. The PPAs meet many of the Policy requirements including payment of prevailing wages.

Given the complimentary wind generation profile, the two PPAs will help achieve clean energy in many more hours needed. Tables 7 and 8 below show SVCE's hourly clean energy position without the Agreements (Table 7) and with the proposed Agreements (Table 8).

Table 7: Expected SVCE Hourly Clean Energy Profile in 2028 without SunZia Agreements

Hour Ending Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	43%	42%	42%	43%	46%	56%	57%	63%	86%	97%	85%	84%	86%	89%	96%	102%	61%	63%	51%	50%	53%	40%	44%	46%
2	40%	39%	39%	39%	42%	50%	60%	69%	99%	114%	102%	101%	105%	107%	110%	124%	84%	72%	68%	60%	51%	41%	39%	40%
3	50%	50%	50%	49%	51%	60%	73%	73%	114%	141%	145%	142%	150%	152%	154%	186%	158%	114%	92%	75%	74%	66%	56%	53%
4	59%	55%	53%	53%	57%	64%	59%	84%	136%	159%	148%	152%	159%	168%	186%	211%	187%	156%	124%	99%	84%	76%	62%	62%
5	64%	62%	61%	60%	63%	67%	73%	112%	163%	179%	167%	170%	177%	182%	207%	217%	198%	168%	139%	114%	87%	88%	72%	67%
6	59%	58%	57%	56%	58%	62%	78%	117%	152%	144%	150%	154%	159%	184%	191%	182%	168%	147%	135%	123%	88%	82%	69%	62%
7	55%	54%	52%	51%	50%	50%	64%	93%	110%	123%	132%	138%	157%	173%	167%	156%	143%	128%	133%	112%	83%	73%	59%	57%
8	52%	51%	51%	50%	50%	52%	52%	78%	111%	118%	130%	136%	147%	166%	162%	150%	137%	130%	123%	97%	75%	64%	56%	52%
9	47%	49%	49%	48%	49%	50%	46%	70%	107%	111%	122%	125%	127%	148%	153%	142%	127%	131%	103%	79%	76%	49%	54%	49%
10	53%	46%	44%	43%	45%	56%	45%	55%	97%	119%	112%	117%	120%	123%	155%	150%	131%	112%	86%	69%	54%	50%	58%	51%
11	47%	40%	40%	40%	44%	55%	49%	71%	100%	92%	89%	94%	96%	96%	124%	102%	66%	72%	57%	48%	47%	43%	42%	52%
12	46%	44%	42%	42%	44%	55%	45%	58%	88%	86%	77%	80%	84%	84%	105%	89%	56%	58%	49%	52%	43%	37%	52%	45%

Table 8: Net Change to Expected SVCE Hourly Clean Energy Profile in 2028 with Sunzia Agreements

Hour Ending Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%
2	2%	2%	2%	2%	2%	2%	1%	1%	1%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%
3	3%	3%	3%	3%	3%	3%	2%	2%	2%	2%	2%	2%	3%	3%	3%	3%	3%	2%	2%	2%	2%	2%	2%	3%
4	3%	3%	3%	2%	2%	2%	2%	2%	2%	2%	2%	2%	3%	3%	3%	3%	3%	3%	2%	2%	2%	2%	2%	3%
5	3%	3%	3%	2%	2%	2%	2%	2%	2%	2%	2%	2%	3%	3%	3%	3%	3%	3%	3%	3%	2%	2%	3%	3%
6	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%
7	2%	2%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	2%
8	2%	2%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	2%
9	2%	2%	2%	2%	2%	2%	2%	2%	2%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	2%	2%	2%	2%
10	2%	2%	2%	2%	2%	2%	2%	2%	2%	1%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%
11	2%	2%	3%	3%	3%	3%	2%	2%	2%	2%	2%	3%	3%	3%	3%	3%	2%	2%	2%	2%	2%	2%	2%	2%
12	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%

Agenda Item: 3**Agenda Date: 5/14/2025**

ALTERNATIVE

While the incremental SunZia Wind Agreements are beneficial to meeting overall RPS goals, clean energy, and MTR goals, the Board may decide not to approve the two resources or approve only one and instead procure short-term clean resources and/or issue a new RFO for resources that can meet SVCE's MTR requirement. Staff does not recommend this alternative, as MTR-eligible and renewable resources are scarce. Failure to comply with this mandate may result in the assessment of penalties by the CPUC. The amount of penalties is unknown and dependent on SVCE's overall deficiency and cost of new resources.

STRATEGIC PLAN

Board approval to delegate authority to the CEO to execute the SunZia Wind Agreements will enable staff to meet the current board directed clean targets and California RPS requirement, consistent with goals and objective as outlines in SVCE's Strategic Plan, in particular, Goal #4: Acquire power supply resources in a cost-effective manner to meet legislative and regulatory obligations, Board directives and customer specific products.

FISCAL IMPACT

Execution of Agreements will result in cost to SVCE starting in Fiscal Year (FY) 2026, which will be included in the budget at that time. Staff's spending authority over the life of the two PPAs will be limited to the amount recommended including \$84,000,000 for SunZia Wind.

ATTACHMENTS

1. SunZia Wind South Power Purchase Agreement – redacted version
2. SunZia Wind North Power Purchase Agreement – redacted version

RENEWABLE POWER PURCHASE AND SALE AGREEMENT**COVER SHEET****Seller:** SunZia Wind South LLC**Buyer:** Silicon Valley Clean Energy Authority, a California joint powers authority**Description of Facility:** A wind-powered electricity generating facility known as SunZia Wind South, with a nameplate capacity of up to 2,426 MW, as described in Exhibit A, as such facility may be modified under the terms of this Agreement.**Milestones:**

Milestone	Date for Completion
Execute Interconnection Agreement	Complete
Obtain Bureau of Land Management Record of Decision for SunZia Transmission Line	Complete
Procurement of Major Equipment	Complete
Construction Start Date	Complete
Expected Commercial Operation Date	9/30/2026

Delivery Term: Ten (10) Contract Years.**Guaranteed Capacity:** 17.54 MW_{AC}.**Expected Energy:**

Contract Year	Expected Energy (MWh per Contract Year)
1 – 10	[REDACTED]

Contract Price: [REDACTED]**Product:**

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

Scheduling Coordinator: Seller/Seller Third Party.**Development Security and Performance Security**

[REDACTED]



TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS.....	1
1.1 CONTRACT DEFINITIONS.....	1
1.2 RULES OF INTERPRETATION.....	17
ARTICLE 2 TERM; CONDITIONS PRECEDENT.....	18
2.1 CONTRACT TERM.....	18
2.2 RESERVED.....	18
2.3 OBLIGATIONS PRIOR TO DELIVERY TERM.....	18
2.4 PROGRESS REPORTS.....	19
2.5 REMEDIAL ACTION PLAN.....	19
2.6 NON-SPTO MODIFICATIONS.....	20
ARTICLE 3 PURCHASE AND SALE	20
3.1 SALE OF PRODUCT	20
3.2 SALE OF GREEN ATTRIBUTES	20
3.3 COMPENSATION.....	20
3.4 IMBALANCE ENERGY	21
3.5 OWNERSHIP OF RENEWABLE ENERGY INCENTIVES.....	21
3.6 FUTURE ENVIRONMENTAL ATTRIBUTES.....	21
3.7 TEST ENERGY.....	22
3.8 CAPACITY ATTRIBUTES.....	22
3.9 CEC CERTIFICATION AND VERIFICATION.....	23
3.10 CPUC NON-MODIFIABLE STANDARD TERMS AND CONDITIONS.....	23
3.11 CALIFORNIA RENEWABLES PORTFOLIO STANDARD	23
3.12 COMPLIANCE EXPENDITURE CAP.....	24
ARTICLE 4 OBLIGATIONS AND DELIVERIES.....	25
4.1 DELIVERY.....	25
4.2 TITLE AND RISK OF LOSS.....	25
4.3 SCHEDULING COORDINATOR RESPONSIBILITIES.....	25
4.4 FORECASTING.....	26
4.5 DISPATCH DOWN/CURTAILMENT.....	27
4.6 REDUCTION IN DELIVERY OBLIGATION.....	28
4.7 GUARANTEED ENERGY PRODUCTION.....	29
4.8 WREGIS	29
4.9 MODIFICATION OF INSTALLED CAPACITY	31
ARTICLE 5 TAXES.....	31
5.1 ALLOCATION OF TAXES AND CHARGES.....	31
5.2 COOPERATION.....	31
ARTICLE 6 MAINTENANCE OF THE FACILITY	32
6.1 MAINTENANCE OF THE FACILITY.....	32
6.2 MAINTENANCE OF HEALTH AND SAFETY	32
6.3 SHARED FACILITIES	32
ARTICLE 7 METERING	32
7.1 METERING.....	32

7.2	METER VERIFICATION.....	33
ARTICLE 8 INVOICING AND PAYMENT; CREDIT		33
8.1	INVOICING	33
8.2	PAYMENT	33
8.3	BOOKS AND RECORDS.....	34
8.4	PAYMENT ADJUSTMENTS; BILLING ERRORS	34
8.5	BILLING DISPUTES	34
8.6	NETTING OF PAYMENTS	34
8.7	SELLER’S DEVELOPMENT SECURITY	34
8.8	SELLER’S PERFORMANCE SECURITY	35
8.9	FINANCIAL STATEMENTS.....	35
8.10	BUYER’S FIRST PRIORITY SECURITY INTEREST IN CASH OR CASH EQUIVALENT COLLATERAL	36
ARTICLE 9 NOTICES		36
9.1	ADDRESSES FOR THE DELIVERY OF NOTICES	36
9.2	ACCEPTABLE MEANS OF DELIVERING NOTICE.....	36
ARTICLE 10 FORCE MAJEURE.....		37
10.1	DEFINITION.....	37
10.2	NO LIABILITY IF A FORCE MAJEURE EVENT OCCURS.....	38
10.3	NOTICE.....	38
10.4	TERMINATION FOLLOWING FORCE MAJEURE EVENT	38
ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION.....		38
11.1	EVENTS OF DEFAULT	38
11.2	REMEDIES; DECLARATION OF EARLY TERMINATION DATE.....	41
11.3	TERMINATION PAYMENT	41
11.4	NOTICE OF PAYMENT OF TERMINATION PAYMENT.....	42
11.5	DISPUTES WITH RESPECT TO TERMINATION PAYMENT	42
11.6	RIGHTS AND REMEDIES ARE CUMULATIVE	42
11.7	MITIGATION	42
ARTICLE 12 LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES		42
12.1	NO CONSEQUENTIAL DAMAGES	42
12.2	WAIVER AND EXCLUSION OF OTHER DAMAGES	42
ARTICLE 13 REPRESENTATIONS AND WARRANTIES; AUTHORITY		43
13.1	SELLER’S REPRESENTATIONS AND WARRANTIES	43
13.2	BUYER’S REPRESENTATIONS AND WARRANTIES.....	44
13.3	GENERAL COVENANTS	45
13.4	PREVAILING WAGE.....	46
ARTICLE 14 ASSIGNMENT.....		46
14.1	GENERAL PROHIBITION ON ASSIGNMENTS.....	46
14.2	COLLATERAL ASSIGNMENT	46
14.3	PERMITTED ASSIGNMENT	47
14.4	LIMITED ASSIGNMENT BY BUYER	47
ARTICLE 15 GOVERNING LAW; DISPUTE RESOLUTION.....		47

15.1	GOVERNING LAW	47
15.2	VENUE	48
15.3	DISPUTE RESOLUTION	48
15.4	ATTORNEYS' FEES	48
ARTICLE 16 INDEMNIFICATION		48
16.1	INDEMNIFICATION.	48
16.2	CLAIMS	48
ARTICLE 17 INSURANCE.....		49
17.1	INSURANCE.	49
ARTICLE 18 CONFIDENTIAL INFORMATION.....		50
18.1	DEFINITION OF CONFIDENTIAL INFORMATION	50
18.2	DUTY TO MAINTAIN CONFIDENTIALITY	50
18.3	IRREPARABLE INJURY; REMEDIES	50
18.4	PERMITTED DISCLOSURES	50
18.5	PRESS RELEASES.....	51
ARTICLE 19 MISCELLANEOUS		51
19.1	ENTIRE AGREEMENT; INTEGRATION; EXHIBITS	51
19.2	AMENDMENTS.....	51
19.3	NO WAIVER	51
19.4	NO AGENCY, PARTNERSHIP, JOINT VENTURE OR LEASE	51
19.5	SEVERABILITY	51
19.6	MOBILE-SIERRA.....	51
19.7	COUNTERPARTS	52
19.8	ELECTRONIC DELIVERY.....	52
19.9	BINDING EFFECT.....	52
19.10	NO RECOURSE TO MEMBERS OF BUYER.....	52
19.11	CHANGE IN ELECTRIC MARKET DESIGN.	52

Exhibits

Exhibit A	Facility Description
Exhibit B	Facility Commercial Operation
Exhibit C	Progress Reporting Form
Exhibit D	Form of Average Forecast of Energy (MWh)
Exhibit E	Energy Replacement Damages Calculation
Exhibit F	Form of Commercial Operation Date Certificate
Exhibit G	Form of Installed Capacity Certificate
Exhibit H	Non-SPTO Modifications
Exhibit I	Form of Letter of Credit
Exhibit J	Form of Guaranty
Exhibit K	Notices
Exhibit L	Operating Restrictions
Exhibit M	Form of Seller Commercial Operation Date Certificate
Exhibit N	Form of Limited Assignment Agreement

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

This Renewable Power Purchase and Sale Agreement (“**Agreement**”) is entered into as of [], 2025 (the “**Effective Date**”), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**.”

RECITALS

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

WHEREAS, Seller has commenced and is engaged in construction of the Facility as of the Effective Date;

WHEREAS, Seller intends that the Facility and the portion of the Transmission System providing transmission service to the Delivery Point will become part of the CAISO Balancing Authority Area through the CAISO Subscriber Participating Transmission Owner (“**SPTO**”) process; and

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

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

ARTICLE 1 DEFINITIONS

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

“**AC**” means alternating current.

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

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

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

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

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

“Approved Meter” means a CAISO-approved revenue quality meter or meters, together with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

“Available Capacity” means the capacity from Buyer’s Share of the Facility, expressed in whole MWs, that is available to generate Energy.

“Balancing Authority” has the meaning set forth in the CAISO Tariff.

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

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

“Buyer” has the meaning set forth on the Cover Sheet.

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

“Buyer’s WREGIS Account” has the meaning set forth in Section 4.8(a).

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

“CAISO Grid” has the same meaning as “CAISO Controlled Grid” as defined in the CAISO Tariff.

“CAISO Operating Instruction” has the same meaning as “Operating Instruction” as defined in the CAISO Tariff.

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

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

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

“Capacity Damages” has the meaning set forth in Exhibit B.

“Capacity Replacement Price” means

“CEC” means the California Energy Commission, or its successor agency.

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

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

“COD Delay Damages Payment” has the meaning set forth in Exhibit B.

“Collateral Assignment Agreement” has the meaning set forth in Section 14.2.

“Commercial Operation” has the meaning set forth in Exhibit B.

“Commercial Operation Date” has the meaning set forth in Exhibit B.

“Compliance Actions” has the meaning set forth in Section 3.12.

“Compliance Expenditure Cap” has the meaning set forth in Section 3.12.

“Confidential Information” has the meaning set forth in Section 18.1.

“Contract Price” has the meaning set forth on the Cover Sheet.

“Contract Revenues” has the meaning set forth in Section 4.5(b).

“Contract Term” has the meaning set forth in Section 2.1(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 its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

“Cover Sheet” means the cover sheet to this Agreement, which is incorporated into this Agreement.

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

“CPUC” means the California Public Utilities Commission, or successor entity.

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

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody’s. Unless otherwise indicated herein, if ratings by S&P and Moody’s are not equivalent, the lower rating shall apply.



“Curtailment Order” means any of the following:

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

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

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

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

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

"Damage Payment" means [REDACTED]

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

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

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

"Deemed Delivered Energy" means (i) the Market Curtailment Delivered Energy, [REDACTED]

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

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

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

"Delay Damages" means an amount equal to [REDACTED]

"Delivered Energy" means, in any Settlement Interval or Settlement Period, the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller's obligations under this Agreement, which such amount shall equal: (i) (a) Buyer's Share of the Energy produced by the Facility and delivered to the Point of Interconnection, as measured in MWh by the Approved Meter, as such amount may be reduced as a result of a Curtailment Order, net of all Electrical Losses (other than Electrical Losses that are reflected in the meter readings) and Station Use, or (b) if a

portion of the Facility output is curtailed, at Seller's election and not otherwise in accordance with Section 4.6, in any Settlement Interval or Settlement Period, as applicable, that is not during a Curtailment Period or Market Curtailment Period, the quantity of Delivered Energy shall be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Point of Interconnection, if the Facility was not so curtailed,

[REDACTED]

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

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

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

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

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

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

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

"Effective Date" has the meaning set forth in the preamble hereto.

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

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

"Energy" means electrical energy, measured in MWh.

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

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

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

[REDACTED]

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

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

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

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

“**Fitch**” means Fitch Ratings Ltd., or its successor.

“**Floor Price**” means [REDACTED]

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

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

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

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

“**Governmental Authority**” means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO and WREGIS; *provided, however*, that “Governmental Authority,” as such term

is used in this Agreement in connection with Seller's obligations to comply with Law or bear Taxes, shall not include Buyer to the extent that Buyer's acts or omissions would impose incremental burdens on Seller or Seller's performance under this Agreement or limit or deprive Seller of any of Seller's rights or benefits under this Agreement.

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

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

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

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

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

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

"Guaranteed RA Amount" means

[REDACTED]

"Guarantor" means (A) (i) Pattern Energy Group LP or (ii) any Person that (a) does not already have any material credit exposure to Buyer under any other agreements, guarantees, or other arrangements

at the time its Guaranty is issued, (b) is an Affiliate of Seller, or other third party reasonably acceptable to Buyer, (c) has (1) a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody's or (2) a tangible net worth of at least [REDACTED] (d) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (B) in either the case of (i) or (ii), that executes and delivers a Guaranty for the benefit of Buyer.

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

"Hourly Delivery Cap" means [REDACTED]
[REDACTED]
[REDACTED]

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

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

"Indemnifiable Event" 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).

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

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

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

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

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

"Interconnection Point" means the SunZia East Converter Station.

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

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

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

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

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

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

“Letter(s) of Credit” means one or more irrevocable, standby letters of credit (a) issued by a U.S. commercial bank or financial institution, or U.S. branch of a foreign bank or financial institution, with such bank or financial institution having (i) a Credit Rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s or (ii) a parent company of such issuer that has a Credit Rating of at least “A-” with an outlook designation of “stable” from S&P or “A3” with an outlook designation of “stable” from Moody’s, and such parent company has issued a confirmation of the Letter of Credit in a form reasonably acceptable to Buyer ensuring that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution defaults, and (b) in a form substantially similar to the letter of credit set forth in Exhibit I or as otherwise reasonably acceptable to Buyer.

“Licensed Professional Engineer” means either (i) [REDACTED] (ii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in New Mexico, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering discipline for the required certification being made, or (iii) a person acceptable to Buyer in its reasonable judgment.

“Limited Assignee” has the meaning set forth in Section 14.4.

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

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations

(either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

“Lost Output” has the meaning set forth in Exhibit E.

[REDACTED]

[REDACTED]

“Market Curtailment Period” means the period of time, as measured using current Settlement Intervals, during a Settlement Period or Settlement Interval, [REDACTED] *provided*, if applicable, that the Market Curtailment Period shall also include the time required for the Facility to ramp down to implement such curtailment (if any) and ramp up following such curtailment (if any) in accordance with the Operating Restrictions.

“Master File” has the meaning set forth in the CAISO Tariff.

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

“Milestones” means the development activities and dates associated therewith set forth on the Cover Sheet.

“Moody’s” means Moody’s Investors Service, Inc., or its successor.

“MW” means megawatts measured in alternating current.

“MWh” means megawatt-hour measured in alternating current.

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

“Net Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

“Non-Defaulting Party” has the meaning set forth in Section 11.2.

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

“Operating Restrictions” means the operational characteristics of the Facility set forth in Exhibit L.

“Pacific Prevailing Time” means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

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

“Parties” has the meaning set forth in the Preamble.

“Party” has the meaning set forth in the Preamble.

“Performance Measurement Period” has the meaning set forth in Section 4.7(a).

“Performance Security” means, at Seller’s option (i) cash (ii) one or more Letters of Credit, and/or (iii) a Guaranty, in the amount set forth on the Cover Sheet.

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

[REDACTED]

(b) [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.

“Point of Interconnection” has the meaning set forth in the Interconnection Agreement.

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

“Product” has the meaning set forth on the Cover Sheet.

“Production Tax Credits” or **“PTCs”** means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other

provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind or other renewable energy resources for which Seller, as the owner of the Facility, is eligible.

“Progress Report” means a progress report including the items set forth in Exhibit C.

“Project” has the same meaning as “Facility”.

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

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

“QRE” has the meaning set forth for “Qualified Reporting Entity” in the WREGIS Operating Rules.

“Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

“RA Deficiency Amount” has the meaning set forth in Section 3.8(e).

“RA Deficiency Amount Cap” means the maximum RA Deficiency Amount that Seller shall pay to Buyer [REDACTED]

“RA Guarantee Date” means [REDACTED]

“RA Market Price” means [REDACTED]

“RA Shortfall Amount”, expressed in kW, means [REDACTED]

“RA Shortfall Month” means any Showing Month in which the RA Shortfall Amount is greater than [REDACTED]

“Real-Time Forecast” has the meaning set forth in Section 4.4(e).

“Real-Time Market” has the meaning set forth in the CAISO Tariff.

“REC Price” means the [REDACTED]

“Receiving Party” has the meaning set forth in Section 18.2.

“Recurring Certificate Transfers” has the meaning set forth in the WREGIS Operating Rules.

“Remedial Action Plan” has the meaning in Section 2.5(a).

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

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

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

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

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

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

“Resource Data Template” has the meaning set forth in the CAISO Tariff.

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

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

“**Scheduled Energy**” means the Energy from Buyer’s Share of the Facility that clears under the applicable CAISO market based on the final Schedule developed in accordance with this Agreement, the operating procedures developed by the Parties pursuant to this Agreement, and the applicable CAISO Tariff, protocols and Scheduling practices.

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

“**Self-Schedule**” has the meaning set forth in the CAISO Tariff.

“**Seller**” has the meaning set forth on the Cover Sheet.

“**Seller’s WREGIS Account**” has the meaning set forth in Section 4.8(a).

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

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

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

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

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

“**Site**” means the real property on which the Facility is or will be located, as further described in Exhibit A.

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

“**SPTO**” has the meaning set forth in the Recitals hereto.

“**Station Use**” means:

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

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

"SunZia Transmission Line" means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Point of Interconnection in New Mexico and terminating near Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

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

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

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

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

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

"Test Energy" means (1) the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point, equal to Buyer's Share of Energy delivered from the Facility to the Point of Interconnection, as measured in MWh by the Approved Meter, subject to the Hourly Delivery Cap, as such amount may be reduced as a result of a Curtailment Order, (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy from the Facility to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date; and (2) associated Green Attributes including RECs that meet the RPS requirements for Portfolio Content Category 1.

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

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

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

[REDACTED]

[REDACTED]

[REDACTED]

“Ultimate Parent” means Pattern Energy Group LP.

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

[REDACTED]

“WREGIS Certificate Deficit” has the meaning set forth in Section 4.8(e).

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

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

1.2 **Rules of Interpretation.**

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

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

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

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

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

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

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

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

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted,

and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

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

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

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

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

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

ARTICLE 2 TERM; CONDITIONS PRECEDENT

2.1 **Contract Term.**

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

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

2.2 **Reserved.**

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

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

(b) A Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO and a Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller, if, with respect to each such agreement, it is required under the CAISO

Tariff or for Seller to meet its obligations under this Agreement, shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

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

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

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

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

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

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

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

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

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

2.5 **Remedial Action Plan.**

[REDACTED] If Seller misses [REDACTED]
[REDACTED] Seller shall submit to Buyer, within ten (10) Business Days of such missed Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including

the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), [REDACTED]

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

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

2.6 **Non-SPTO Modifications.**

The Parties acknowledge and agree that this Agreement contemplates the Facility becoming part of the CAISO Balancing Authority area prior to the Commercial Operation Date via the SPTO process. Notwithstanding the foregoing, at any time prior to the Commercial Operation Date Seller may provide Notice to Buyer that the Facility is no longer anticipated to become part of the CAISO Balancing Authority via the SPTO process. Immediately and automatically upon delivery of such Notice, this Agreement shall be amended as set forth in Exhibit H, with no further action required on the part of any Person.

ARTICLE 3 PURCHASE AND SALE

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

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

3.3 **Compensation.**

[REDACTED] **Delivered Energy.** For each MWh of Delivered Energy and Replacement Energy in each Settlement Period or Settlement Interval, as applicable, Buyer shall pay [REDACTED]

[REDACTED]

[REDACTED] **Deemed Delivered Energy.** For each Settlement Period or Settlement Interval, as applicable, during the Delivery Term, Buyer shall pay [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(d) **Excess Settlement Interval Deliveries.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

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

3.6 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes anticipated to be sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.6(a), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for Buyer's

Share of such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim Buyer's Share of such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or its operations unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

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

3.7 **Test Energy.** [REDACTED]

3.8 **Capacity Attributes.**

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

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

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

(d) Buyer acknowledges that it will be required to take certain actions and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes associated with the Product (including obtaining and maintaining Import Capability necessary to import the Guaranteed RA Amount from the Facility into the CAISO), in each case as may be required under applicable Law and as may change from time to time. Upon Buyer's request, Seller shall use commercially reasonable efforts to support Buyer in obtaining such Import Capability. To the extent Buyer does not or cannot maintain Import

Capability or any other rights or capacities necessary to support the importation of the Guaranteed RA Amount into the CAISO or otherwise receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement, the Resource Adequacy Benefits that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall constitute Deemed Delivered RA.

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

[REDACTED]

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

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

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

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

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

3.11 **California Renewables Portfolio Standard.** Upon request of Buyer, Seller shall provide records or other information reasonably required to demonstrate that the Product has been conveyed and delivered in accordance with the terms and conditions of this Agreement, including, subject to Section 3.12, scheduling or delivery information necessary to meet the requirements of the California Renewables Portfolio Standard for the Product. Subject to Section 3.12, Seller represents and warrants the Product

meets the requirements set forth in PUC Code 399.16(b)(1) and the RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052.

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

[REDACTED] (**"Compliance Expenditure Cap"**):

- (a) CEC Certification and Verification;
- (b) Green Attributes;
- (c) WREGIS; and
- (d) Capacity Attributes.

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

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

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

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

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

ARTICLE 4

OBLIGATIONS AND DELIVERIES

4.1 Delivery.

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

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

4.2 Title and Risk of Loss.

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

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

4.3 Scheduling Coordinator Responsibilities.

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

[REDACTED]

(b) Floor Price.

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

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

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

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

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

produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit D, or as reasonably requested by Buyer.

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

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

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

4.5 Dispatch Down/Curtailment.

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

(b) Third-Party Sales.

(i) During a Curtailment Period, if, and for so long as, [REDACTED]

[REDACTED]

(ii) During Market Curtailment Periods, [REDACTED]

[REDACTED]

4.6 **Reduction in Delivery Obligation.** For the avoidance of doubt, and in no way limiting Section 3.1 or Exhibit E:

(a) **Facility Maintenance.** Seller shall be permitted to reduce deliveries of Product during any period of scheduled maintenance on the Facility.

(b) **Forced Facility Outage.** Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer reasonably informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(c) **System Emergencies and other Events.** Seller shall be permitted to reduce deliveries of Product [REDACTED]

[REDACTED]

(d) **Health and Safety.** Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(e) **Real-Time Curtailment.** [REDACTED]

[REDACTED]

4.7 **Guaranteed Energy Production.**

(a) Seller shall be required to deliver to Buyer no less than the Guaranteed Energy Production (as defined below) in each period of two (2) consecutive Contract Years during the Delivery Term (such that the first Performance Measurement Period comprises [REDACTED])

(“**Performance Measurement Period**”). “**Guaranteed Energy Production**” means [REDACTED]

[REDACTED]

(b) [REDACTED]

[REDACTED]

4.8 **WREGIS.** Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer’s sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall satisfy its obligations pursuant to Section 3.10(c) and Section 4.2(b) by fulfilling its obligations under Sections 4.8(a) through (f) below.

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS (“**Seller’s WREGIS Account**”), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers from Seller’s WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller (“**Buyer’s WREGIS Account**”). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller’s WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller’s WREGIS Account to Buyer’s WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate. If required by the CAISO Tariff, WREGIS, the CPUC or otherwise under applicable Law, WREGIS Certificates must be matched with E-Tags associated with the Delivered Energy and WREGIS Certificates without matching E-Tags associated with Delivered Energy will be rejected.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month as evidenced by the Facility’s metered data.

(d) Due to the approximately fourteen (14) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Section 8.2, Buyer shall make an invoice payment for a given month in accordance with Section 8.2 notwithstanding that the WREGIS Certificates may not have been formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A “**WREGIS Certificate Deficit**” means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy for the same calendar month (“**Deficient Month**”). If any WREGIS Certificate Deficit is caused, or the result of any action or inaction, by Seller, then

[REDACTED]

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller

to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

4.9 **Modification of Installed Capacity.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(d)

[REDACTED]

ARTICLE 5 TAXES

5.1 **Allocation of Taxes and Charges.** Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and delivery of Product to Buyer, that are imposed on Product prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of the Product that are imposed on Product at and from the Delivery Point (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, the exempted Party shall have provided to the other Party all necessary documentation within thirty (30) days after the Effective Date evidencing such exemption or exclusion. If the exempted Party does not provide such documentation, then such Party shall indemnify, defend, and hold harmless the other Party from any liability with respect to Taxes from which the exempted Party claims it is exempt.

5.2 **Cooperation.** Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided, however*, that neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due

compensation therefor from the other Party. All Energy delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Energy.

ARTICLE 6 MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility.** Seller shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product. On or before December 1st each year, Seller shall provide Buyer with the scheduled maintenance for the Facility for the next calendar year; *provided*, Seller shall provide Buyer with any updates to such schedule during each year consistent with Law and Prudent Operating Practice as soon as practicable; *provided further*, (a) during each period from [REDACTED] during the Delivery Term, Seller shall not schedule any non-emergency maintenance of the Facility which reduces the energy generation capability of the Facility by more than [REDACTED] and (b) during each period from [REDACTED] during the Delivery Term, Seller shall not schedule any non-emergency maintenance of the Facility [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6.2 **Maintenance of Health and Safety.** Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified on Exhibit K Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Energy to Buyer.

6.3 **Shared Facilities.** The Parties acknowledge and agree that certain of the Interconnection Facilities, Seller's rights and obligations under the Interconnection Agreement and Seller's rights and obligations under transmission service agreements with a Transmission Provider, may be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements.

ARTICLE 7 METERING

7.1 **Metering.** Seller shall measure the amount of Delivered Energy produced by the Facility using an Approved Meter. The Approved Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Approved Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO requirements, as applicable. Seller will be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Approved

Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor) or directly from the Approved Meter at the Facility.

7.2 **Meter Verification.** Annually, if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the meter inaccuracy commenced (if such evidence exists such date will be used to adjust prior invoices), then the invoices covering the period of time since the last meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during the second half of such period.

ARTICLE 8 INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing.** Seller shall make good faith efforts to deliver an invoice to Buyer fifteen (15) Business Days after the end of the prior monthly delivery period. Each invoice shall provide Buyer (a) records of metered data, including metering and CAISO transaction data sufficient to document and verify the amount of Delivered Energy for each Settlement Period during the preceding month, the applicable Contract Price, the LMPs in the Day-Ahead Market and Real-Time Market at the Delivery Point for each Settlement Period and Settlement Interval, respectively, and information supporting the amount of Deemed Delivered Energy and Adjusted Energy Production, [REDACTED]

[REDACTED]; (b) a reconciliation of hourly meter data, E-Tag data and associated calculations, including the lesser of each by hour, [REDACTED]

[REDACTED]; (c) a statement of the quantity of WREGIS Certificates transferred during the prior month that have been matched with E-Tags associated with Delivered Energy, to the extent such matching is required by the CAISO Tariff, WREGIS, the CPUC, or otherwise under applicable Law; (d) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (e) be in a reasonable format covering the services provided in the preceding month determined in accordance with the applicable provisions of this Agreement.

8.2 **Payment.** Buyer shall make payment to Seller by wire transfer or ACH payment to the bank account designated by Seller in Exhibit K, which may be updated by Seller by Notice hereunder; *provided, however*, that changes to the invoices, payment, and wire transfer information set forth in Exhibit K must be made in writing and delivered via certified mail or a secured online method mutually agreed upon by both Parties, and shall include contact information for an authorized person who is available by telephone to verify the authenticity of such requested changes. Buyer shall pay undisputed invoice amounts within thirty (30) days after receipt of the invoice. If such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a

late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on the prime rate published on the date of the invoice in The Wall Street Journal, or, if The Wall Street Journal is not published on that day, the next succeeding date of publication, plus two percent (2%) (the “**Interest Rate**”). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records.** To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days’ Notice to Seller, Buyer shall be granted reasonable access to the accounting books and records pertaining to all invoices generated pursuant to this Agreement.

8.4 **Payment Adjustments; Billing Errors.** Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5, there is determined to have been a meter inaccuracy sufficient to require a payment adjustment, or if CAISO recalculates amounts due or owing in respect of prior periods. If the required adjustment is in favor of Buyer, Buyer’s monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer’s next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the non-erring Party received Notice thereof.

8.5 **Billing Disputes.** A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**

. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and E, interest, and payments or credits, including pursuant to Section 4.3(c), shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller’s Development Security.** To secure its obligations under this Agreement, Seller shall have delivered the Development Security to Buyer within [REDACTED] after the Effective Date.

Seller shall maintain the Development Security in full force and effect. Upon the earlier of (A) Seller's delivery of the Performance Security, or (B) [REDACTED] after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If and to the extent that any portion of the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the required Credit Rating, or to provide a confirmation of such Letter of Credit in a form reasonably acceptable to Buyer from a parent company of such issuer that meets the required Credit Rating, which confirmation ensures that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution defaults, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iv) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Development Security. Seller shall have no obligation to replenish the Development Security following any draws thereon by Buyer. Seller's maximum liability for an Event of Default or failure to perform its obligations hereunder prior to the Commercial Operation Date shall be capped at the amount of the Development Security, less any amounts collected by Buyer prior to such Event of Default or failure to perform.

8.8 Seller's Performance Security. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller arising under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. Within ten (10) Business Days following any draw by Buyer on the Performance Security, Seller shall replenish the amount drawn such that Performance Security is restored to the amount on Cover Sheet. If and to the extent that any portion of the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the required Credit Rating, or to provide a confirmation of such Letter of Credit in a form reasonably acceptable to Buyer from a parent company of such issuer that meets the required Credit Rating, which confirmation ensures that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the end of the Delivery Term, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iii) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Performance Security. If and to the extent that any portion of the Performance Security is a Guaranty, Seller shall (i) provide prompt Notice to Buyer if Guarantor becomes Bankrupt or otherwise fails to meet the criteria for an acceptable Guarantor as set forth in clauses (c) and (d) of the definition of Guarantor, but not later than ten (10) Business Days after Seller becomes aware of such development and (ii) post substitute collateral that meets the requirements set forth in the definition of Performance Security within ten (10) Business Days.

8.9 Financial Statements.

(a) If a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited

consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles or International Financial Reporting Standards ("IFRS"); *provided, however*, that should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements.

8.10 **Buyer's First Priority Security Interest in Cash or Cash Equivalent Collateral.** To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest in, and lien on (and right to net against), and assignment of the Development Security or Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 by Seller and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer's first-priority security interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of Section 11.2 and the provisions of Article 12):

(a) Exercise any of its rights and remedies with respect to the Development Security or Performance Security, as applicable, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security, as applicable; and

(c) Liquidate all Development Security or Performance Security, as applicable then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement (Seller remains liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after these obligations are satisfied in full.

ARTICLE 9 NOTICES

9.1 **Addresses for the Delivery of Notices.** Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the physical or electronic addresses set forth on Exhibit K or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice.** Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the

date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including email or other electronic means), at the time indicated by the time stamp upon delivery; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission. In addition, for any Notice sent pursuant to (a), (b) or (d) above, the Party sending such Notice shall send a courtesy copy by email to the email address provided in Exhibit K.

ARTICLE 10 FORCE MAJEURE

10.1 Definition.

(a) **“Force Majeure Event”** means any act or event occurring after the Effective Date (or if occurring on or before the Effective Date, expanding, deteriorating or otherwise materially changing after the Effective Date) that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic, or pandemic, including COVID-19 (but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; acts or failure to act by a Governmental Authority; war; blockade; civil insurrection; riot; civil disturbance; serial defect; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term “Force Majeure Event” does not include (i) economic conditions that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer’s ability to buy Energy at a lower price, or Seller’s ability to sell Energy generated by the Facility at a higher price, than the Contract Price); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller’s Affiliates, Seller’s contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) except as

the Guaranteed Commercial Operation Date may be extended as a result of a Development Cure Period, Seller's inability to achieve Commercial Operation following the Guaranteed Commercial Operation Date.

10.2 No Liability If a Force Majeure Event Occurs. Neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of a Party to make any payments due hereunder, (b) suspend or excuse the obligation of Seller to achieve the Guaranteed Commercial Operation Date beyond the extensions provided in Exhibit B, (c) limit Buyer's right to declare an Event of Default pursuant to Section 11.1(b)(i) or Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer's default rights pursuant to Section 11.2.

10.3 Notice. In the event of any delay or nonperformance resulting from a Force Majeure Event, the Party suffering the Force Majeure Event shall (a) as soon as practicable, notify the other Party orally of the Force Majeure Event, followed by Notice in writing of the nature, cause, estimated date of commencement thereof, the anticipated extent of any delay or interruption in performance, and (b) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party; *provided, however*, that a Party's failure to give timely Notice as provided in this Section 10.3 shall not affect such Party's ability to assert that a Force Majeure Event has occurred unless the delay in giving Notice materially prejudices the other Party.

10.4 Termination Following Force Majeure Event. If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be unable to perform its material obligations hereunder, and has continued for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon written Notice to the other Party experiencing the Force Majeure Event; *provided* that if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional six (6) month period. Upon any such termination, the non-claiming Party shall have no liability to the Party claiming Force Majeure Event, save and except for those obligations specified in Section 2.1(b).

ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION

11.1 Events of Default

An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within five (5) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(iv) failure by such Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 as applicable;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Sections 14.1, 14.2, 14.3 or 14.4, as appropriate; or

(vii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

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

(i) [Reserved];

(ii) The failure of Seller to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date (as extended by any Development Cure Period);

(iii) except as otherwise provided herein, if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated by the Facility;

(iv) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount

required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(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;

(v) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a replacement Guaranty from a Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to (i) maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's, or (ii) provide and maintain a confirmation of the outstanding Letter of Credit ensuring that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution defaults, from a parent company of the issuer that has a Credit Rating of at least "A-" with an outlook designation of "stable" from S&P or "A3" with an outlook designation of "stable" from Moody's;

(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.

(vi) in any Performance Measurement Period, the Adjusted Energy Production amount is not at least [REDACTED] of the Expected Energy amount for such period;

[REDACTED]

11.2 **Remedies; Declaration of Early Termination Date.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Contract Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment (in the case of an Event of Default by Seller occurring before the Commercial Operation Date) or (ii) the Termination Payment calculated in accordance with Section 11.3 below (in the case of any other Event of Default by Seller after the Commercial Operation Date or by Buyer throughout the Contract Term);

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

(d) to suspend performance; and

(e) to exercise any other right or remedy available at Law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, that payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for the Terminated Transaction and the Event of Default related thereto.

11.3 **Termination Payment.** The termination payment ("**Termination Payment**") for the Terminated Transaction shall be the aggregate of all Settlement Amounts plus any or all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the net Settlement Amount shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties (which shall not include Affiliates of the Non-Defaulting Party) supplying information for purposes of the calculation of Gains or Losses may include, without limitation,

dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; *provided, however*, that any lost Delivered Energy, Capacity Attributes and Green Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the 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 Termination Payment. As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with Article 15.

11.6 Rights And Remedies Are Cumulative. Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.7 Mitigation. Any Non-Defaulting Party shall use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12

LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES

12.1 No Consequential Damages. EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

12.2 Waiver and Exclusion of Other Damages. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE

PERTAINING TO THE PARTIES' LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, PRIOR TO THE COMMERCIAL OPERATION DATE, SELLER'S AGGREGATE LIABILITY ARISING UNDER THIS AGREEMENT FOR ANY AND ALL REASONS [REDACTED]

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX BENEFITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8(e), 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT E, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13

REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties.** As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary corporate action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by Laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

13.2 **Buyer's Representations and Warranties.** As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust,

mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by Laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

13.3 **General Covenants.**

(a) Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(i) It shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(ii) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(iii) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and any contracts to which it is a party and in material compliance with any Law.

(b) Seller covenants that:

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

(ii) Seller shall obtain any and all permits and approvals, including without limitation, required environmental clearance under applicable environmental Law, from the local jurisdiction where the Facility is or will be constructed, as applicable. Seller agrees and acknowledges that Buyer is simply purchasing energy services under the PPA and does not intend to be the lead agency for the Facility.

(iii) Seller shall not knowingly utilize equipment or resources built with forced labor in connection with the construction, operation or maintenance of the Facility, including equipment or resources sourced from the Xinjiang region of China pursuant to the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020 (as such guidance may be updated or modified by Governmental Authorities from time to time).

(iv) Commencing upon the production of Delivered Energy by the Facility and throughout the Delivery Term, Seller shall ensure that the Facility will have an interconnection agreement providing for interconnection capacity available or allocable to the Facility that is no less than the Guaranteed Capacity. Seller shall hold Buyer harmless from any penalties, imbalance energy charges, or

other costs from CAISO or under the PPA resulting from Seller's inability to provide, or any third party use of, such interconnection capacity.

13.4 **Prevailing Wage.** Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation employment discrimination laws and prevailing wage laws. Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or provide services at the Site related to the construction of the Facility are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable New Mexico law, if any ("**Prevailing Wage Requirement**"). Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by other inapplicable provisions of any New Mexico labor laws. Buyer agrees that Seller's obligations for the Prevailing Wage Requirement may be satisfied upon the execution of a project labor agreement related to construction of the Facility.

ARTICLE 14 ASSIGNMENT

14.1 **General Prohibition on Assignments.** Except as provided below, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the written consent of the other Party, which consent shall not be unreasonably withheld. Any direct or indirect Change of Control of a Party (whether voluntary or by operation of Law) will be deemed an assignment and will require the prior written consent of the other Party, except as provided in Section 14.3. Any assignment made without required written consent, or in violation of the conditions to assignment set out below, shall be null and void. The assigning Party shall be responsible for the other Party's costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment.** Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("**Collateral Assignment Agreement**") in a form mutually agreeable to Buyer, Seller and the applicable Lenders, and must include, among others, the following provisions; *provided* that Buyer shall not be required to consent to any additional terms or conditions that materially and adversely affect any of Buyer's rights, benefits, risks or obligations under this Agreement:

[REDACTED]

(e)

14.3 **Permitted Assignment.** Notwithstanding Section 14.1, and in addition to its rights set forth in Section 14.2, Seller may at any time, without the prior written consent of Buyer, transfer or assign this Agreement (including by a Change of Control) (i) to an Affiliate of Seller, (ii) in connection with a tax equity financing (regardless of whether a Change of Control results from such tax equity financing), (iii) in connection with any other direct or indirect Change of Control to any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of Law), or (iv) as part of the sale or transfer of all or substantially all of the membership interests, equity, or assets of an Affiliate of Seller; *provided*, with respect to clauses (iii) and (iv), such assignment or transfer shall not be effective unless (x) the assignee is a Permitted Transferee, and (y) Seller has given Buyer Notice at least [REDACTED] prior to the date of such proposed assignment or transfer, and certifies that the assignee meets the definition of a Permitted Transferee.

14.4 **Limited Assignment by Buyer.** Buyer shall have the right to make a limited assignment in connection with a municipal prepayment transaction to an entity ("**Limited Assignee**") that [REDACTED]

ARTICLE 15 GOVERNING LAW; DISPUTE RESOLUTION

15.1 **Governing Law.** This agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of

California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. [STC 17]

15.2 **Venue.** The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement shall be brought in the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in County of Santa Clara, California.

15.3 **Dispute Resolution.** In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, either Party may seek any and all remedies available to it at Law or in equity, subject to the limitations set forth in this Agreement.

15.4 **Attorneys' Fees.** In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16 INDEMNIFICATION

16.1 **Indemnification.**

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees, attorneys, representatives and agents (collectively, the "**Indemnified Party**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses and expert witness fees (collectively "**Indemnifiable Event**"), to the extent such Indemnifiable Event arises out of, results from, or is caused by any of the following: (a) the negligent act or omission, recklessness or willful misconduct of the Indemnifying Party, its Affiliates, its or their directors, officers, employees, agents, subcontractors, and anyone directly or indirectly employed by the Indemnifying Party or any of its subcontractors or anyone that they control; or (b) any violation of applicable Law by the Indemnifying Party, in each case in connection with this Agreement. Upon the Indemnified Party's written request, the Indemnifying Party, at its own expense, must defend any suit or action that is subject to the Indemnifying Party's indemnity obligations. The Parties' indemnification obligations survive the expiration or termination of this Agreement until the relevant statute of limitations.

(b) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting to the extent of its own negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims.** Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and reasonably satisfactory to the Indemnified Party, *provided, however*, that if the defendants in any such

action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, *provided* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Notwithstanding the preceding sentence if the settlement consists solely of a monetary payment by the Indemnifying Party, such settlement shall not require the consent of the Indemnifying Party. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17 INSURANCE

17.1 Insurance.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance against claims for personal injury (including bodily injury and death) and property damage with a limit of liability of [REDACTED]

[REDACTED] The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b) Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars (\$1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c) Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of [REDACTED] combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) Property Insurance. Seller shall maintain or cause to be maintained property insurance covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm and wildfire, all with

limits in accordance with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an “all-risk” basis including mechanical and electrical breakdown.

ARTICLE 18

CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information.** The following constitutes “**Confidential Information**,” whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) pricing and other commercially-sensitive or proprietary information provided to or from Buyer in connection with the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as “confidential” or “proprietary” before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality.** Except as permitted in this Article 18, neither Party shall disclose Confidential Information to a third party, except upon the written consent of the Disclosing Party. Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the “**Receiving Party**”) if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce or implement this Agreement. If the Receiving Party becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any applicable Law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule) to disclose any Confidential Information of the disclosing Party (the “**Disclosing Party**”), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy. Each party hereto acknowledges and agrees that information and documentation provided may be subject to the California Records Act (Government Code Section 7920 et seq.).

18.3 **Irreparable Injury; Remedies.** Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages may be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach may cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in Law, in equity or otherwise, Disclosing Party will be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Permitted Disclosures.** Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by either Party to such Party’s counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, Affiliates or actual or prospective owners, investors, lenders, directors, underwriters, contractors, suppliers or others involved in the construction, operation and financing transactions and arrangements for a Party or its affiliates, or any of its or their agents, consultants or trustees, so long as the Person to whom Confidential Information is disclosed agrees

in writing to be bound by the confidentiality provisions of this Article 18 to the same extent as if it were a Party, or is bound by substantially similar confidentiality requirements.

18.5 **Press Releases.** Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

ARTICLE 19 MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits.** This Agreement, together with the Cover Sheet and Exhibits attached hereto, constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments.** This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, that, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver.** Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease.** Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy service provider and energy service recipient, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

19.5 **Severability.** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra.** Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support, any third party seeking to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the “public interest” standard of review set forth in United Gas

Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts.** This Agreement may be executed in one or more counterparts, including electronic signatures, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery.** This Agreement may be duly executed and delivered by a Party by execution and electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer.** Buyer is organized as a joint powers authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

19.11 **Change in Electric Market Design.**

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, [REDACTED] after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) If the Interconnection Point and/or any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement (i) are integrated into a new or existing regional transmission organization or independent system operator (other than the CAISO Balancing Authority), or (ii) leave a regional transmission organization or independent system operator, and such integration or departure has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; *provided*, that neither Party shall be obligated to amend this Agreement if such amendment(s) would materially adversely affect, or could reasonably be expected to have or result in a material adverse effect on, any of such Party's rights, benefits, risks and/or obligations under this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SunZia Wind South LLC

Silicon Valley Clean Energy

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A

FACILITY DESCRIPTION

The Facility description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity or the anticipated output of the Facility without Buyer's prior written consent; *provided* that Seller shall be permitted to repower the Facility [REDACTED] so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Capacity Attributes associated with the Guaranteed Capacity during such repower.

[REDACTED] Upon any such repower that changes the Installed Capacity, Seller shall deliver an updated Installed Capacity Certificate in the form of Exhibit G.

Site Name: SunZia Wind South

Site Map:

[Seller to provide map]

Site Location: Lincoln and Torrance Counties, New Mexico

Technology: Utility Scale Wind Technology

Guaranteed Capacity: 35.1 MW_{AC}

Delivery Point: CAISO scheduling point-intertie combination at PALOVRDE_ASR-APND and PVWEST, or an Alternative Delivery Point as mutually agreed by the Parties

Participating Transmission Owner: SunZia Transmission, LLC

EXHIBIT B

FACILITY COMMERCIAL OPERATION

1. **Reserved.**
2. **Commercial Operation of the Facility.** “**Commercial Operation**” means the condition existing when (i) Seller has fulfilled all of the conditions in Section 2.3 of the Agreement and (ii) Seller has confirmed to Buyer in writing that Commercial Operation has been achieved.

The “**Commercial Operation Date**” shall be the later of [REDACTED] and (y) the date on which Commercial Operation is achieved.

- (a) Seller shall cause Commercial Operation for the Facility to occur by the Expected Commercial Operation Date (as such date may be extended by the Development Cure Period (defined below), the “**Guaranteed Commercial Operation Date**”). Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date. For the avoidance of doubt, Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.
- (b) If Seller does not anticipate achieving Commercial Operation by the Guaranteed Commercial Operation Date, Seller may elect to extend the Guaranteed Commercial Operation Date by paying Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, [REDACTED]

3. **Extension of the Guaranteed Dates.** “**Development Cure Period**” means, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. **Failure to Reach Guaranteed Capacity.** If, at Commercial Operation, [REDACTED] of the Guaranteed Capacity has not been completed and is not ready to produce and deliver Product to Buyer, Seller shall have [REDACTED]

[REDACTED]

EXHIBIT C

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive summary.
2. Facility description.
3. Site plan of the Facility.
4. Description of any planned changes to the Facility or the site.
5. Schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar month/quarter.
7. Forecast of activities scheduled for the current calendar month/quarter.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones, and evidence of completion of Milestones, upon reasonable request from Buyer.
9. List of issues that could reasonably foreseeably affect Seller's Milestones.
10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.
11. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.
13. Any other documentation, including copies of the Interconnection Agreement, transmission agreements and permits, as reasonably requested by Buyer, as such documentation may be redacted by Seller as necessary.

EXHIBIT D

FORM OF AVERAGE FORECAST OF ENERGY (MWh)

	1: 00	2: 00	3: 00	4: 00	5: 00	6: 00	7: 00	8: 00	9: 00	10: 00	11: 00	12: 00	13: 00	14: 00	15: 00	16: 00	17: 00	18: 00	19: 00	20: 00	21: 00	22: 00	23: 00	24: 00
JAN																								
FEB																								
MAR																								
APR																								
MAY																								
JUN																								
JUL																								
AUG																								
SEP																								
OCT																								
NOV																								
DEC																								

The foregoing table (i) is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement, and (ii) reflects expected P50 delivered volumes taking into account estimated X% physical losses from the Facility to the Delivery Point.

EXHIBIT E

ENERGY REPLACEMENT DAMAGES CALCULATION

If Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages (“**Energy Replacement Damages**”) payment shall be due from Seller to Buyer, calculated as follows:

$$[(A - B) * (C - D)] - E$$

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = [REDACTED]

D = the Contract Price, in \$/MWh

E = the amount of Energy Replacement Damages paid by Seller *plus* the value of any Replacement Product provided retrospectively by Seller, each with respect to the immediately preceding Performance Measurement Period

[REDACTED]

“**Adjusted Energy Production**” shall mean the sum of the following: the Delivered Energy *plus* Lost Output *plus* Deemed Delivered Energy in the Performance Measurement Period.

“**Energy Shortfall Amount**” means the amount of MWh resulting from the calculation of A - B.

“**Lost Output**” means the sum of electric energy in MWh that would have been generated and delivered, but was not, on account of Force Majeure Event, Buyer’s failure to perform, System Emergency and Curtailment Order. The additional MWh comprising Lost Output shall be calculated in the same manner as Deemed Delivered Energy.

No payment shall be due if the calculation of (A - B) or (C - D) yields a negative number.

After each Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer within thirty (30) days of such Notice; *provided, however*, that (a) if, in accordance with Section 4.7(a), the Parties agreed that Seller would retrospectively deliver Replacement Product for a given Performance Measurement Period in lieu of Seller paying some or all of the Energy Replacement Damages, and (b) Seller does not deliver all such Replacement Product in the Contract Year immediately following such Performance Measurement Period, then Seller shall pay to Buyer the portion of the Energy Replacement Damages that correspond to the amount of MWh by which the Energy Shortfall

Amount for such Performance Measurement Period exceeds the sum of (A) retrospectively delivered Replacement Product *plus* (B) that amount of MWh for which Seller paid Energy Replacement Damages pursuant to Section 4.7(a).

EXHIBIT F

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between SunZia Wind South LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

- (1) Wind turbines with a nameplate capacity of no less than [REDACTED] of the Guaranteed Capacity have been installed at the Facility.
- (2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with its respective manufacturer's specifications and each such wind turbine has delivered electricity to the Interconnection Point.
- (3) Authorization to parallel the Facility was obtained by the Participating Transmission Owner on [DATE].

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By: _____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]

EXHIBIT G

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between SunZia Wind South LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [____] wind turbines with an aggregate nameplate capacity of [____], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Interconnection Point.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By: _____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]
Exp. [DATE]

EXHIBIT H
NON-SPTO MODIFICATIONS

[Seller to provide]

EXHIBIT I
FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [●]

DATE: [●]

BENEFICIARY:

APPLICANT:

[NAME, ADDRESS, CONTACT]

EXPIRATION DATE: [●]

AMOUNT/CURRENCY: [●]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ("LETTER OF CREDIT") IN FAVOR OF [_____] ("BENEFICIARY"), [BENEFICIARY ADDRESS], WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, AT ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [●] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS DEVELOPMENT SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF _____, 2025 BETWEEN APPLICANT AND BENEFICIARY, AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME (THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [●], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [●], UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE. THE ORIGINAL OF THIS LETTER OF CREDIT (AND ALL AMENDMENTS, IF ANY) IS NOT REQUIRED TO BE PRESENTED IN CONNECTION WITH ANY PRESENTMENT OF A DRAWING CERTIFICATE BY BENEFICIARY HEREUNDER IN ORDER TO RECEIVE PAYMENT, UNLESS IT IS THE FULL AND FINAL DRAW THEN THE ORIGINAL LETTER OF CREDIT AND ANY AND ALL AMENDMENTS MUST BE RETURNED FOR DISPOSITION PURPOSES.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS], OR (B) AS A PDF ATTACHMENT TO AN EMAIL TO [BANK EMAIL ADDRESS], AS FOLLOWS:

DRAWINGS PRESENTED TO US BY EMAIL (EACH, AN "EMAIL DRAWING") MUST COME FROM ONE OF THE EMAIL ADDRESS(ES) (INSERT BENEFICIARY EMAIL(S)) OF BENEFICIARY AND MUST BE SENT TO EACH OF THE FOLLOWING EMAIL ADDRESSES: [●] AND [●]. EACH REQUESTED EMAIL DRAWING MUST BE CONFIRMED BY CALLING US AT TELEPHONE NUMBER [●], AND NO EMAIL DRAWING SHALL BE COMPLETE UNTIL SO CONFIRMED. IF YOU PRESENT AN EMAIL DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IF A DRAWING IS THE FINAL DRAWING UNDER THIS LETTER OF CREDIT OR A DRAWING FOR THE FULL AMOUNT THEN AVAILABLE UNDER THIS LETTER OF CREDIT THE ORIGINAL LETTER OF CREDIT MUST BE PROMPTLY RETURNED TO US BY OVERNIGHT COURIER FOLLOWING SUCH DRAWING.

IN THE EVENT A DRAWING IS COMPLIANT AND HONORED BY CoBank ACB FUNDS ARE TO BE REMITTED TO THE BENEFICIARY PER PAYMENT INSTRUCTIONS AS FOLLOWS:

BENEFICIARY BANK: _____

ABA NUMBER: _____

BENEFICIARY ACCOUNT NUMBER: _____

OR (C) BY FACSIMILE TO [FAX NUMBER] WITH PHONE NOTIFICATION TO THE US AT TIME OF TRANSMISSION.

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF CALIFORNIA ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-CONFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [●], AND SHALL BE ADDRESSED TO: [●] OR THE ADDRESS STATED ABOVE.

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

EXHIBIT "A"

DRAWING CERTIFICATE

TO: [-]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I,_____, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF _____, 2025, AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME (THE "AGREEMENT").

[CHOOSE ONLY ONE OF THE FOLLOWING]

- (1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$_____ BECAUSE [A SELLER EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED][OR][A COD DELAY DAMAGES PAYMENT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) IS DUE UNDER THE AGREEMENT].
- (2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$_____, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN SIXTY (60) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, [BENEFICIARY] IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD _____, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE FUNDS TO: (INSERT WIRE INSTRUCTIONS), WHICH, [____] CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT
FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: _____; _____.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS
EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF , 20 _.

[____]

BY:_____

NAME:_____

TITLE:_____

EXHIBIT J

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 SunZia Wind South LLC, a Delaware limited liability company (“Seller”), entered into that certain Renewable Power Purchase and Sale Agreement (as amended, restated or otherwise modified from time to time, the “PPA”) dated as of [____], 20__.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller’s obligations under the PPA, as required by Section 8.8 of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA, provided, that Guarantor’s aggregate liability under or arising out of this Guaranty shall not exceed the sum of _____ Dollars (\$_____), plus reasonable costs incurred by Buyer in enforcing this Guaranty, if successful (the “Guaranteed Amount”). The Parties understand and agree that any payment by Guarantor shall thereafter reduce the Guaranteed Amount hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller’s receipt of Buyer’s written notice of such failure (the “Demand Notice”), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a “Payment Demand”) for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that

Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

- (i) the extension of time for the payment of any Guaranteed Amount, or
- (ii) any amendment, modification or other alteration of the PPA, or
- (iii) any indemnity agreement Seller may have from any party, or
- (iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or
- (v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statute 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 PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or
- (ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 7.

If delivered to Buyer, to it at
Attn:
Fax:

If delivered to Guarantor, to it at
Attn:
Fax:

8. Governing Law and Forum Selection. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States sitting in the County of Santa Clara, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH

ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

- (i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.
- (ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).
- (iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By: _____
Printed Name:
Title:

BUYER:

[_____]

By: _____
Printed Name:
Title:

By: _____
Printed Name:
Title:

EXHIBIT K

NOTICES

SUNZIA WIND SOUTH LLC	SILICON VALLEY CLEAN ENERGY AUTHORITY
All Notices: Street: 1088 Sansome St. City: San Francisco, CA Attn: Chief Legal Officer Phone: [REDACTED] Fax: [REDACTED] Email: [REDACTED]	All Notices: 333 W. El Camino Real, Suite 330 Sunnyvale, CA 94087 Attn: Monica Padilla, CEO and Kris Van Vactor, Director of Power Resources Phone: [REDACTED] Email: [REDACTED]
Reference Numbers: [REDACTED] [REDACTED]	Reference Numbers: [REDACTED] [REDACTED]
Invoices: Attn: Accounts Payable Phone: [REDACTED] Email: [REDACTED]	Invoices: Attn: Power Supply Group Phone: [REDACTED] Email: [REDACTED]
Scheduling: Attn: 24/7 Operations Control Center 888 Westheimer Road, Suite 213 Houston, TX 77006 Email: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]	Scheduling: Attn: Tenaska Team Email: [REDACTED] Attn: 24x7 Operations Desk Phone: [REDACTED] Email: [REDACTED] Attn: [REDACTED] Phone: [REDACTED] [REDACTED] Email: [REDACTED] Attn: [REDACTED] [REDACTED] [REDACTED] Email: [REDACTED] Outage information: [REDACTED] Resource testing information: [REDACTED]
Confirmations: Attn: Pattern Energy Settlements Phone: [REDACTED] Email: [REDACTED]	Confirmations: Kris Van Vactor, Director of Power Resources Phone: [REDACTED] Email: [REDACTED]

SUNZIA WIND SOUTH LLC	SILICON VALLEY CLEAN ENERGY AUTHORITY
Payments: Attn: Accounts Payable Phone: [REDACTED] Email: [REDACTED]	Payments: Attn: Finance Group Phone: [REDACTED] Email: [REDACTED]
Wire Transfer: [REDACTED] [REDACTED] [REDACTED] [REDACTED]	Wire Transfer: [REDACTED] [REDACTED] [REDACTED]
Emergency Contact: Attn: 24/7 Operations Control Center Phone: (713) 308-4242 Email: patternocc@patternenergy.com	With additional Notices of an Event of Default to: Michael Callahan, General Counsel Email: [REDACTED] and to: Attn: [REDACTED] [REDACTED] Email: [REDACTED] Attn: [REDACTED] [REDACTED] Email: [REDACTED]
	Emergency Contact: Attn: Monica Padilla, CEO Phone: [REDACTED] Email: [REDACTED]

EXHIBIT L

OPERATING RESTRICTIONS

Operating restrictions of the Facility for Market Curtailment Periods are as follows:

- Interconnection Capacity (Maximum Injection Amount): [REDACTED]
- Minimum operating capacity: [REDACTED]
- Maximum number of start-ups per calendar day (if any such operational limitations exist):
N/A
- Ramp Rate: [REDACTED]
- Minimum Down Time: [REDACTED]

EXHIBIT M

FORM OF SELLER COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") is delivered by the undersigned ("Authorized Representative"), a duly authorized representative of SunZia Wind South LLC in connection with that certain Renewable Power Purchase and Sale Agreement dated [DATE] ("**Agreement**") by and between SunZia Wind South LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [DATE], Authorized Representative hereby certifies and represents to Buyer the following:

- (1) The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.
- (2) The Facility's testing included a performance test demonstrating peak electrical output of no less than [REDACTED] of the Guaranteed Capacity for the Facility at the Interconnection Point, as adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was [____ MW].
- (3) The Participating Transmission Owner has provided documentation supporting full unrestricted release for Commercial Operation on [DATE].
- (4) The CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

EXECUTED by [AUTHORIZED REPRESENTATIVE]

this [REDACTED] day of [REDACTED], 20[REDACTED].

By: _____

Printed Name: _____

Title: _____

EXHIBIT N

FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this “**Agreement**”) is entered into as of [] (the “**Assignment Agreement Effective Date**”) by and among SunZia Wind South LLC, a Delaware limited liability company (“**PPA Seller**”), Silicon Valley Clean Energy Authority, a joint powers authority and a community choice aggregator organized under the laws of the State of California (“**PPA Buyer**”), and Morgan Stanley Capital Group Inc., a Delaware corporation (“**MSCG**”).

RECITALS

WHEREAS, PPA Buyer and PPA Seller are parties to that certain PPA identified on Appendix 1 hereto;

WHEREAS, in connection with a prepaid electricity transaction between [] (“**Issuer**”) and Morgan Stanley Energy Structuring, L.L.C. (“**MSES**”), and with effect from and including the Assignment Period Start Date (as defined below), PPA Buyer wishes to transfer by limited assignment to MSCG, and MSCG wishes to accept the transfer by limited assignment of, the Assigned Rights and Obligations (as defined below) for the duration of the Assignment Period (as defined below);

WHEREAS, pursuant to this Agreement, during the Assignment Period, MSCG will receive the Assigned Product in the Assigned Monthly Quantity and MSCG will deliver such Assigned Product to MSES, which will redeliver such Assigned Product to Issuer for ultimate redelivery to PPA Buyer; and

WHEREAS, pursuant to this Agreement, during the Assignment Period, MSCG will assume responsibility for the Delivered Product Payment Obligation.

THEREFORE, in consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and MSCG (the “**Parties**” hereto; each is a “**Party**”) agree as follows:

AGREEMENT

1. Definitions.

Unless the context otherwise specifies or requires, or defined below, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA. The following terms, when used in this Agreement and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:

“**Agreement**” has the meaning specified in the first paragraph above.

“**Assigned Monthly Quantity**” means the first [] MWhs of Assigned Product delivered in accordance with the PPA by PPA Seller in each Month during the Assignment Period.

“**Assigned Product**” means (i) PV Energy and (ii) Green Attributes (PCC1).

“**Assigned Rights and Obligations**” means (i) the rights of PPA Buyer under the PPA to receive the Assigned Monthly Quantity of Assigned Product in each Month during the Assignment Period, as such rights may be limited or further described in the “Further Information” section on Appendix 1, and (ii) the

Delivered Product Payment Obligation, which right and obligation are transferred and conveyed to MSCG hereunder, but which shall not relieve PPA Buyer of its obligations under the PPA in any respects.

“Assignment Early Termination Date” has the meaning specified in Section 4(b).

“Assignment Period” has the meaning specified in Section 4(a).

“Assignment Period End Date” means 11:59:59 p.m. pacific prevailing time on [_____].

“Assignment Period Start Date” means [_____].

“Custodian” means The Bank of New York Mellon Trust Company, N.A., a national banking association.

“Delivered Product Payment Obligation” has the meaning specified in Section 3(a).

“Issuer” means [____], a [____] **[NOTE: This will be the JPA or other entity formed for purposes of issuing municipal bonds for the prepaid transaction.]**

“Month” means a calendar month.

“Monthly Gross Amount” has the meaning specified in Section 3(c).

“MSCG” has the meaning specified in the first paragraph of this Agreement.

“MSES” means Morgan Stanley Energy Structuring, L.L.C., a Delaware limited liability company.

“PPA Buyer” has the meaning specified in the first paragraph of this Agreement.

“PPA Seller” has the meaning specified in the first paragraph of this Agreement.

“Prepaid Agreement” means that certain Prepaid Energy Sales Agreement dated as of [____] by and between MSES and Issuer.

“Prepay Power Supply Contract” means that certain Prepay Power Supply Contract dated [____] by and between PPA Buyer and Issuer.

“Receivables” has the meaning given to such term in Section 3(g).

“Retained Rights and Obligations” has the meaning specified in Section 3.

2. Transfer and Undertakings.

(a) PPA Buyer hereby assigns, transfers and conveys to MSCG all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the Assigned Product in the Assigned Monthly Quantity during the Assignment Period. In connection with this assignment, PPA Buyer hereby delegates to MSCG the Assigned Rights and Obligations during the Assignment Period.

(b) PPA Seller hereby consents to PPA Buyer’s assignment, transfer and conveyance of all right, title and interest in and to the Assigned Product and Assigned Rights and Obligations to MSCG and

the exercise and performance by MSCG of the Assigned Rights and Obligations during the Assignment Period.

(c) MSCG hereby accepts such assignment, transfer and conveyance of the Assigned Rights and Obligations during the Assignment Period and agrees to perform any such Assigned Rights and Obligations due from it during the Assignment Period.

3. Limited Assignment.

The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a portion of PPA Buyer's rights and obligations under the PPA, and that all rights and obligations (including without limitation obligations with respect to payment for any Product not included in the Assigned Product, any Assigned Product not included in the Assigned Monthly Quantity of Assigned Product, and any other amounts owed under the PPA) arising under the PPA that are not expressly included in the Assigned Rights and Obligations shall be "**Retained Rights and Obligations**" that are retained solely by PPA Buyer, and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. In this regard:

(a) **Limited to Delivered Product Payment Obligation.** MSCG's sole obligation hereunder will be to pay the Floating Price Payments into the Custodial Account as such terms are defined in and described on Appendix 1 (the "Delivered Product Payment Obligation"). MSCG and PPA Buyer each agree to instruct the Custodian in accordance with Section 3(c) hereof to pay PPA Seller for the Assigned Product delivered during each Month of the Assignment Period on each applicable payment date under Section 8.2 of the PPA for a quantity up to, but not exceeding, the Assigned Monthly Quantity, at the Renewable Rate as set forth in the PPA. PPA Buyer shall remain responsible for any payment obligations under the PPA during the Assignment Period, and shall remain so responsible to make such payments by the times and on the terms set out in the PPA in the event that either (i) MSCG does not make the payments into the Custodial Account as described above or (ii) the Custodian does not make the payments to the PPA Seller from the Custodial Account as described above.

(b) **Retained Rights and Obligations.** Any claims arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or MSCG, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Product Payment Obligation, will be included in the Retained Rights and Obligations, and any such claim will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) **Invoicing.** During the Assignment Period, PPA Seller shall continue to provide PPA Buyer a monthly invoice of amounts owing under the PPA, which invoice shall show the total amount due to PPA Seller under the PPA for such Month (the "Monthly Gross Amount"). Promptly following PPA Buyer's receipt of each monthly invoice from PPA Seller during the Assignment Period and, in any event, no later than seven days thereafter, PPA Buyer shall deliver (i) a copy of such monthly invoice and the related supporting data to MSCG (ii) a statement to each of MSCG and the Custodian indicating (A) the Monthly Gross Amount; (B) the Delivered Product Payment Obligation; and (C) the Retained Payment Obligation. PPA Buyer and MSCG covenant and agree to instruct the Custodian to pay the Monthly Gross Amount to PPA Seller on or before the applicable payment date in the PPA, provided, that the liability of MSCG hereunder to PPA Seller is limited as described on Appendix 1. PPA Buyer and MSCG may agree in a separate writing as to the allocation of the Monthly Gross Amount between PPA Buyer and MSCG of amounts paid by the Custodian to PPA Seller hereunder. At all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA.

(d) **Scheduling.** All scheduling of Assigned Product and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass to MSCG upon delivery by PPA Seller at the Delivery Point in accordance with the PPA; (ii) immediately thereafter, title to such Assigned Product will pass to MSES, Issuer and then to PPA Buyer upon delivery by MSCG at the same point where title is passed to MSCG pursuant to clause (i) above; (iii) PPA Buyer will be deemed to be acting as MSCG's agent with regard to scheduling Assigned Product; and (iv) PPA Buyer will provide copies to MSCG of (A) any notice of a Force Majeure Event delivered under the PPA, (B) any notice of a default or of a breach or other event that, if not cured within an applicable grace period, could result in an Event of Default, (C) annual forecasts and monthly forecasts with respect to the Assigned Product delivered by PPA Seller under Sections 4.3(a) and 4.3(b) of the PPA, (D) invoices delivered by PPA Seller under Section 8.1 of the PPA (with a copy to the Custodian if and to the extent retained by PPA Buyer and MSCG), and (E) any other information reasonably requested by MSCG relating to Assigned Product.

(e) **Amendments.** PPA Buyer will provide written notice (including copies thereof) of any amendment, waiver, supplement, modification, or other changes to the PPA to MSCG relating to the Assigned Rights and Obligations, and the Parties hereby acknowledge and agree that an amendment, waiver, supplement, modification or other change will not have any effect on MSCG's rights or obligations under this Agreement until and unless MSCG receives written notice thereof.

(f) **Reserved.**

(g) **Setoff of Receivables.** Pursuant to the Prepaid Agreement, MSES has agreed to purchase the rights to payment of the net amounts owed by PPA Buyer under the Prepay Power Supply Contract ("Receivables") in the case of non-payment by PPA Buyer. To the extent any such Receivables relate to Assigned Product purchased by MSCG pursuant to the Assigned Rights and Obligations, MSES may sell such Receivables to MSCG and MSCG may transfer such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) to PPA Seller and apply the face amount of such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) as a reduction to any Delivered Product Payment Obligations; provided, however, that (1) at no time shall PPA Seller be required to pay MSCG for any amounts by which such Receivables exceed any Delivered Product Payment Obligations, and (2) at all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA including the Monthly Gross Amount under each invoice.

4. Assignment Period; Assignment Early Termination.

(a) **Assignment Period.** The "Assignment Period" shall begin on the Assignment Period Start Date and extend until the Assignment Period End Date; provided that in no event shall the Assignment Period extend past an Assignment Early Termination Date; and further provided that the Assignment Period will automatically terminate upon the expiration or early termination of either the Delivery Term or the PPA.

(b) **Early Termination.** An "**Assignment Early Termination Date**" will occur under the following circumstances and as of the dates specified below:

- i. delivery of a written notice of termination by either MSCG or PPA Buyer to each of the other Parties hereto;
- ii. delivery of a written notice of termination by PPA Seller to each of MSCG and PPA Buyer following MSCG's failure to pay when due any amounts owed to PPA Seller in respect

of any Delivered Product Payment Obligation and such failure continues for three (3) Business Days following receipt by MSCG of written notice thereof;

iii. delivery of a written notice by PPA Seller if any of the events described in Section 1.1, definition of “Bankrupt” of the PPA, occurs with respect to MSCG; or

iv. delivery of a written notice by MSCG if any of the events described in Section 1.1, definition of “Bankrupt” of the PPA, occurs with respect to PPA Seller.

(c) **Reversion of Assigned Rights and Obligations.** The Assignment Period will end at the end of the last delivery hour on the date specified in the termination notice provided pursuant to Section 4(b), which date shall not be earlier than the end of the last day of the Month in which such notice is delivered if termination is pursuant to clause (b)(i) or (b)(ii) above. The Parties acknowledge and agree that upon the occurrence of an Assignment Early Termination Date and at the expiration of the Assignment Period the Assigned Rights and Obligations will revert from MSCG to PPA Buyer. Any Assigned Rights and Obligations that would become due for payment or performance on or after such Assignment Early Termination Date shall immediately and automatically revert from MSCG to PPA Buyer, provided that (i) MSCG shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to MSCG prior to the Assignment Early Termination Date or prior to the expiration of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the occurrence of the Assignment Early Termination Date or the expiration of the Assignment Period.

5. Representations and Warranties.

(a) **Copy of PPA.** As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to MSCG that a true, complete, and correct copy of the PPA as of such date is attached hereto as Appendix 3.

(b) **No Default.** As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to MSCG that no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

(c) **Representations.** Each Party represents to each of the other Parties as of the Assignment Agreement Effective Date:

i. **Status.** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.

ii. **Powers.** It has the power to execute, deliver and to perform its obligations under this Agreement and has taken all necessary action to authorize such execution, delivery and performance.

iii. **No Violation or Conflict.** Such execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its obligations under this Agreement, will not result in any violation of, or conflict with: (i) any term of any material contract or agreement applicable to it; (ii) any of its charter, bylaws, or other constitutional documents; (iii) any determination or award of any arbitrator applicable to it; or (iv) any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, law, ordinance, rule or regulation of any Government Agency presently in

effect, applicable to it or any of its assets or properties or to any obligations incurred by it or by which it or any of its assets or properties or obligations are bound or affected, and shall not cause a breach of, or default under, any such term or result in the creation of any lien upon any of its properties or assets.

iv. **Consents.** All consents, approvals, orders or authorizations of, registrations, declarations, filings or giving of notice to, obtaining of any licenses or permits from, or taking of any other action with respect to, any Person or Government Agency that are required to have been obtained by such Party with respect to this Agreement and the transactions contemplated hereby, including the due authorization of such Party and its governing body and any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party, have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

v. **Obligations Binding.** Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

vi. **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other Parties as investment advice or as a recommendation to enter into this Agreement; it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this Agreement. It is entering into this Agreement as a bona-fide, arm's-length transaction involving the mutual exchange of consideration and, once executed by all Parties, considers this Agreement a legally enforceable contract. No communication (written or oral) received from any of the other Parties shall be deemed to be an assurance or guarantee as to the expected results of this Agreement.

vii. **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Agreement. It is also capable of assuming, and assumes, the risks of this Agreement.

viii. **Status of Parties.** None of the other Parties is acting as a fiduciary for or an adviser to it in respect of this Agreement.

6. **Miscellaneous.**

Article 18 (Confidential Information), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), Sections 19.5 (Severability), 19.8 (Electronic Delivery), 19.7 (Counterparts), Section 19.9 (Binding Effect) and 19.11 (Forward Contract) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein. For avoidance of doubt, and notwithstanding anything to the contrary in this Agreement: (i) nothing in this Agreement shall modify any provision of the PPA; (ii) PPA Buyer remains obligated to perform all its obligations under the PPA notwithstanding the limited assignment under this Agreement (including without limitation any such obligations not timely performed by MSCG under this Agreement) and any failure by MSCG to make payments to PPA Seller when due under the PPA shall be a Buyer Event of Default under the PPA if not cured within the applicable

cure period specified in Section 11(a)(i) of the PPA; (iii) this Agreement shall not purport to convey or otherwise allege any right of PPA Buyer or MSCG to make any prepayment to PPA Seller under the PPA or to file or impose any lien on the Facility; and (iv) neither MSCG nor PPA Buyer shall make any assignment of its rights or delegation of its obligations under this Agreement without the prior written consent of PPA Seller, which it may withhold in its sole discretion.

7. Costs and Expenses.

The Parties shall each pay their own costs and expenses (including legal fees) incurred in connection with this Agreement and as a result of the negotiation, preparation, and execution of this Agreement.

8. Notices.

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be delivered in accordance with PPA Section 9.2 and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify MSCG of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to MSCG shall be provided to the address set forth in Appendix 2. Each Party may update its address from time to time by notice to the other Parties.

9. Governing Law, Arbitration, Judicial Reference.

(a) **Governing Law.** This Agreement and the rights and duties of the Parties under this Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction's laws; *provided*, however, that the authority of PPA Buyer to enter into and perform its obligations under this agreement shall be determined in accordance with the laws of the State of California.

(b) **Arbitration.** Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope of this agreement to arbitrate, shall be determined by final, non-appealable binding arbitration in San Francisco, California before three (3) arbitrators. The arbitration shall be administered by Judicial Arbitration and Mediation Services, Inc. (“**JAMS**”) pursuant to its Comprehensive Arbitration Rules and Procedures. Within fifteen (15) days after the commencement of arbitration, each of MSCG and PPA Buyer shall select one person to act as arbitrator, and the two so-selected arbitrators shall select a third arbitrator (the “**chairperson**”) within thirty (30) days of the commencement of the arbitration. If either MSCG or PPA Buyer is unable or fails to select one person to act as arbitrator, such arbitrator shall be appointed by JAMS. If the MSCG and PPA Buyer-selected arbitrators are unable or fail to agree upon a chairperson, the chairperson shall be appointed by JAMS. The chairperson shall be a person who has experience in renewable energy-related transactions, and none of the arbitrators shall have been previously employed by any Party or have any direct pecuniary interest in any Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by all of the Parties. The Parties shall maintain the confidential nature of the arbitration proceeding and any award, including any hearing(s), except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive damages of any type or kind regardless of whether such damages may be available under any law or right, with the Parties hereby affirmatively waiving their rights,

if any, to recover or claim such damages. The responsibility for compensation and expenses of the three arbitrators and all other expenses charged by JAMS shall be equally split in one-third (1/3) shares by each of MSCG, PPA Buyer, and PPA Seller. In any arbitration arising out of or related to this Agreement, the arbitrators shall award to the prevailing Party or Parties, if any, the costs and attorney's fees reasonably incurred in seeking to enforce the application of this Section 9(b) and by the prevailing party in connection with the arbitration. Notwithstanding the foregoing provisions of this Section 9(b), any costs incurred by a Party in seeking judicial enforcement of any written decision of the arbitrators shall be chargeable to and borne exclusively by the Party against whom such court order is obtained. The award shall be final and binding on the Parties and judgment upon any award may be entered in any court of competent jurisdiction.

(c) **Judicial Reference.** Without limiting the provisions in Section 9(b), if Section 9(b) is deemed ineffective or unenforceable in any respect, any dispute between the Parties arising out of or in connection with this Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Agreement and the applicability of any statute of limitation period) (each, a **"Dispute"**) shall be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure (**"CCP"**), or their successor sections (a **"Reference Proceeding"**), which shall constitute the exclusive remedy for the resolution of any Dispute. As a condition precedent to initiating a Reference Proceeding with respect to any Dispute, the Parties shall comply with the provisions of Section 9(c)(i).

i. Notice of Dispute. Prior to initiating the Reference Proceeding, a Party (the **"Disputing Party"**) shall provide the other Parties (the **"Responding Parties"**) with a written notice of each issue in dispute, a proposed means for resolving each such issue, and support for such position (the **"Notice of Dispute"**). Within 10 days after receiving the Notice of Dispute, the Responding Parties shall provide the Disputing Party with a written Notice of each additional issue (if any) with respect to the dispute raised by the Notice of Dispute, a proposed means for resolving every issue in dispute, and support for such position (the **"Dispute Response"**). Thereafter, the Parties shall meet to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the Parties do not resolve the dispute by unanimous agreement within sixty 60 days after receipt of the Dispute Response, (the **"Negotiation Period"**), then any Party may provide to the other Parties written notice of intent for judicial reference (the **"Impasse Notice"**) in accordance with the further provisions of this Section 9.

ii. Applicability; Selection of Referees. Within 10 days of the delivery of an Impasse Notice, each of MSCG and PPA Buyer shall nominate one (1) referee. The two (2) referees (the **"Party-Appointed Referees"**) shall appoint a third referee (the **"Third Referee"**, together with the Party-Appointed Referees, the **"Referees"**). The Party-Appointed Referees shall be competent and experienced in matters involving the electric energy business in the United States, with at least ten (10) years of electric industry experience as a practicing attorney. The Third Referee shall be an active or retired California state or federal judge. Each of the Party-Appointed Referees and the Third Referee shall be impartial and independent of each of the Parties and of the other referees and not employed by any of the Parties in any prior matter.

iii. Inability to Agree upon Third Referee. If the Party-Appointed Referees are unable to agree on the Third Referee within 45 days from delivery of the Impasse Notice, then the Third Referee shall be appointed pursuant to CCP Section 640(b) in an action filed in the Superior Court of California, County of San Francisco (the **"Court"**), and with due regard given to the selection criteria above. A request for appointment of a referee may be heard on an ex parte or expedited basis, and the Parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP Section 170.6, each of PPA Buyer and MSCG shall have one (1) peremptory challenge to the referee selected by the Court.

iv. Discovery; Proceedings.

(A) The Parties agree that time is of the essence in conducting the Reference Proceeding. Accordingly, the Referees shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within 20 days after the date of selection of the Third Referee, (ii) if practicable, try all issues of law or fact within 180 days after the date of the conference, and (iii) report a statement of decision within 20 days after the matter has been submitted for decision.

(B) Discovery and other pre-hearing procedures shall be conducted as agreed to by the Parties, or if they cannot agree, as determined by the Third Referee after discussion with the Parties regarding the need for discovery and other pre-hearing procedures.

(C) Except as expressly set forth herein, the Third Referee shall determine the manner in which the Reference Proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the Reference Proceeding. The Reference Proceeding, including the trial, shall be conducted at a neutral location selected by the Parties, or if not agreed by the Parties, by the Third Referee, in San Francisco, California.

(D) All proceedings and hearings conducted before the Referees, except for trial, shall be conducted without a court reporter, except that when any Party so requests, a court reporter will be used at any hearing conducted before the Referees, and the Referees will be provided a courtesy copy of the transcript. The Party making such a request shall have the obligation to arrange for and pay the court reporter.

v. Decision. The Referees shall render a written statement of decision setting forth findings of fact and conclusions of law. The decision shall be entered as a judgment in the court in accordance with the provisions of CCP Sections 644 and 645. The decision shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the Court. The Parties intend this general reference agreement to be specifically enforceable in accordance with the CCP.

vi. Expenses. Each of MSCG, PPA Seller and PPA Buyer shall bear the compensation and expenses of its respective own counsel, witnesses, consultants and employees. The responsibility for compensation and expenses of the Referees and all other expenses of judicial reference shall be equally split in one-third (1/3) shares by each of MSCG, PPA Buyer, and PPA Seller.

10. U.S. Resolution Stay. The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol (“**ISDA U.S. Stay Protocol**”), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Agreement, and this Agreement shall be deemed a Protocol Covered Agreement for purposes thereof. For purposes of incorporating the ISDA U.S. Stay Protocol, MSCG shall be deemed to be a Regulated Entity, and PPA Buyer and PPA Seller each shall be deemed to be an Adhering Party. In the event of any inconsistencies between this Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first set forth above.

SUNZIA WIND SOUTH LLC

By: _____
Name: _____
Title: _____

SILICON VALLEY CLEAN ENERGY AUTHORITY

By: _____
Name: _____
Title: _____

MORGAN STANLEY CAPITAL GROUP INC.

By: _____
Name: _____
Title: _____

Appendix 1

Assigned Rights and Obligations

PPA: Renewable Power Purchase and Sale Agreement dated as of [____], by and between PPA Buyer and PPA Seller, as may be amended from time to time.

Delivery Point: Facility PNode (as defined in Exhibit A of the PPA)

Further Information: PPA Seller shall transfer or, to the extent applicable, continue to transfer, to PPA Buyer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all PV Energy under the PPA pursuant to Section 4.8 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both MSCG and PPA Buyer upon fifteen (15) Business Days' notice, which change shall be effective as of the first day of the next calendar month after such notice period has expired, unless otherwise agreed. Terms with initial capitalization used in this paragraph but not otherwise defined in this Agreement have the meaning set forth in the PPA. All Assigned Product delivered by PPA Seller to MSCG shall be a sale made at wholesale, with MSCG reselling all such Assigned Product.

Limitation of MSCG Liability. MSCG has separately agreed with the PPA Buyer and the Custodian (pursuant to the Custodial Agreement dated [---], among PPA Buyer, MSCG and the Custodian (the "**Custody Agreement**")) to pay into the custodial account specified in the Custody Agreement (the "**Custodial Account**") for the portion of the Assigned Monthly Quantity actually delivered in each Month of the Assignment Period at the "Day-Ahead Average Price" as defined below ("**Floating Price Payments**"). MSCG agrees for the benefit of the PPA Seller to pay the Floating Price Payments into the Custodial Account, and MSCG's payment obligations under this Agreement are limited to making such payments into the Custodial Account, for application as provided in the Custody Agreement. PPA Buyer and PPA Seller each acknowledge and agree that the making of Floating Price Payments into the Custodial Account by MSCG shall not entitle (i) PPA Seller for payments in excess of the Renewable Rate for Assigned Product delivered hereunder or (ii) PPA Buyer to pay less than the Renewable Rate for Assigned Product delivered hereunder. PPA Buyer and MSCG each acknowledge and agree that the making of Floating Price Payments into the Custodial Account by MSCG shall not entitle (i) MSCG to any payments from PPA Seller or (ii) affect the Custodian's obligation to pay the Monthly Gross Amount to PPA Seller on or before the applicable payment date in the PPA. At all times the PPA Buyer shall remain obligated for the payment of all amounts owing under the terms of the PPA including the Monthly Gross Amount under each invoice.

"Day-Ahead Average Price" means (x) the sum of the Day-Ahead Market Prices for each Pricing Interval in a Month divided by (y) the number of Pricing Intervals in such Month; provided that in no case shall the Day-Ahead Average Price hereunder be less than \$0.00/MWh. As used in this definition, "Pricing Interval" means the unit of time for which CAISO establishes a separate price. As used in this definition "Day-Ahead Market Price" means the Day Ahead Market or Locational Marginal Price for NP15 EZ GEN HUB for each applicable hour as published by CAISO, or as such price may be corrected or revised from time to time by CAISO in accordance with its rules. For the avoidance of doubt, the Day-Ahead Average Price can be a negative number.

Appendix 2

MSCG Notice Information

[To be completed before signing.]

Appendix 3
Copy of PPA
[To be attached.]

FORM OF ASSIGNMENT schedule
[PROJECT NAME]

Assigned Product: [_____]

Assigned Delivery Point: [_____]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and J. Aron and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: \$[_____] /MWh

Assignment Period: [_____]

Other Provisions: [_____]

RENEWABLE POWER PURCHASE AND SALE AGREEMENT**COVER SHEET****Seller:** SunZia Wind North LLC**Buyer:** Silicon Valley Clean Energy Authority, a California joint powers authority**Description of Facility:** A wind-powered electricity generating facility known as SunZia Wind North, with a nameplate capacity of up to 1,089 MW, as described in Exhibit A, as such facility may be modified under the terms of this Agreement.**Milestones:**

Milestone	Date for Completion
Execute Interconnection Agreement	Complete
Obtain Bureau of Land Management Record of Decision for SunZia Transmission Line	Complete
Procurement of Major Equipment	Complete
Construction Start Date	Complete
Expected Commercial Operation Date	9/30/2026

Delivery Term: Ten (10) Contract Years.**Guaranteed Capacity:** 7.46 MW_{AC}.**Expected Energy:**

Contract Year	Expected Energy (MWh per Contract Year)
1 – 10	[REDACTED]

Contract Price: [REDACTED]**Product:**

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

Scheduling Coordinator: Seller/Seller Third Party.**Development Security and Performance Security**

[REDACTED]



TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS.....	1
1.1 CONTRACT DEFINITIONS.	1
1.2 RULES OF INTERPRETATION.	17
ARTICLE 2 TERM; CONDITIONS PRECEDENT	18
2.1 CONTRACT TERM.	18
2.2 RESERVED.....	19
2.3 OBLIGATIONS PRIOR TO DELIVERY TERM.....	19
2.4 PROGRESS REPORTS.....	20
2.5 REMEDIAL ACTION PLAN.....	20
2.6 NON-SPTO MODIFICATIONS.....	20
ARTICLE 3 PURCHASE AND SALE	20
3.1 SALE OF PRODUCT	20
3.2 SALE OF GREEN ATTRIBUTES.....	21
3.3 COMPENSATION.....	21
3.4 IMBALANCE ENERGY	21
3.5 OWNERSHIP OF RENEWABLE ENERGY INCENTIVES.....	22
3.6 FUTURE ENVIRONMENTAL ATTRIBUTES.....	22
3.7 TEST ENERGY.....	22
3.8 CAPACITY ATTRIBUTES.....	22
3.9 CEC CERTIFICATION AND VERIFICATION	23
3.10 CPUC NON-MODIFIABLE STANDARD TERMS AND CONDITIONS.....	23
3.11 CALIFORNIA RENEWABLES PORTFOLIO STANDARD.....	24
3.12 COMPLIANCE EXPENDITURE CAP.....	24
ARTICLE 4 OBLIGATIONS AND DELIVERIES	25
4.1 DELIVERY.....	25
4.2 TITLE AND RISK OF LOSS.	25
4.3 SCHEDULING COORDINATOR RESPONSIBILITIES.....	26
4.4 FORECASTING	27
4.5 DISPATCH DOWN/CURTAILMENT.	28
4.6 REDUCTION IN DELIVERY OBLIGATION	28
4.7 GUARANTEED ENERGY PRODUCTION.....	29
4.8 WREGIS.....	30
4.9 MODIFICATION OF CERTAIN AGREEMENT TERMS.....	31
ARTICLE 5 TAXES	32
5.1 ALLOCATION OF TAXES AND CHARGES	32
5.2 COOPERATION	32
ARTICLE 6 MAINTENANCE OF THE FACILITY	32
6.1 MAINTENANCE OF THE FACILITY	32
6.2 MAINTENANCE OF HEALTH AND SAFETY.....	32
6.3 SHARED FACILITIES	33
ARTICLE 7 METERING	33
7.1 METERING	33
7.2 METER VERIFICATION.....	33

ARTICLE 8 INVOICING AND PAYMENT; CREDIT	33
8.1 INVOICING	33
8.2 PAYMENT	34
8.3 BOOKS AND RECORDS	34
8.4 PAYMENT ADJUSTMENTS; BILLING ERRORS	34
8.5 BILLING DISPUTES.....	34
8.6 NETTING OF PAYMENTS.....	35
8.7 SELLER’S DEVELOPMENT SECURITY	35
8.8 SELLER’S PERFORMANCE SECURITY	35
8.9 FINANCIAL STATEMENTS.	36
8.10 BUYER’S FIRST PRIORITY SECURITY INTEREST IN CASH OR CASH EQUIVALENT COLLATERAL	36
ARTICLE 9 NOTICES	37
9.1 ADDRESSES FOR THE DELIVERY OF NOTICES	37
9.2 ACCEPTABLE MEANS OF DELIVERING NOTICE.....	37
ARTICLE 10 FORCE MAJEURE.....	37
10.1 DEFINITION.	37
10.2 NO LIABILITY IF A FORCE MAJEURE EVENT OCCURS.....	38
10.3 NOTICE.....	39
10.4 TERMINATION FOLLOWING FORCE MAJEURE EVENT.....	39
ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION	39
11.1 EVENTS OF DEFAULT	39
11.2 REMEDIES; DECLARATION OF EARLY TERMINATION DATE	42
11.3 TERMINATION PAYMENT.....	42
11.4 NOTICE OF PAYMENT OF TERMINATION PAYMENT	43
11.5 DISPUTES WITH RESPECT TO TERMINATION PAYMENT	43
11.6 RIGHTS AND REMEDIES ARE CUMULATIVE.....	43
11.7 MITIGATION	43
ARTICLE 12 LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES	43
12.1 NO CONSEQUENTIAL DAMAGES	43
12.2 WAIVER AND EXCLUSION OF OTHER DAMAGES	43
ARTICLE 13 REPRESENTATIONS AND WARRANTIES; AUTHORITY	44
13.1 SELLER’S REPRESENTATIONS AND WARRANTIES	44
13.2 BUYER’S REPRESENTATIONS AND WARRANTIES.	45
13.3 GENERAL COVENANTS	46
13.4 PREVAILING WAGE	46
ARTICLE 14 ASSIGNMENT.....	47
14.1 GENERAL PROHIBITION ON ASSIGNMENTS.....	47
14.2 COLLATERAL ASSIGNMENT.....	47
14.3 PERMITTED ASSIGNMENT	47
14.4 LIMITED ASSIGNMENT BY BUYER.....	48
ARTICLE 15 GOVERNING LAW; DISPUTE RESOLUTION.....	48
15.1 GOVERNING LAW	48
15.2 VENUE	48
15.3 DISPUTE RESOLUTION.....	48
15.4 ATTORNEYS’ FEES.....	49

ARTICLE 16 INDEMNIFICATION	49
16.1 INDEMNIFICATION.	49
16.2 CLAIMS.....	49
ARTICLE 17 INSURANCE	50
17.1 INSURANCE.....	50
ARTICLE 18 CONFIDENTIAL INFORMATION	50
18.1 DEFINITION OF CONFIDENTIAL INFORMATION.....	50
18.2 DUTY TO MAINTAIN CONFIDENTIALITY.....	51
18.3 IRREPARABLE INJURY; REMEDIES.....	51
18.4 PERMITTED DISCLOSURES.....	51
18.5 PRESS RELEASES	51
ARTICLE 19 MISCELLANEOUS	51
19.1 ENTIRE AGREEMENT; INTEGRATION; EXHIBITS.....	51
19.2 AMENDMENTS	52
19.3 NO WAIVER	52
19.4 NO AGENCY, PARTNERSHIP, JOINT VENTURE OR LEASE	52
19.5 SEVERABILITY.....	52
19.6 MOBILE-SIERRA	52
19.7 COUNTERPARTS.....	52
19.8 ELECTRONIC DELIVERY	52
19.9 BINDING EFFECT.....	53
19.10 NO RECOURSE TO MEMBERS OF BUYER	53
19.11 CHANGE IN ELECTRIC MARKET DESIGN.	53

Exhibits

Exhibit A	Facility Description
Exhibit B	Facility Commercial Operation
Exhibit C	Progress Reporting Form
Exhibit D	Form of Average Forecast of Energy (MWh)
Exhibit E	Energy Replacement Damages Calculation
Exhibit F	Form of Commercial Operation Date Certificate
Exhibit G	Form of Installed Capacity Certificate
Exhibit H	Non-SPTO Modifications
Exhibit I	Form of Letter of Credit
Exhibit J	Form of Guaranty
Exhibit K	Notices
Exhibit L	Operating Restrictions
Exhibit M	Form of Seller Commercial Operation Date Certificate
Exhibit N	Form of Limited Assignment Agreement

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

This Renewable Power Purchase and Sale Agreement (“**Agreement**”) is entered into as of [], 2025 (the “**Effective Date**”), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**.”

RECITALS

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

WHEREAS, Seller has commenced and is engaged in construction of the Facility as of the Effective Date;

WHEREAS, Seller intends that the Facility and the portion of the Transmission System providing transmission service to the Delivery Point will become part of the CAISO Balancing Authority Area through the CAISO Subscriber Participating Transmission Owner (“**SPTO**”) process; and

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

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

ARTICLE 1 DEFINITIONS

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

“**AC**” means alternating current.

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

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

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

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

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

“Approved Meter” means a CAISO-approved revenue quality meter or meters, together with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

“Available Capacity” means the capacity from Buyer’s Share of the Facility, expressed in whole MWs, that is available to generate Energy.

“Balancing Authority” has the meaning set forth in the CAISO Tariff.

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

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

“Buyer” has the meaning set forth on the Cover Sheet.

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

“Buyer’s WREGIS Account” has the meaning set forth in Section 4.8(a).

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

“CAISO Grid” has the same meaning as “CAISO Controlled Grid” as defined in the CAISO Tariff.

“CAISO Operating Instruction” has the same meaning as “Operating Instruction” as defined in the CAISO Tariff.

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

“California Renewables Portfolio Standard” or **“RPS”** means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections

399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

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

“Capacity Damages” has the meaning set forth in Exhibit B.

“Capacity Replacement Price” means

[REDACTED]

“CEC” means the California Energy Commission, or its successor agency.

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

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

“COD Delay Damages Payment” has the meaning set forth in Exhibit B.

“Collateral Assignment Agreement” has the meaning set forth in Section 14.2.

“Commercial Operation” has the meaning set forth in Exhibit B.

“Commercial Operation Date” has the meaning set forth in Exhibit B.

“Compliance Actions” has the meaning set forth in Section 3.12.

“Compliance Expenditure Cap” has the meaning set forth in Section 3.12.

“Confidential Information” has the meaning set forth in Section 18.1.

“Contract Price” has the meaning set forth on the Cover Sheet.

“Contract Revenues” has the meaning set forth in Section 4.5(b).

“Contract Term” has the meaning set forth in Section 2.1(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 its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

“Cover Sheet” means the cover sheet to this Agreement, which is incorporated into this Agreement.

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

“CPUC” means the California Public Utilities Commission, or successor entity.

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

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody’s. Unless otherwise indicated herein, if ratings by S&P and Moody’s are not equivalent, the lower rating shall apply.



“Curtailment Order” means any of the following:

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

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

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

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

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

"Damage Payment" means [REDACTED]

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

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

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

"Deemed Delivered Energy" means (i) the Market Curtailment Delivered Energy, [REDACTED]

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

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

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

"Delay Damages" means an amount equal to [REDACTED]

"Delivered Energy" means, in any Settlement Interval or Settlement Period, the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller's obligations under this Agreement, which such amount shall equal: (i) (a) Buyer's Share of the Energy produced by the Facility and delivered to the Point of Interconnection, as measured in MWh by the

Approved Meter, as such amount may be reduced as a result of a Curtailment Order, net of all Electrical Losses (other than Electrical Losses that are reflected in the meter readings) and Station Use, or (b) if a portion of the Facility output is curtailed, at Seller's election and not otherwise in accordance with Section 4.6, in any Settlement Interval or Settlement Period, as applicable, that is not during a Curtailment Period or Market Curtailment Period, the quantity of Delivered Energy shall be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Point of Interconnection, if the Facility was not so curtailed, [REDACTED]

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

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

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

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

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

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

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

"Effective Date" has the meaning set forth in the preamble hereto.

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

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

"Energy" means electrical energy, measured in MWh.

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

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

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

[REDACTED]

“Expected Commercial Operation Date” has the meaning set forth on the Cover Sheet.

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

[REDACTED]

“Facility” means the energy generating facility described on the Cover Sheet and in Exhibit A.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Fitch” means Fitch Ratings Ltd., or its successor.

“Floor Price” means [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

“Force Majeure Event” has the meaning set forth in Section 10.1.

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

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

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

at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

“Governmental Authority” means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO and WREGIS; *provided, however*, that “Governmental Authority,” as such term is used in this Agreement in connection with Seller’s obligations to comply with Law or bear Taxes, shall not include Buyer to the extent that Buyer’s acts or omissions would impose incremental burdens on Seller or Seller’s performance under this Agreement or limit or deprive Seller of any of Seller’s rights or benefits under this Agreement.

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

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

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

“Guaranteed Capacity” has the meaning set forth on the Cover Sheet.

“Guaranteed Commercial Operation Date” has the meaning set forth in Exhibit B.

“Guaranteed Energy Production” has the meaning set forth in Section 4.7.

“Guaranteed RA Amount” means

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

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

“**Hourly Delivery Cap**” means [REDACTED]

[REDACTED]

[REDACTED]

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

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

“**Indemnifiable Event**” 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).

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

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

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

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

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

“Interconnection Point” means the SunZia East Converter Station.

“Interest Rate” has the meaning set forth in Section 8.2.

“Investment Grade Credit Rating” means a Credit Rating of not less than [REDACTED]

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

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

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

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

“Letter(s) of Credit” means one or more irrevocable, standby letters of credit (a) issued by a U.S. commercial bank or financial institution, or U.S. branch of a foreign bank or financial institution, with such bank or financial institution having (i) a Credit Rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s or (ii) a parent company of such issuer that has a Credit Rating of at least “A-” with an outlook designation of “stable” from S&P or “A3” with an outlook designation of “stable” from Moody’s, and such parent company has issued a confirmation of the Letter of Credit in a form reasonably acceptable to Buyer ensuring that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution defaults, and (b) in a form substantially similar to the letter of credit set forth in Exhibit I or as otherwise reasonably acceptable to Buyer.

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

licensed in an appropriate engineering discipline for the required certification being made, or (iii) a person acceptable to Buyer in its reasonable judgment.

“Limited Assignee” has the meaning set forth in Section 14.4.

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

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

“Lost Output” has the meaning set forth in Exhibit E.

[REDACTED]

[REDACTED]

“Market Curtailment Period” means the period of time, as measured using current Settlement Intervals, during a Settlement Period or Settlement Interval, [REDACTED] *provided*, if applicable, that the Market Curtailment Period shall also include the time required for the Facility to ramp down to implement such curtailment (if any) and ramp up following such curtailment (if any) in accordance with the Operating Restrictions.

“Master File” has the meaning set forth in the CAISO Tariff.

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

“Milestones” means the development activities and dates associated therewith set forth on the Cover Sheet.

“Modification Notice” has the meaning set forth in Section 4.9.

“Moody’s” means Moody’s Investors Service, Inc., or its successor.

“**MW**” means megawatts measured in alternating current.

“**MWh**” means megawatt-hour measured in alternating current.

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

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

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

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

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

“**Pacific Prevailing Time**” means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

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

“**Parties**” has the meaning set forth in the Preamble.

“**Party**” has the meaning set forth in the Preamble.

“**Performance Measurement Period**” has the meaning set forth in Section 4.7(a).

“**Performance Security**” means, at Seller’s option (i) cash (ii) one or more Letters of Credit, and/or (iii) a Guaranty, in the amount set forth on the Cover Sheet.

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

[REDACTED]

(b) [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.

“Point of Interconnection” has the meaning set forth in the Interconnection Agreement.

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

“Product” has the meaning set forth on the Cover Sheet.

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

“Progress Report” means a progress report including the items set forth in Exhibit C.

“Project” has the same meaning as “Facility”.

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

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

“QRE” has the meaning set forth for “Qualified Reporting Entity” in the WREGIS Operating Rules.

“Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

“RA Deficiency Amount” has the meaning set forth in Section 3.8(e).

“RA Deficiency Amount Cap” means the maximum RA Deficiency Amount that Seller shall pay to Buyer [REDACTED]

“RA Guarantee Date” means [REDACTED]

“RA Market Price” means [REDACTED]

“RA Shortfall Amount”, expressed in kW, means [REDACTED]

“RA Shortfall Month” means any Showing Month in which the RA Shortfall Amount is greater than [REDACTED]

“Real-Time Forecast” has the meaning set forth in Section 4.4(e).

“Real-Time Market” has the meaning set forth in the CAISO Tariff.

“REC Price” means the [REDACTED]

“Receiving Party” has the meaning set forth in Section 18.2.

“Recurring Certificate Transfers” has the meaning set forth in the WREGIS Operating Rules.

“Remedial Action Plan” has the meaning in Section 2.5(a).

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

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

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

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

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

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

“Resource Data Template” has the meaning set forth in the CAISO Tariff.

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

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

“Scheduled Energy” means the Energy from Buyer’s Share of the Facility that clears under the applicable CAISO market based on the final Schedule developed in accordance with this Agreement, the operating procedures developed by the Parties pursuant to this Agreement, and the applicable CAISO Tariff, protocols and Scheduling practices.

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

“Self-Schedule” has the meaning set forth in the CAISO Tariff.

“Seller” has the meaning set forth on the Cover Sheet.

“Seller’s WREGIS Account” has the meaning set forth in Section 4.8(a).

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

“Settlement Interval” has the meaning set forth in the CAISO Tariff.

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

“Shared Facilities Agreement” has the meaning set forth in Section 6.3.

“Showing Month” has the meaning set forth in the CAISO Tariff.

“Site” means the real property on which the Facility is or will be located, as further described in Exhibit A.

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

“SPTO” has the meaning set forth in the Recitals hereto.

“Station Use” means:

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

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

“SunZia South PPA” has the meaning set forth in Section 4.9.

“SunZia Transmission Line” means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Point of Interconnection in New Mexico and terminating near Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

“Supply Plan” has the meaning set forth in the CAISO Tariff.

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

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

“Terminated Transaction” has the meaning set forth in Section 11.2(a).

“Termination Payment” has the meaning set forth in Section 11.3.

“Test Energy” means (1) the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point, equal to Buyer’s Share of Energy delivered from the Facility to the Point of Interconnection, as measured in MWh by the Approved Meter, subject to the Hourly Delivery Cap, as such amount may be reduced as a result of a Curtailment Order, (a) commencing on the later of (i) the

first date that the CAISO informs Seller in writing that Seller may deliver Energy from the Facility to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date; and (2) associated Green Attributes including RECs that meet the RPS requirements for Portfolio Content Category 1.

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

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

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

“Ultimate Parent” means Pattern Energy Group LP.

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

[REDACTED]

“WREGIS Certificate Deficit” has the meaning set forth in Section 4.8(e).

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

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

1.2 **Rules of Interpretation.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 2 TERM; CONDITIONS PRECEDENT

2.1 Contract Term.

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

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

Performance Security less any amounts drawn in accordance with this Agreement shall remain in full force and effect following the termination of this Agreement.

2.2 **Reserved.**

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

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

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

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

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

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

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

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

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

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

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

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

2.5 **Remedial Action Plan.**

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

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

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

2.6 **Non-SPTO Modifications.**

The Parties acknowledge and agree that this Agreement contemplates the Facility becoming part of the CAISO Balancing Authority area prior to the Commercial Operation Date via the SPTO process. Notwithstanding the foregoing, at any time prior to the Commercial Operation Date Seller may provide Notice to Buyer that the Facility is no longer anticipated to become part of the CAISO Balancing Authority via the SPTO process. Immediately and automatically upon delivery of such Notice, this Agreement shall be amended as set forth in Exhibit H, with no further action required on the part of any Person.

ARTICLE 3 PURCHASE AND SALE

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

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

3.3 Compensation.

Delivered Energy. For each MWh of Delivered Energy and Replacement Energy in each Settlement Period or Settlement Interval, as applicable, Buyer shall pay _____

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

Excess Deliveries. If, at any point in a Contract Year, the amount of Delivered Energy plus Deemed Delivered Energy

(d) **Excess Settlement Interval Deliveries.**

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

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

3.6 **Future Environmental Attributes.**

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

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

3.7 **Test Energy.** [REDACTED]

3.8 **Capacity Attributes.**

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

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

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

and agree that such dates may be modified by the CAISO from time to time throughout the Delivery Term. [REDACTED]

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

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

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

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

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

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

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

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

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

[REDACTED] ("Compliance Expenditure Cap"):

- (a) CEC Certification and Verification;
- (b) Green Attributes;
- (c) WREGIS; and
- (d) Capacity Attributes.

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

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

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

(such Buyer-agreed upon costs, the “**Accepted Compliance Costs**”), or

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

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

ARTICLE 4

OBLIGATIONS AND DELIVERIES

4.1 Delivery.

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

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

4.2 Title and Risk of Loss.

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

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

4.3 Scheduling Coordinator Responsibilities.

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

■

(b) Floor Price. ■

■

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

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

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

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

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

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

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

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

Electrical Losses, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use reasonable efforts to notify Buyer of such outage within ten (10) minutes of becoming aware of the Forced Facility Outage. Seller shall inform Buyer as soon as reasonably practicable of any developments that will affect either the duration of such outage or the availability of the Facility during or after the end of such outage. These real-time forecasts shall be communicated by email to Buyer unless Buyer requests an alternative method of communications reasonably acceptable to Seller.

4.5 **Dispatch Down/Curtailment.**

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

(b) **Third-Party Sales.**

(i) During a Curtailment Period, if, and for so long as, [REDACTED]

[REDACTED]

(ii) During Market Curtailment Periods, [REDACTED]

[REDACTED]

4.6 **Reduction in Delivery Obligation.** For the avoidance of doubt, and in no way limiting Section 3.1 or Exhibit E:

(a) **Facility Maintenance.** Seller shall be permitted to reduce deliveries of Product during any period of scheduled maintenance on the Facility.

(b) **Forced Facility Outage.** Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer reasonably informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(c) System Emergencies and other Events. Seller shall be permitted to reduce deliveries of Product [REDACTED]

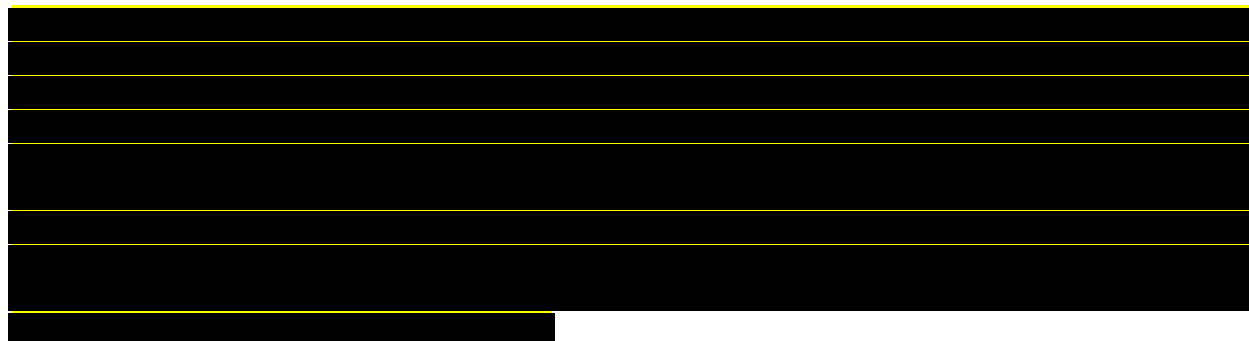
(d) Health and Safety. Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(e) Real-Time Curtailment. [REDACTED]

4.7 Guaranteed Energy Production.

(a) Seller shall be required to deliver to Buyer no less than the Guaranteed Energy Production (as defined below) in each period of two (2) consecutive Contract Years during the Delivery Term (such that the first Performance Measurement Period comprises [REDACTED] (“Performance Measurement Period”). “Guaranteed Energy Production” means [REDACTED]

(b) [REDACTED]



4.8 **WREGIS.** Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall satisfy its obligations pursuant to Section 3.10(c) and Section 4.2(b) by fulfilling its obligations under Sections 4.8(a) through (f) below.

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate. If required by the CAISO Tariff, WREGIS, the CPUC or otherwise under applicable Law, WREGIS Certificates must be matched with E-Tags associated with the Delivered Energy and WREGIS Certificates without matching E-Tags associated with Delivered Energy will be rejected.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month as evidenced by the Facility's metered data.

(d) Due to the approximately fourteen (14) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Section 8.2, Buyer shall make an invoice payment for a given month in accordance with Section 8.2 notwithstanding that the WREGIS Certificates may not have been formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A “**WREGIS Certificate Deficit**” means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy for the same calendar month (“**Deficient Month**”). If any WREGIS Certificate Deficit is caused, or the result of any action or inaction, by Seller, then [REDACTED]

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer’s WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

4.9 **Modification of Certain Agreement Terms.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 5 TAXES

5.1 **Allocation of Taxes and Charges.** Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and delivery of Product to Buyer, that are imposed on Product prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of the Product that are imposed on Product at and from the Delivery Point (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, the exempted Party shall have provided to the other Party all necessary documentation within thirty (30) days after the Effective Date evidencing such exemption or exclusion. If the exempted Party does not provide such documentation, then such Party shall indemnify, defend, and hold harmless the other Party from any liability with respect to Taxes from which the exempted Party claims it is exempt.

5.2 **Cooperation.** Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided, however*, that neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Energy delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Energy.

ARTICLE 6 MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility.** Seller shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product. On or before December 1st each year, Seller shall provide Buyer with the scheduled maintenance for the Facility for the next calendar year; *provided*, Seller shall provide Buyer with any updates to such schedule during each year consistent with Law and Prudent Operating Practice as soon as practicable; *provided further*, (a) during each period from [REDACTED] during the Delivery Term, Seller shall not schedule any non-emergency maintenance of the Facility which reduces the energy generation capability of the Facility by more than [REDACTED] and (b) during each period from [REDACTED] during the Delivery Term, Seller shall not schedule any non-emergency maintenance of the Facility [REDACTED]

6.2 **Maintenance of Health and Safety.** Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified on Exhibit K Notice of such condition. Such action may

include disconnecting and removing all or a portion of the Facility, or suspending the supply of Energy to Buyer.

6.3 **Shared Facilities.** The Parties acknowledge and agree that certain of the Interconnection Facilities, Seller's rights and obligations under the Interconnection Agreement and Seller's rights and obligations under transmission service agreements with a Transmission Provider, may be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements.

ARTICLE 7 METERING

7.1 **Metering.** Seller shall measure the amount of Delivered Energy produced by the Facility using an Approved Meter. The Approved Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Approved Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO requirements, as applicable. Seller will be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Approved Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor) or directly from the Approved Meter at the Facility.

7.2 **Meter Verification.** Annually, if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the meter inaccuracy commenced (if such evidence exists such date will be used to adjust prior invoices), then the invoices covering the period of time since the last meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during the second half of such period.

ARTICLE 8 INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing.** Seller shall make good faith efforts to deliver an invoice to Buyer fifteen (15) Business Days after the end of the prior monthly delivery period. Each invoice shall provide Buyer (a) records of metered data, including metering and CAISO transaction data sufficient to document and verify the amount of Delivered Energy for each Settlement Period during the preceding month, the applicable Contract Price, the LMPs in the Day-Ahead Market and Real-Time Market at the Delivery Point for each Settlement Period and Settlement Interval, respectively, and information supporting the amount of Deemed Delivered Energy and Adjusted Energy Production, [REDACTED]

[REDACTED]; (b) a reconciliation of hourly meter data, E-Tag data and associated calculations, including the lesser of each by hour, [REDACTED]

[REDACTED]; (c) a statement of the quantity of WREGIS Certificates transferred during the prior month that have been matched with E-Tags associated with Delivered Energy, to the extent such matching is required by the CAISO Tariff, WREGIS, the CPUC, or otherwise under applicable Law; (d) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (e) be in a reasonable format covering the services provided in the preceding month determined in accordance with the applicable provisions of this Agreement.

8.2 **Payment.** Buyer shall make payment to Seller by wire transfer or ACH payment to the bank account designated by Seller in Exhibit K, which may be updated by Seller by Notice hereunder; *provided, however*, that changes to the invoices, payment, and wire transfer information set forth in Exhibit K must be made in writing and delivered via certified mail or a secured online method mutually agreed upon by both Parties, and shall include contact information for an authorized person who is available by telephone to verify the authenticity of such requested changes. Buyer shall pay undisputed invoice amounts within thirty (30) days after receipt of the invoice. If such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on the prime rate published on the date of the invoice in The Wall Street Journal, or, if The Wall Street Journal is not published on that day, the next succeeding date of publication, plus two percent (2%) (the “**Interest Rate**”). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records.** To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days’ Notice to Seller, Buyer shall be granted reasonable access to the accounting books and records pertaining to all invoices generated pursuant to this Agreement.

8.4 **Payment Adjustments; Billing Errors.** Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5, there is determined to have been a meter inaccuracy sufficient to require a payment adjustment, or if CAISO recalculates amounts due or owing in respect of prior periods. If the required adjustment is in favor of Buyer, Buyer’s monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer’s next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the non-erring Party received Notice thereof.

8.5 **Billing Disputes.** A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or

adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 Netting of Payments

. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and E, interest, and payments or credits, including pursuant to Section 4.3(c), shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 Seller's Development Security. To secure its obligations under this Agreement, Seller shall have delivered the Development Security to Buyer within [REDACTED] after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (A) Seller's delivery of the Performance Security, or (B) [REDACTED] after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If and to the extent that any portion of the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the required Credit Rating, or to provide a confirmation of such Letter of Credit in a form reasonably acceptable to Buyer from a parent company of such issuer that meets the required Credit Rating, which confirmation ensures that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution defaults, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iv) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Development Security. Seller shall have no obligation to replenish the Development Security following any draws thereon by Buyer. Seller's maximum liability for an Event of Default or failure to perform its obligations hereunder prior to the Commercial Operation Date shall be capped at the amount of the Development Security, less any amounts collected by Buyer prior to such Event of Default or failure to perform.

8.8 Seller's Performance Security. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller arising under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the

Performance Security. Within ten (10) Business Days following any draw by Buyer on the Performance Security, Seller shall replenish the amount drawn such that Performance Security is restored to the amount on Cover Sheet. If and to the extent that any portion of the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the required Credit Rating, or to provide a confirmation of such Letter of Credit in a form reasonably acceptable to Buyer from a parent company of such issuer that meets the required Credit Rating, which confirmation ensures that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the end of the Delivery Term, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iii) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Performance Security. If and to the extent that any portion of the Performance Security is a Guaranty, Seller shall (i) provide prompt Notice to Buyer if Guarantor becomes Bankrupt or otherwise fails to meet the criteria for an acceptable Guarantor as set forth in clauses (c) and (d) of the definition of Guarantor, but not later than ten (10) Business Days after Seller becomes aware of such development and (ii) post substitute collateral that meets the requirements set forth in the definition of Performance Security within ten (10) Business Days.

8.9 **Financial Statements.**

(a) If a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles or International Financial Reporting Standards ("IFRS"); *provided, however*, that should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements.

8.10 **Buyer's First Priority Security Interest in Cash or Cash Equivalent Collateral.** To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest in, and lien on (and right to net against), and assignment of the Development Security or Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 by Seller and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer's first-priority security interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer

may do any one or more of the following (in each case subject to the final sentence of Section 11.2 and the provisions of Article 12):

- (a) Exercise any of its rights and remedies with respect to the Development Security or Performance Security, as applicable, including any such rights and remedies under Law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security, as applicable; and
- (c) Liquidate all Development Security or Performance Security, as applicable then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement (Seller remains liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after these obligations are satisfied in full.

ARTICLE 9 NOTICES

9.1 **Addresses for the Delivery of Notices.** Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the physical or electronic addresses set forth on Exhibit K or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice.** Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including email or other electronic means), at the time indicated by the time stamp upon delivery; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission. In addition, for any Notice sent pursuant to (a), (b) or (d) above, the Party sending such Notice shall send a courtesy copy by email to the email address provided in Exhibit K.

ARTICLE 10 FORCE MAJEURE

10.1 **Definition.**

(a) **"Force Majeure Event"** means any act or event occurring after the Effective Date (or if occurring on or before the Effective Date, expanding, deteriorating or otherwise materially changing after the Effective Date) that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is

beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic, or pandemic, including COVID-19 (but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; acts or failure to act by a Governmental Authority; war; blockade; civil insurrection; riot; civil disturbance; serial defect; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term “Force Majeure Event” does not include (i) economic conditions that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer’s ability to buy Energy at a lower price, or Seller’s ability to sell Energy generated by the Facility at a higher price, than the Contract Price); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller’s Affiliates, Seller’s contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) except as the Guaranteed Commercial Operation Date may be extended as a result of a Development Cure Period, Seller’s inability to achieve Commercial Operation following the Guaranteed Commercial Operation Date.

10.2 No Liability If a Force Majeure Event Occurs. Neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party’s performance of one or more of its obligations hereunder is caused by a Force Majeure Event. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of a Party to make any payments due hereunder, (b) suspend or excuse the obligation of Seller to achieve the Guaranteed Commercial Operation Date beyond the extensions provided in Exhibit B, (c) limit Buyer’s right to declare an Event of Default pursuant to Section 11.1(b)(i) or Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer’s default rights pursuant to Section 11.2.

10.3 **Notice.** In the event of any delay or nonperformance resulting from a Force Majeure Event, the Party suffering the Force Majeure Event shall (a) as soon as practicable, notify the other Party orally of the Force Majeure Event, followed by Notice in writing of the nature, cause, estimated date of commencement thereof, the anticipated extent of any delay or interruption in performance, and (b) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party; *provided, however*, that a Party's failure to give timely Notice as provided in this Section 10.3 shall not affect such Party's ability to assert that a Force Majeure Event has occurred unless the delay in giving Notice materially prejudices the other Party.

10.4 **Termination Following Force Majeure Event.** If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be unable to perform its material obligations hereunder, and has continued for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon written Notice to the other Party experiencing the Force Majeure Event; *provided* that if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional six (6) month period. Upon any such termination, the non-claiming Party shall have no liability to the Party claiming Force Majeure Event, save and except for those obligations specified in Section 2.1(b).

ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**

An “**Event of Default**” shall mean,

(a) with respect to a Party (the “**Defaulting Party**”) that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within five (5) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and [REDACTED]

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) [REDACTED]

[REDACTED]

(iv) failure by such Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 as applicable;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Sections 14.1, 14.2, 14.3 or 14.4, as appropriate; or

(vii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

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

(i) [Reserved];

(ii) The failure of Seller to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date (as extended by any Development Cure Period);

(iii) except as otherwise provided herein, if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated by the Facility;

(iv) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(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;

(v) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a replacement Guaranty from a Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to (i) maintain a Credit Rating of at least “A-” by S&P or “A3” by Moody’s, or (ii) provide and maintain a confirmation of the outstanding Letter of Credit ensuring that such parent company will honor the payment obligations of the issuing bank or financial institution under such letter of credit in case the issuing bank or financial institution defaults, from a parent company of the issuer that has a Credit Rating of at least “A-” with an outlook designation of “stable” from S&P or “A3” with an outlook designation of “stable” from Moody’s;

(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.

(vi) in any Performance Measurement Period, the Adjusted Energy Production amount is not at least [REDACTED] of the Expected Energy amount for such period; [REDACTED]

11.2 **Remedies; Declaration of Early Termination Date.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Contract Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment (in the case of an Event of Default by Seller occurring before the Commercial Operation Date) or (ii) the Termination Payment calculated in accordance with Section 11.3 below (in the case of any other Event of Default by Seller after the Commercial Operation Date or by Buyer throughout the Contract Term);

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

(d) to suspend performance; and

(e) to exercise any other right or remedy available at Law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, that payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for the Terminated Transaction and the Event of Default related thereto.

11.3 **Termination Payment.** The termination payment ("**Termination Payment**") for the Terminated Transaction shall be the aggregate of all Settlement Amounts plus any or all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the net Settlement Amount shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties (which shall not include Affiliates of the Non-Defaulting Party) supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; *provided, however*, that any lost Delivered Energy, Capacity Attributes and Green Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the 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 Termination Payment.** As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment.** If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with Article 15.

11.6 **Rights And Remedies Are Cumulative.** Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.7 **Mitigation.** Any Non-Defaulting Party shall use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12

LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES

12.1 **No Consequential Damages.** EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

12.2 **Waiver and Exclusion of Other Damages.** THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO THE PARTIES' LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, PRIOR TO THE COMMERCIAL OPERATION DATE, SELLER'S AGGREGATE LIABILITY ARISING UNDER THIS AGREEMENT FOR ANY AND ALL REASONS

[REDACTED]

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX BENEFITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8(e), 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT E, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13

REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties.** As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary corporate action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by Laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

13.2 **Buyer's Representations and Warranties.** As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by Laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

13.3 **General Covenants.**

(a) Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(i) It shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(ii) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(iii) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and any contracts to which it is a party and in material compliance with any Law.

(b) Seller covenants that:

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

(ii) Seller shall obtain any and all permits and approvals, including without limitation, required environmental clearance under applicable environmental Law, from the local jurisdiction where the Facility is or will be constructed, as applicable. Seller agrees and acknowledges that Buyer is simply purchasing energy services under the PPA and does not intend to be the lead agency for the Facility.

(iii) Seller shall not knowingly utilize equipment or resources built with forced labor in connection with the construction, operation or maintenance of the Facility, including equipment or resources sourced from the Xinjiang region of China pursuant to the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020 (as such guidance may be updated or modified by Governmental Authorities from time to time).

(iv) Commencing upon the production of Delivered Energy by the Facility and throughout the Delivery Term, Seller shall ensure that the Facility will have an interconnection agreement providing for interconnection capacity available or allocable to the Facility that is no less than the Guaranteed Capacity. Seller shall hold Buyer harmless from any penalties, imbalance energy charges, or other costs from CAISO or under the PPA resulting from Seller's inability to provide, or any third party use of, such interconnection capacity.

13.4 **Prevailing Wage.** Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation employment discrimination laws and prevailing wage laws. Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or provide services at the Site related to the construction of the Facility are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable New Mexico law, if any ("**Prevailing Wage Requirement**"). Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by other inapplicable provisions of any New Mexico labor laws. Buyer agrees that Seller's obligations for the Prevailing Wage Requirement may be satisfied upon the execution of a project labor agreement related to construction of the Facility.

ARTICLE 14 ASSIGNMENT

14.1 **General Prohibition on Assignments.** Except as provided below, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the written consent of the other Party, which consent shall not be unreasonably withheld. Any direct or indirect Change of Control of a Party (whether voluntary or by operation of Law) will be deemed an assignment and will require the prior written consent of the other Party, except as provided in Section 14.3. Any assignment made without required written consent, or in violation of the conditions to assignment set out below, shall be null and void. The assigning Party shall be responsible for the other Party's costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment.** Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("**Collateral Assignment Agreement**") in a form mutually agreeable to Buyer, Seller and the applicable Lenders, and must include, among others, the following provisions; *provided* that Buyer shall not be required to consent to any additional terms or conditions that materially and adversely affect any of Buyer's rights, benefits, risks or obligations under this Agreement:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(e)

[REDACTED]

14.3 **Permitted Assignment.** Notwithstanding Section 14.1, and in addition to its rights set forth in Section 14.2, Seller may at any time, without the prior written consent of Buyer, transfer or assign this Agreement (including by a Change of Control) (i) to an Affiliate of Seller, (ii) in connection with a tax equity financing (regardless of whether a Change of Control results from such tax equity financing), (iii) in connection with any other direct or indirect Change of Control to any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of Law), or (iv) as part of the sale or transfer of all or substantially all of the membership interests, equity, or assets of an Affiliate of Seller; *provided*, with respect to clauses (iii) and (iv), such assignment or transfer shall not be effective unless (x) the assignee is a Permitted Transferee, and (y) Seller has given Buyer Notice at least [REDACTED]

[REDACTED] prior to the date of such proposed assignment or transfer, and certifies that the assignee meets the definition of a Permitted Transferee.

14.4 **Limited Assignment by Buyer.** Buyer shall have the right to make a limited assignment in connection with a municipal prepayment transaction to an entity ("**Limited Assignee**") that [REDACTED]

[REDACTED]

ARTICLE 15 GOVERNING LAW; DISPUTE RESOLUTION

15.1 **Governing Law.** This agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. [STC 17]

15.2 **Venue.** The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement shall be brought in the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in County of Santa Clara, California.

15.3 **Dispute Resolution.** In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days

of initiating such discussions, or within forty (40) days after Notice of the dispute, either Party may seek any and all remedies available to it at Law or in equity, subject to the limitations set forth in this Agreement.

15.4 **Attorneys' Fees.** In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16 INDEMNIFICATION

16.1 Indemnification.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees, attorneys, representatives and agents (collectively, the "**Indemnified Party**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses and expert witness fees (collectively "**Indemnifiable Event**"), to the extent such Indemnifiable Event arises out of, results from, or is caused by any of the following: (a) the negligent act or omission, recklessness or willful misconduct of the Indemnifying Party, its Affiliates, its or their directors, officers, employees, agents, subcontractors, and anyone directly or indirectly employed by the Indemnifying Party or any of its subcontractors or anyone that they control; or (b) any violation of applicable Law by the Indemnifying Party, in each case in connection with this Agreement. Upon the Indemnified Party's written request, the Indemnifying Party, at its own expense, must defend any suit or action that is subject to the Indemnifying Party's indemnity obligations. The Parties' indemnification obligations survive the expiration or termination of this Agreement until the relevant statute of limitations.

(b) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting to the extent of its own negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims.** Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and reasonably satisfactory to the Indemnified Party, *provided, however*, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, *provided* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Notwithstanding the preceding sentence if the settlement consists solely of a monetary payment by the Indemnifying Party, such settlement shall not require the consent of the Indemnifying Party. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other

Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17 INSURANCE

17.1 Insurance.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance against claims for personal injury (including bodily injury and death) and property damage with a limit of liability of [REDACTED]

[REDACTED] The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b) Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars (\$1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c) Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of [REDACTED] combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) Property Insurance. Seller shall maintain or cause to be maintained property insurance covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm and wildfire, all with limits in accordance with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an "all-risk" basis including mechanical and electrical breakdown.

ARTICLE 18 CONFIDENTIAL INFORMATION

18.1 Definition of Confidential Information. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) pricing and other commercially-sensitive or proprietary information provided to or from Buyer in connection with the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not

include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality.** Except as permitted in this Article 18, neither Party shall disclose Confidential Information to a third party, except upon the written consent of the Disclosing Party. Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the “**Receiving Party**”) if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce or implement this Agreement. If the Receiving Party becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any applicable Law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule) to disclose any Confidential Information of the disclosing Party (the “**Disclosing Party**”), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy. Each party hereto acknowledges and agrees that information and documentation provided may be subject to the California Records Act (Government Code Section 7920 et seq.).

18.3 **Irreparable Injury; Remedies.** Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages may be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach may cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in Law, in equity or otherwise, Disclosing Party will be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Permitted Disclosures.** Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by either Party to such Party’s counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, Affiliates or actual or prospective owners, investors, lenders, directors, underwriters, contractors, suppliers or others involved in the construction, operation and financing transactions and arrangements for a Party or its affiliates, or any of its or their agents, consultants or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Article 18 to the same extent as if it were a Party, or is bound by substantially similar confidentiality requirements.

18.5 **Press Releases.** Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

ARTICLE 19 MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits.** This Agreement, together with the Cover Sheet and Exhibits attached hereto, constitutes the entire agreement and understanding between Seller and

Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments.** This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, that, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver.** Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease.** Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy service provider and energy service recipient, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

19.5 **Severability.** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra.** Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support, any third party seeking to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts.** This Agreement may be executed in one or more counterparts, including electronic signatures, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery.** This Agreement may be duly executed and delivered by a Party by execution and electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer.** Buyer is organized as a joint powers authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights 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 of Buyer or its constituent members, in connection with this Agreement.

19.11 **Change in Electric Market Design.**

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, [REDACTED] after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) If the Interconnection Point and/or any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement (i) are integrated into a new or existing regional transmission organization or independent system operator (other than the CAISO Balancing Authority), or (ii) leave a regional transmission organization or independent system operator, and such integration or departure has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; *provided*, that neither Party shall be obligated to amend this Agreement if such amendment(s) would materially adversely affect, or could reasonably be expected to have or result in a material adverse effect on, any of such Party's rights, benefits, risks and/or obligations under this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SunZia Wind North LLC

Silicon Valley Clean Energy

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

EXHIBIT A

FACILITY DESCRIPTION

The Facility description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity or the anticipated output of the Facility without Buyer's prior written consent; *provided* that Seller shall be permitted to repower the Facility [REDACTED] so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Capacity Attributes associated with the Guaranteed Capacity during such repower. [REDACTED]

[REDACTED] Upon any such repower that changes the Installed Capacity, Seller shall deliver an updated Installed Capacity Certificate in the form of Exhibit G.

Site Name: SunZia Wind North

Site Map:

[Seller to provide map]

Site Location: San Miguel County, New Mexico

Technology: Utility Scale Wind Technology

Guaranteed Capacity: 14.9 MW_{AC}

Delivery Point: CAISO scheduling point-intertie combination at PALOVRDE_ASR-APND and PVWEST, or an Alternative Delivery Point as mutually agreed by the Parties

Participating Transmission Owner: SunZia Transmission, LLC

EXHIBIT B

FACILITY COMMERCIAL OPERATION

1. **Reserved.**
2. **Commercial Operation of the Facility.** “**Commercial Operation**” means the condition existing when (i) Seller has fulfilled all of the conditions in Section 2.3 of the Agreement and (ii) Seller has confirmed to Buyer in writing that Commercial Operation has been achieved.

The “**Commercial Operation Date**” shall be the later of [REDACTED] and (y) the date on which Commercial Operation is achieved.

- (a) Seller shall cause Commercial Operation for the Facility to occur by the Expected Commercial Operation Date (as such date may be extended by the Development Cure Period (defined below), the “**Guaranteed Commercial Operation Date**”). Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date. For the avoidance of doubt, Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.
- (b) If Seller does not anticipate achieving Commercial Operation by the Guaranteed Commercial Operation Date, Seller may elect to extend the Guaranteed Commercial Operation Date by paying Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, [REDACTED]

3. **Extension of the Guaranteed Dates.** “**Development Cure Period**” means, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. **Failure to Reach Guaranteed Capacity.** If, at Commercial Operation, [REDACTED] of the Guaranteed Capacity has not been completed and is not ready to produce and deliver Product to Buyer, Seller shall have [REDACTED]

[REDACTED]

EXHIBIT C

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive summary.
2. Facility description.
3. Site plan of the Facility.
4. Description of any planned changes to the Facility or the site.
5. Schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar month/quarter.
7. Forecast of activities scheduled for the current calendar month/quarter.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones, and evidence of completion of Milestones, upon reasonable request from Buyer.
9. List of issues that could reasonably foreseeably affect Seller's Milestones.
10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.
11. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.
13. Any other documentation, including copies of the Interconnection Agreement, transmission agreements and permits, as reasonably requested by Buyer, as such documentation may be redacted by Seller as necessary.

EXHIBIT D

FORM OF AVERAGE FORECAST OF ENERGY (MWh)

	1: 00	2: 00	3: 00	4: 00	5: 00	6: 00	7: 00	8: 00	9: 00	10: 00	11: 00	12: 00	13: 00	14: 00	15: 00	16: 00	17: 00	18: 00	19: 00	20: 00	21: 00	22: 00	23: 00	24: 00
JAN																								
FEB																								
MAR																								
APR																								
MAY																								
JUN																								
JUL																								
AUG																								
SEP																								
OCT																								
NOV																								
DEC																								

The foregoing table (i) is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement, and (ii) reflects expected P50 delivered volumes taking into account estimated X% physical losses from the Facility to the Delivery Point.

EXHIBIT E

ENERGY REPLACEMENT DAMAGES CALCULATION

If Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages (“**Energy Replacement Damages**”) payment shall be due from Seller to Buyer, calculated as follows:

$$[(A - B) * (C - D)] - E$$

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = [REDACTED]

D = the Contract Price, in \$/MWh

E = the amount of Energy Replacement Damages paid by Seller *plus* the value of any Replacement Product provided retrospectively by Seller, each with respect to the immediately preceding Performance Measurement Period

[REDACTED]

“**Adjusted Energy Production**” shall mean the sum of the following: the Delivered Energy *plus* Lost Output *plus* Deemed Delivered Energy in the Performance Measurement Period.

“**Energy Shortfall Amount**” means the amount of MWh resulting from the calculation of A – B.

“**Lost Output**” means the sum of electric energy in MWh that would have been generated and delivered, but was not, on account of Force Majeure Event, Buyer’s failure to perform, System Emergency and Curtailment Order. The additional MWh comprising Lost Output shall be calculated in the same manner as Deemed Delivered Energy.

No payment shall be due if the calculation of (A - B) or (C - D) yields a negative number.

After each Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer within thirty (30) days of such Notice; *provided, however*, that (a) if, in accordance with Section 4.7(a), the Parties agreed that Seller would retrospectively deliver Replacement Product for a given Performance Measurement Period in lieu of Seller paying some or all of the Energy Replacement Damages, and (b) Seller does not deliver all such Replacement Product in the Contract Year immediately following such Performance Measurement Period, then Seller shall pay to Buyer the portion of the Energy Replacement Damages that correspond to the amount of MWh by which the Energy

Shortfall Amount for such Performance Measurement Period exceeds the sum of (A) retrospectively delivered Replacement Product *plus* (B) that amount of MWh for which Seller paid Energy Replacement Damages pursuant to Section 4.7(a).

EXHIBIT F

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between SunZia Wind North LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

- (1) Wind turbines with a nameplate capacity of no less than _____ of the Guaranteed Capacity have been installed at the Facility.
- (2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with its respective manufacturer's specifications and each such wind turbine has delivered electricity to the Interconnection Point.
- (3) Authorization to parallel the Facility was obtained by the Participating Transmission Owner on [DATE].

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By: _____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]

EXHIBIT G

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated _____ ("**Agreement**") by and between SunZia Wind North LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [] wind turbines with an aggregate nameplate capacity of [], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Interconnection Point.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By: _____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]
Exp. [DATE]

EXHIBIT H
NON-SPTO MODIFICATIONS

[Seller to provide]

EXHIBIT I

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [●]

DATE: [●]

BENEFICIARY:

APPLICANT:

[NAME, ADDRESS, CONTACT]

EXPIRATION DATE: [●]

AMOUNT/CURRENCY: [●]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ("LETTER OF CREDIT") IN FAVOR OF [_____] ("BENEFICIARY"), [BENEFICIARY ADDRESS], WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, AT ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [●] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS DEVELOPMENT SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF _____, 2025 BETWEEN APPLICANT AND BENEFICIARY, AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME (THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [●], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [●], UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE. THE ORIGINAL OF THIS LETTER OF CREDIT (AND ALL AMENDMENTS, IF ANY) IS NOT REQUIRED TO BE PRESENTED IN CONNECTION WITH ANY PRESENTMENT OF A DRAWING CERTIFICATE BY BENEFICIARY HEREUNDER IN ORDER TO RECEIVE PAYMENT, UNLESS IT IS THE FULL AND FINAL DRAW THEN THE ORIGINAL LETTER OF CREDIT AND ANY AND ALL AMENDMENTS MUST BE RETURNED FOR DISPOSITION PURPOSES.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS], OR (B) AS A PDF ATTACHMENT TO AN EMAIL TO [BANK EMAIL ADDRESS], AS FOLLOWS:

DRAWINGS PRESENTED TO US BY EMAIL (EACH, AN "EMAIL DRAWING") MUST COME FROM ONE OF THE EMAIL ADDRESS(ES) (INSERT BENEFICIARY EMAIL(S)) OF BENEFICIARY AND MUST BE SENT TO EACH OF THE FOLLOWING EMAIL ADDRESSES: [●] AND [●]. EACH REQUESTED EMAIL DRAWING MUST BE CONFIRMED BY CALLING US AT TELEPHONE NUMBER [●], AND NO EMAIL DRAWING SHALL BE COMPLETE UNTIL SO CONFIRMED. IF YOU PRESENT AN EMAIL DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IF A DRAWING IS THE FINAL DRAWING UNDER THIS LETTER OF CREDIT OR A DRAWING FOR THE FULL AMOUNT THEN AVAILABLE UNDER THIS LETTER OF CREDIT THE ORIGINAL LETTER OF CREDIT MUST BE PROMPTLY RETURNED TO US BY OVERNIGHT COURIER FOLLOWING SUCH DRAWING.

IN THE EVENT A DRAWING IS COMPLIANT AND HONORED BY CoBank ACB FUNDS ARE TO BE REMITTED TO THE BENEFICIARY PER PAYMENT INSTRUCTIONS AS FOLLOWS:

BENEFICIARY BANK: _____

ABA NUMBER: _____

BENEFICIARY ACCOUNT NUMBER: _____

OR (C) BY FACSIMILE TO [FAX NUMBER] WITH PHONE NOTIFICATION TO THE US AT TIME OF TRANSMISSION.

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF CALIFORNIA ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-CONFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [●], AND SHALL BE ADDRESSED TO: [●] OR THE ADDRESS STATED ABOVE.

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

EXHIBIT "A"

DRAWING CERTIFICATE

TO: [-]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I,_____, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF _____, 2025, AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME (THE "AGREEMENT").

[CHOOSE ONLY ONE OF THE FOLLOWING]

- (1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$_____ BECAUSE [A SELLER EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED][OR][A COD DELAY DAMAGES PAYMENT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) IS DUE UNDER THE AGREEMENT].
- (2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$_____, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN SIXTY (60) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, [BENEFICIARY] IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD _____, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE FUNDS TO: (INSERT WIRE INSTRUCTIONS), WHICH, [_____] CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT
FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: _____; _____.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE
HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF , 20 _.

[_____]

BY:_____

NAME:_____

TITLE:_____

EXHIBIT J

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 SunZia Wind North LLC, a Delaware limited liability company ("Seller"), entered into that certain Renewable Power Purchase and Sale Agreement (as amended, restated or otherwise modified from time to time, the "PPA") dated as of [____], 20__.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section 8.8 of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA, provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed the sum of _____ Dollars (\$_____), plus reasonable costs incurred by Buyer in enforcing this Guaranty, if successful (the "Guaranteed Amount"). The Parties understand and agree that any payment by Guarantor shall thereafter reduce the Guaranteed Amount hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "Demand Notice"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "Payment Demand") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that

Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

- (i) the extension of time for the payment of any Guaranteed Amount, or
- (ii) any amendment, modification or other alteration of the PPA, or
- (iii) any indemnity agreement Seller may have from any party, or
- (iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or
- (v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statute 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 PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or
- (ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by

facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 7.

If delivered to Buyer, to it at
Attn:
Fax:

If delivered to Guarantor, to it at
Attn:
Fax:

8. Governing Law and Forum Selection. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States sitting in the County of Santa Clara, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS

FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

- (i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.
- (ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).
- (iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By: _____

Printed Name:

Title:

BUYER:

[_____]

By: _____

Printed Name:

Title:

By: _____
Printed Name:
Title:

EXHIBIT K

NOTICES

SUNZIA WIND NORTH LLC	SILICON VALLEY CLEAN ENERGY AUTHORITY
All Notices: Street: 1088 Sansome St. City: San Francisco, CA Attn: Chief Legal Officer Phone: [REDACTED] Fax: [REDACTED] Email: [REDACTED]	All Notices: 333 W. El Camino Real, Suite 330 Sunnyvale, CA 94087 Attn: Monica Padilla, CEO and Kris Van Vactor, Director of Power Resources Phone: [REDACTED] Email: [REDACTED]
Reference Numbers: [REDACTED] [REDACTED]	Reference Numbers: [REDACTED] [REDACTED]
Invoices: Attn: Accounts Payable Phone: [REDACTED] Email: [REDACTED]	Invoices: Attn: Power Supply Group Phone: [REDACTED] Email: [REDACTED]
Scheduling: Attn: 24/7 Operations Control Center 888 Westheimer Road, Suite 213 Houston, TX 77006 Email: [REDACTED] [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]	Scheduling: Attn: Tenaska Team Email: [REDACTED] Attn: 24x7 Operations Desk Phone: [REDACTED] Email: [REDACTED] Attn: [REDACTED] Phone: [REDACTED] [REDACTED] Email: [REDACTED] Attn: [REDACTED] Phone: [REDACTED] [REDACTED] Email: [REDACTED] Outage information: [REDACTED] Resource testing information: [REDACTED]
Confirmations: Attn: Pattern Energy Settlements Phone: [REDACTED] Email: [REDACTED]	Confirmations: Kris Van Vactor, Director of Power Resources Phone: [REDACTED] Email: [REDACTED]

SUNZIA WIND NORTH LLC	SILICON VALLEY CLEAN ENERGY AUTHORITY
Payments: Attn: Accounts Payable Phone: [REDACTED] Email: [REDACTED]	Payments: Attn: Finance Group Phone: [REDACTED] Email: [REDACTED]
Wire Transfer: [REDACTED] [REDACTED] [REDACTED] [REDACTED]	Wire Transfer: [REDACTED] [REDACTED] [REDACTED]
Emergency Contact: Attn: 24/7 Operations Control Center Phone: [REDACTED] Email: [REDACTED]	With additional Notices of an Event of Default to: Michael Callahan, General Counsel Email: [REDACTED] and to: Attn: [REDACTED] [REDACTED] Email: [REDACTED] Attn: [REDACTED] [REDACTED] Email: [REDACTED]
	Emergency Contact: Attn: Monica Padilla, CEO Phone: [REDACTED] Email: [REDACTED]

EXHIBIT L

OPERATING RESTRICTIONS

Operating restrictions of the Facility for Market Curtailment Periods are as follows:

- Interconnection Capacity (Maximum Injection Amount): [REDACTED]
- Minimum operating capacity: [REDACTED]
- Maximum number of start-ups per calendar day (if any such operational limitations exist): [REDACTED]
- Ramp Rate: [REDACTED]
- Minimum Down Time: [REDACTED]

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EXHIBIT M

FORM OF SELLER COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") is delivered by the undersigned ("Authorized Representative"), a duly authorized representative of SunZia Wind North LLC in connection with that certain Renewable Power Purchase and Sale Agreement dated [DATE] ("**Agreement**") by and between SunZia Wind North LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [DATE], Authorized Representative hereby certifies and represents to Buyer the following:

- (1) The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.
- (2) The Facility's testing included a performance test demonstrating peak electrical output of no less than [REDACTED] of the Guaranteed Capacity for the Facility at the Interconnection Point, as adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was [____ MW].
- (3) The Participating Transmission Owner has provided documentation supporting full unrestricted release for Commercial Operation on [DATE].
- (4) The CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

EXECUTED by [AUTHORIZED REPRESENTATIVE]

this [REDACTED] day of [REDACTED], 20[REDACTED].

By: _____

Printed Name: _____

Title: _____

EXHIBIT N

FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this “**Agreement**”) is entered into as of [] (the “**Assignment Agreement Effective Date**”) by and among SunZia Wind North LLC, a Delaware limited liability company (“**PPA Seller**”), Silicon Valley Clean Energy Authority, a joint powers authority and a community choice aggregator organized under the laws of the State of California (“**PPA Buyer**”), and Morgan Stanley Capital Group Inc., a Delaware corporation (“**MSCG**”).

RECITALS

WHEREAS, PPA Buyer and PPA Seller are parties to that certain PPA identified on Appendix 1 hereto;

WHEREAS, in connection with a prepaid electricity transaction between [] (“**Issuer**”) and Morgan Stanley Energy Structuring, L.L.C. (“**MSES**”), and with effect from and including the Assignment Period Start Date (as defined below), PPA Buyer wishes to transfer by limited assignment to MSCG, and MSCG wishes to accept the transfer by limited assignment of, the Assigned Rights and Obligations (as defined below) for the duration of the Assignment Period (as defined below);

WHEREAS, pursuant to this Agreement, during the Assignment Period, MSCG will receive the Assigned Product in the Assigned Monthly Quantity and MSCG will deliver such Assigned Product to MSES, which will redeliver such Assigned Product to Issuer for ultimate redelivery to PPA Buyer; and

WHEREAS, pursuant to this Agreement, during the Assignment Period, MSCG will assume responsibility for the Delivered Product Payment Obligation.

THEREFORE, in consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and MSCG (the “**Parties**” hereto; each is a “**Party**”) agree as follows:

AGREEMENT

1. Definitions.

Unless the context otherwise specifies or requires, or defined below, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA. The following terms, when used in this Agreement and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:

“**Agreement**” has the meaning specified in the first paragraph above.

“**Assigned Monthly Quantity**” means the first [] MWhs of Assigned Product delivered in accordance with the PPA by PPA Seller in each Month during the Assignment Period.

“**Assigned Product**” means (i) PV Energy and (ii) Green Attributes (PCC1).

“**Assigned Rights and Obligations**” means (i) the rights of PPA Buyer under the PPA to receive the Assigned Monthly Quantity of Assigned Product in each Month during the Assignment Period, as such rights may be limited or further described in the “Further Information” section on Appendix 1, and

(ii) the Delivered Product Payment Obligation, which right and obligation are transferred and conveyed to MSCG hereunder, but which shall not relieve PPA Buyer of its obligations under the PPA in any respects.

“Assignment Early Termination Date” has the meaning specified in Section 4(b).

“Assignment Period” has the meaning specified in Section 4(a).

“Assignment Period End Date” means 11:59:59 p.m. pacific prevailing time on [____].

“Assignment Period Start Date” means [____].

“Custodian” means The Bank of New York Mellon Trust Company, N.A., a national banking association.

“Delivered Product Payment Obligation” has the meaning specified in Section 3(a).

“Issuer” means [____], a [____] [NOTE: This will be the JPA or other entity formed for purposes of issuing municipal bonds for the prepaid transaction.].

“Month” means a calendar month.

“Monthly Gross Amount” has the meaning specified in Section 3(c).

“MSCG” has the meaning specified in the first paragraph of this Agreement.

“MSES” means Morgan Stanley Energy Structuring, L.L.C., a Delaware limited liability company.

“PPA Buyer” has the meaning specified in the first paragraph of this Agreement.

“PPA Seller” has the meaning specified in the first paragraph of this Agreement.

“Prepaid Agreement” means that certain Prepaid Energy Sales Agreement dated as of [____] by and between MSES and Issuer.

“Prepay Power Supply Contract” means that certain Prepay Power Supply Contract dated [____] by and between PPA Buyer and Issuer.

“Receivables” has the meaning given to such term in Section 3(g).

“Retained Rights and Obligations” has the meaning specified in Section 3.

2. Transfer and Undertakings.

(a) PPA Buyer hereby assigns, transfers and conveys to MSCG all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the Assigned Product in the Assigned Monthly Quantity during the Assignment Period. In connection with this assignment, PPA Buyer hereby delegates to MSCG the Assigned Rights and Obligations during the Assignment Period.

(b) PPA Seller hereby consents to PPA Buyer’s assignment, transfer and conveyance of all right, title and interest in and to the Assigned Product and Assigned Rights and Obligations to MSCG and

the exercise and performance by MSCG of the Assigned Rights and Obligations during the Assignment Period.

(c) MSCG hereby accepts such assignment, transfer and conveyance of the Assigned Rights and Obligations during the Assignment Period and agrees to perform any such Assigned Rights and Obligations due from it during the Assignment Period.

3. Limited Assignment.

The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a portion of PPA Buyer's rights and obligations under the PPA, and that all rights and obligations (including without limitation obligations with respect to payment for any Product not included in the Assigned Product, any Assigned Product not included in the Assigned Monthly Quantity of Assigned Product, and any other amounts owed under the PPA) arising under the PPA that are not expressly included in the Assigned Rights and Obligations shall be "**Retained Rights and Obligations**" that are retained solely by PPA Buyer, and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. In this regard:

(a) **Limited to Delivered Product Payment Obligation.** MSCG's sole obligation hereunder will be to pay the Floating Price Payments into the Custodial Account as such terms are defined in and described on Appendix 1 (the "Delivered Product Payment Obligation"). MSCG and PPA Buyer each agree to instruct the Custodian in accordance with Section 3(c) hereof to pay PPA Seller for the Assigned Product delivered during each Month of the Assignment Period on each applicable payment date under Section 8.2 of the PPA for a quantity up to, but not exceeding, the Assigned Monthly Quantity, at the Renewable Rate as set forth in the PPA. PPA Buyer shall remain responsible for any payment obligations under the PPA during the Assignment Period, and shall remain so responsible to make such payments by the times and on the terms set out in the PPA in the event that either (i) MSCG does not make the payments into the Custodial Account as described above or (ii) the Custodian does not make the payments to the PPA Seller from the Custodial Account as described above.

(b) **Retained Rights and Obligations.** Any claims arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or MSCG, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Product Payment Obligation, will be included in the Retained Rights and Obligations, and any such claim will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) **Invoicing.** During the Assignment Period, PPA Seller shall continue to provide PPA Buyer a monthly invoice of amounts owing under the PPA, which invoice shall show the total amount due to PPA Seller under the PPA for such Month (the "Monthly Gross Amount"). Promptly following PPA Buyer's receipt of each monthly invoice from PPA Seller during the Assignment Period and, in any event, no later than seven days thereafter, PPA Buyer shall deliver (i) a copy of such monthly invoice and the related supporting data to MSCG (ii) a statement to each of MSCG and the Custodian indicating (A) the Monthly Gross Amount; (B) the Delivered Product Payment Obligation; and (C) the Retained Payment Obligation. PPA Buyer and MSCG covenant and agree to instruct the Custodian to pay the Monthly Gross Amount to PPA Seller on or before the applicable payment date in the PPA, provided, that the liability of MSCG hereunder to PPA Seller is limited as described on Appendix 1. PPA Buyer and MSCG may agree in a separate writing as to the allocation of the Monthly Gross Amount between PPA Buyer and MSCG of amounts paid by the Custodian to PPA Seller hereunder. At all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA.

(d) Scheduling. All scheduling of Assigned Product and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass to MSCG upon delivery by PPA Seller at the Delivery Point in accordance with the PPA; (ii) immediately thereafter, title to such Assigned Product will pass to MSES, Issuer and then to PPA Buyer upon delivery by MSCG at the same point where title is passed to MSCG pursuant to clause (i) above; (iii) PPA Buyer will be deemed to be acting as MSCG's agent with regard to scheduling Assigned Product; and (iv) PPA Buyer will provide copies to MSCG of (A) any notice of a Force Majeure Event delivered under the PPA, (B) any notice of a default or of a breach or other event that, if not cured within an applicable grace period, could result in an Event of Default, (C) annual forecasts and monthly forecasts with respect to the Assigned Product delivered by PPA Seller under Sections 4.3(a) and 4.3(b) of the PPA, (D) invoices delivered by PPA Seller under Section 8.1 of the PPA (with a copy to the Custodian if and to the extent retained by PPA Buyer and MSCG), and (E) any other information reasonably requested by MSCG relating to Assigned Product.

(e) Amendments. PPA Buyer will provide written notice (including copies thereof) of any amendment, waiver, supplement, modification, or other changes to the PPA to MSCG relating to the Assigned Rights and Obligations, and the Parties hereby acknowledge and agree that an amendment, waiver, supplement, modification or other change will not have any effect on MSCG's rights or obligations under this Agreement until and unless MSCG receives written notice thereof.

(f) Reserved.

(g) Setoff of Receivables. Pursuant to the Prepaid Agreement, MSES has agreed to purchase the rights to payment of the net amounts owed by PPA Buyer under the Prepay Power Supply Contract ("Receivables") in the case of non-payment by PPA Buyer. To the extent any such Receivables relate to Assigned Product purchased by MSCG pursuant to the Assigned Rights and Obligations, MSES may sell such Receivables to MSCG and MSCG may transfer such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) to PPA Seller and apply the face amount of such Receivables (excluding any penalties, late payment fees, late payment interest or other fees, costs or interest included in such Receivables) as a reduction to any Delivered Product Payment Obligations; provided, however, that (1) at no time shall PPA Seller be required to pay MSCG for any amounts by which such Receivables exceed any Delivered Product Payment Obligations, and (2) at all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA including the Monthly Gross Amount under each invoice.

4. Assignment Period; Assignment Early Termination.

(a) Assignment Period. The "Assignment Period" shall begin on the Assignment Period Start Date and extend until the Assignment Period End Date; provided that in no event shall the Assignment Period extend past an Assignment Early Termination Date; and further provided that the Assignment Period will automatically terminate upon the expiration or early termination of either the Delivery Term or the PPA.

(b) Early Termination. An "Assignment Early Termination Date" will occur under the following circumstances and as of the dates specified below:

- i. delivery of a written notice of termination by either MSCG or PPA Buyer to each of the other Parties hereto;
- ii. delivery of a written notice of termination by PPA Seller to each of MSCG and PPA Buyer following MSCG's failure to pay when due any amounts owed to PPA Seller in

respect of any Delivered Product Payment Obligation and such failure continues for three (3) Business Days following receipt by MSCG of written notice thereof;

iii. delivery of a written notice by PPA Seller if any of the events described in Section 1.1, definition of “Bankrupt” of the PPA, occurs with respect to MSCG; or

iv. delivery of a written notice by MSCG if any of the events described in Section 1.1, definition of “Bankrupt” of the PPA, occurs with respect to PPA Seller.

(c) **Reversion of Assigned Rights and Obligations.** The Assignment Period will end at the end of the last delivery hour on the date specified in the termination notice provided pursuant to Section 4(b), which date shall not be earlier than the end of the last day of the Month in which such notice is delivered if termination is pursuant to clause (b)(i) or (b)(ii) above. The Parties acknowledge and agree that upon the occurrence of an Assignment Early Termination Date and at the expiration of the Assignment Period the Assigned Rights and Obligations will revert from MSCG to PPA Buyer. Any Assigned Rights and Obligations that would become due for payment or performance on or after such Assignment Early Termination Date shall immediately and automatically revert from MSCG to PPA Buyer, provided that (i) MSCG shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to MSCG prior to the Assignment Early Termination Date or prior to the expiration of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the occurrence of the Assignment Early Termination Date or the expiration of the Assignment Period.

5. Representations and Warranties.

(a) **Copy of PPA.** As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to MSCG that a true, complete, and correct copy of the PPA as of such date is attached hereto as Appendix 3.

(b) **No Default.** As of the Assignment Agreement Effective Date, PPA Seller and PPA Buyer represent and warrant to MSCG that no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

(c) **Representations.** Each Party represents to each of the other Parties as of the Assignment Agreement Effective Date:

i. **Status.** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.

ii. **Powers.** It has the power to execute, deliver and to perform its obligations under this Agreement and has taken all necessary action to authorize such execution, delivery and performance.

iii. **No Violation or Conflict.** Such execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its obligations under this Agreement, will not result in any violation of, or conflict with: (i) any term of any material contract or agreement applicable to it; (ii) any of its charter, bylaws, or other constitutional documents; (iii) any determination or award of any arbitrator applicable to it; or (iv) any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, law, ordinance, rule or regulation of any Government Agency

presently in effect, applicable to it or any of its assets or properties or to any obligations incurred by it or by which it or any of its assets or properties or obligations are bound or affected, and shall not cause a breach of, or default under, any such term or result in the creation of any lien upon any of its properties or assets.

iv. **Consents.** All consents, approvals, orders or authorizations of, registrations, declarations, filings or giving of notice to, obtaining of any licenses or permits from, or taking of any other action with respect to, any Person or Government Agency that are required to have been obtained by such Party with respect to this Agreement and the transactions contemplated hereby, including the due authorization of such Party and its governing body and any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party, have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

v. **Obligations Binding.** Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

vi. **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other Parties as investment advice or as a recommendation to enter into this Agreement; it being understood that information and explanations related to the terms and conditions of this Agreement shall not be considered investment advice or a recommendation to enter into this Agreement. It is entering into this Agreement as a bona-fide, arm's-length transaction involving the mutual exchange of consideration and, once executed by all Parties, considers this Agreement a legally enforceable contract. No communication (written or oral) received from any of the other Parties shall be deemed to be an assurance or guarantee as to the expected results of this Agreement.

vii. **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Agreement. It is also capable of assuming, and assumes, the risks of this Agreement.

viii. **Status of Parties.** None of the other Parties is acting as a fiduciary for or an adviser to it in respect of this Agreement.

6. **Miscellaneous.**

Article 18 (Confidential Information), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), Sections 19.5 (Severability), 19.8 (Electronic Delivery), 19.7 (Counterparts), Section 19.9 (Binding Effect) and 19.11 (Forward Contract) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein. For avoidance of doubt, and notwithstanding anything to the contrary in this Agreement: (i) nothing in this Agreement shall modify any provision of the PPA; (ii) PPA Buyer remains obligated to perform all its obligations under the PPA notwithstanding the limited assignment under this Agreement (including without limitation any such obligations not timely performed by MSCG under this Agreement) and any failure by MSCG to make payments to PPA

Seller when due under the PPA shall be a Buyer Event of Default under the PPA if not cured within the applicable cure period specified in Section 11(a)(i) of the PPA; (iii) this Agreement shall not purport to convey or otherwise allege any right of PPA Buyer or MSCG to make any prepayment to PPA Seller under the PPA or to file or impose any lien on the Facility; and (iv) neither MSCG nor PPA Buyer shall make any assignment of its rights or delegation of its obligations under this Agreement without the prior written consent of PPA Seller, which it may withhold in its sole discretion.

7. Costs and Expenses.

The Parties shall each pay their own costs and expenses (including legal fees) incurred in connection with this Agreement and as a result of the negotiation, preparation, and execution of this Agreement.

8. Notices.

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be delivered in accordance with PPA Section 9.2 and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify MSCG of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to MSCG shall be provided to the address set forth in Appendix 2. Each Party may update its address from time to time by notice to the other Parties.

9. Governing Law, Arbitration, Judicial Reference.

(a) **Governing Law.** This Agreement and the rights and duties of the Parties under this Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction's laws; *provided*, however, that the authority of PPA Buyer to enter into and perform its obligations under this agreement shall be determined in accordance with the laws of the State of California.

(b) **Arbitration.** Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope of this agreement to arbitrate, shall be determined by final, non-appealable binding arbitration in San Francisco, California before three (3) arbitrators. The arbitration shall be administered by Judicial Arbitration and Mediation Services, Inc. (“JAMS”) pursuant to its Comprehensive Arbitration Rules and Procedures. Within fifteen (15) days after the commencement of arbitration, each of MSCG and PPA Buyer shall select one person to act as arbitrator, and the two so-selected arbitrators shall select a third arbitrator (the “chairperson”) within thirty (30) days of the commencement of the arbitration. If either MSCG or PPA Buyer is unable or fails to select one person to act as arbitrator, such arbitrator shall be appointed by JAMS. If the MSCG and PPA Buyer-selected arbitrators are unable or fail to agree upon a chairperson, the chairperson shall be appointed by JAMS. The chairperson shall be a person who has experience in renewable energy-related transactions, and none of the arbitrators shall have been previously employed by any Party or have any direct pecuniary interest in any Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by all of the Parties. The Parties shall maintain the confidential nature of the arbitration proceeding and any award, including any hearing(s), except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator(s) shall have no authority to award consequential, treble, exemplary, or punitive

damages of any type or kind regardless of whether such damages may be available under any law or right, with the Parties hereby affirmatively waiving their rights, if any, to recover or claim such damages. The responsibility for compensation and expenses of the three arbitrators and all other expenses charged by JAMS shall be equally split in one-third (1/3) shares by each of MSCG, PPA Buyer, and PPA Seller. In any arbitration arising out of or related to this Agreement, the arbitrators shall award to the prevailing Party or Parties, if any, the costs and attorney's fees reasonably incurred in seeking to enforce the application of this Section 9(b) and by the prevailing party in connection with the arbitration. Notwithstanding the foregoing provisions of this Section 9(b), any costs incurred by a Party in seeking judicial enforcement of any written decision of the arbitrators shall be chargeable to and borne exclusively by the Party against whom such court order is obtained. The award shall be final and binding on the Parties and judgment upon any award may be entered in any court of competent jurisdiction.

(c) **Judicial Reference.** Without limiting the provisions in Section 9(b), if Section 9(b) is deemed ineffective or unenforceable in any respect, any dispute between the Parties arising out of or in connection with this Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Agreement and the applicability of any statute of limitation period) (each, a **"Dispute"**) shall be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure (**"CCP"**), or their successor sections (a **"Reference Proceeding"**), which shall constitute the exclusive remedy for the resolution of any Dispute. As a condition precedent to initiating a Reference Proceeding with respect to any Dispute, the Parties shall comply with the provisions of Section 9(c)(i).

i. Notice of Dispute. Prior to initiating the Reference Proceeding, a Party (the **"Disputing Party"**) shall provide the other Parties (the **"Responding Parties"**) with a written notice of each issue in dispute, a proposed means for resolving each such issue, and support for such position (the **"Notice of Dispute"**). Within 10 days after receiving the Notice of Dispute, the Responding Parties shall provide the Disputing Party with a written Notice of each additional issue (if any) with respect to the dispute raised by the Notice of Dispute, a proposed means for resolving every issue in dispute, and support for such position (the **"Dispute Response"**). Thereafter, the Parties shall meet to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the Parties do not resolve the dispute by unanimous agreement within sixty 60 days after receipt of the Dispute Response, (the **"Negotiation Period"**), then any Party may provide to the other Parties written notice of intent for judicial reference (the **"Impasse Notice"**) in accordance with the further provisions of this Section 9.

ii. Applicability; Selection of Referees. Within 10 days of the delivery of an Impasse Notice, each of MSCG and PPA Buyer shall nominate one (1) referee. The two (2) referees (the **"Party-Appointed Referees"**) shall appoint a third referee (the **"Third Referee"**, together with the Party-Appointed Referees, the **"Referees"**). The Party-Appointed Referees shall be competent and experienced in matters involving the electric energy business in the United States, with at least ten (10) years of electric industry experience as a practicing attorney. The Third Referee shall be an active or retired California state or federal judge. Each of the Party-Appointed Referees and the Third Referee shall be impartial and independent of each of the Parties and of the other referees and not employed by any of the Parties in any prior matter.

iii. Inability to Agree upon Third Referee. If the Party-Appointed Referees are unable to agree on the Third Referee within 45 days from delivery of the Impasse Notice, then the Third Referee shall be appointed pursuant to CCP Section 640(b) in an action filed in the Superior Court of California, County of San Francisco (the **"Court"**), and with due regard given to the selection criteria above. A request for appointment of a referee may be heard on an ex parte or expedited basis, and the Parties agree that irreparable harm would result if ex parte relief

is not granted. Pursuant to CCP Section 170.6, each of PPA Buyer and MSCG shall have one (1) peremptory challenge to the referee selected by the Court.

iv. Discovery; Proceedings.

(A) The Parties agree that time is of the essence in conducting the Reference Proceeding. Accordingly, the Referees shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within 20 days after the date of selection of the Third Referee, (ii) if practicable, try all issues of law or fact within 180 days after the date of the conference, and (iii) report a statement of decision within 20 days after the matter has been submitted for decision.

(B) Discovery and other pre-hearing procedures shall be conducted as agreed to by the Parties, or if they cannot agree, as determined by the Third Referee after discussion with the Parties regarding the need for discovery and other pre-hearing procedures.

(C) Except as expressly set forth herein, the Third Referee shall determine the manner in which the Reference Proceeding is conducted, including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the Reference Proceeding. The Reference Proceeding, including the trial, shall be conducted at a neutral location selected by the Parties, or if not agreed by the Parties, by the Third Referee, in San Francisco, California.

(D) All proceedings and hearings conducted before the Referees, except for trial, shall be conducted without a court reporter, except that when any Party so requests, a court reporter will be used at any hearing conducted before the Referees, and the Referees will be provided a courtesy copy of the transcript. The Party making such a request shall have the obligation to arrange for and pay the court reporter.

v. Decision. The Referees shall render a written statement of decision setting forth findings of fact and conclusions of law. The decision shall be entered as a judgment in the court in accordance with the provisions of CCP Sections 644 and 645. The decision shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the Court. The Parties intend this general reference agreement to be specifically enforceable in accordance with the CCP.

vi. Expenses. Each of MSCG, PPA Seller and PPA Buyer shall bear the compensation and expenses of its respective own counsel, witnesses, consultants and employees. The responsibility for compensation and expenses of the Referees and all other expenses of judicial reference shall be equally split in one-third (1/3) shares by each of MSCG, PPA Buyer, and PPA Seller.

10. U.S. Resolution Stay. The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol (“**ISDA U.S. Stay Protocol**”), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Agreement, and this Agreement shall be deemed a Protocol Covered Agreement for purposes thereof. For purposes of incorporating the ISDA U.S. Stay Protocol, MSCG shall be deemed to be a Regulated Entity, and PPA Buyer and PPA Seller each shall be deemed to be an Adhering Party. In the event of any inconsistencies between this Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first set forth above.

SUNZIA WIND NORTH LLC

By: _____
Name: _____
Title: _____

SILICON VALLEY CLEAN ENERGY AUTHORITY

By: _____
Name: _____
Title: _____

MORGAN STANLEY CAPITAL GROUP INC.

By: _____
Name: _____
Title: _____

Appendix 1

Assigned Rights and Obligations

PPA: Renewable Power Purchase and Sale Agreement dated as of [____], by and between PPA Buyer and PPA Seller, as may be amended from time to time.

Delivery Point: Facility PNode (as defined in Exhibit A of the PPA)

Further Information: PPA Seller shall transfer or, to the extent applicable, continue to transfer, to PPA Buyer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all PV Energy under the PPA pursuant to Section 4.8 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both MSCG and PPA Buyer upon fifteen (15) Business Days' notice, which change shall be effective as of the first day of the next calendar month after such notice period has expired, unless otherwise agreed. Terms with initial capitalization used in this paragraph but not otherwise defined in this Agreement have the meaning set forth in the PPA. All Assigned Product delivered by PPA Seller to MSCG shall be a sale made at wholesale, with MSCG reselling all such Assigned Product.

Limitation of MSCG Liability. MSCG has separately agreed with the PPA Buyer and the Custodian (pursuant to the Custodial Agreement dated [---], among PPA Buyer, MSCG and the Custodian (the "**Custody Agreement**")) to pay into the custodial account specified in the Custody Agreement (the "**Custodial Account**") for the portion of the Assigned Monthly Quantity actually delivered in each Month of the Assignment Period at the "Day-Ahead Average Price" as defined below ("**Floating Price Payments**"). MSCG agrees for the benefit of the PPA Seller to pay the Floating Price Payments into the Custodial Account, and MSCG's payment obligations under this Agreement are limited to making such payments into the Custodial Account, for application as provided in the Custody Agreement. PPA Buyer and PPA Seller each acknowledge and agree that the making of Floating Price Payments into the Custodial Account by MSCG shall not entitle (i) PPA Seller for payments in excess of the Renewable Rate for Assigned Product delivered hereunder or (ii) PPA Buyer to pay less than the Renewable Rate for Assigned Product delivered hereunder. PPA Buyer and MSCG each acknowledge and agree that the making of Floating Price Payments into the Custodial Account by MSCG shall not entitle (i) MSCG to any payments from PPA Seller or (ii) affect the Custodian's obligation to pay the Monthly Gross Amount to PPA Seller on or before the applicable payment date in the PPA. At all times the PPA Buyer shall remain obligated for the payment of all amounts owing under the terms of the PPA including the Monthly Gross Amount under each invoice.

"Day-Ahead Average Price" means (x) the sum of the Day-Ahead Market Prices for each Pricing Interval in a Month divided by (y) the number of Pricing Intervals in such Month; provided that in no case shall the Day-Ahead Average Price hereunder be less than \$0.00/MWh. As used in this definition, "Pricing Interval" means the unit of time for which CAISO establishes a separate price. As used in this definition "Day-Ahead Market Price" means the Day Ahead Market or Locational Marginal Price for NP15 EZ GEN HUB for each applicable hour as published by CAISO, or as such price may be corrected or revised from time to time by CAISO in accordance with its rules. For the avoidance of doubt, the Day-Ahead Average Price can be a negative number.

Appendix 2

MSCG Notice Information

[To be completed before signing.]

Appendix 3
Copy of PPA
[To be attached.]

FORM OF ASSIGNMENT schedule
[PROJECT NAME]

Assigned Product: [_____]

Assigned Delivery Point: [_____]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and J. Aron and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: \$[_____] /MWh

Assignment Period: [_____]

Other Provisions: [_____]



Staff Report – Item 4

Item 4: Adopt Resolution Authorizing the Chief Executive Officer to Execute a Main Services Agreement with Lunar Energy for a Distributed Energy Resources Management System (DERMS) and Related Customer Demand Flexibility Services

From: Monica Padilla, CEO

Prepared by: Don Bray, Director of Strategic Development
 Maren Wenzel, Director of Regulatory Policy and Planning
 Joey Lande, Energy Services Manager
 Colton Heath, Trading Planner

Date: 5/14/2025

RECOMMENDATION

Staff recommends the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) adopt Resolution 2025-11 authorizing the Chief Executive Officer (CEO) to negotiate and execute a five-year Main Services Agreement with Lunar Energy for a Distributed Energy Resources Management System (DERMS) and related program operation and load modification services, to support SVCE's customer demand flexibility goals in an amount not-to-exceed \$971,238, including all scopes of work needed to implement the agreement.

EXECUTIVE COMMITTEE RECOMMENDATION

Staff delivered an information-only presentation to the Executive Committee on April 22, 2025, on needs, opportunities and plans for offering expanded demand flexibility services to SVCE customers. The Executive Committee recognized the importance of Staff's goals for expanding demand flexibility to help make electricity more affordable, clean and reliable, and was supportive of providing customers with opportunities to 'flex' their usage to cleaner, lower-cost hours. Given the complexity of the topic, the Executive Committee encouraged staff to provide the Board with clear examples of the role that a DERMS will play in enabling new/expanded demand flexibility services.

BACKGROUND

Since 2010, renewable electricity from sources such as solar and wind has risen from 12% of the grid power mix in California to over 40% in 2023. Additionally, rooftop solar has increased significantly due to favorable rate offerings and declining cost of equipment and installation, creating a surplus of solar energy during the middle of the day and shifting the demand peak to later in the day. Solar and wind are intermittent resources, and as a result, grid prices for electricity now vary widely each day – often near \$0/MWh during the sunniest hours, to well over \$100/MWh in the early evening when the grid relies on gas-fired power plants. From a grid capacity standpoint, intermittent resources are more challenging to manage. Capacity market benchmarks have risen dramatically in recent years, from \$3/kW-month in 2019 to nearly \$40/kW-month in 2025. If SVCE's customers reduce their usage during a demand peak, it can reduce the capacity-related compliance obligations for SVCE and can reduce supply costs for SVCE, including energy and capacity costs.

As renewables make grid economics more dynamic, the ability for customers to flex their electric demand is increasingly valuable. Channeling significant new load growth from electrification into hours when grid utilization is lower and clean power is plentiful will limit the need for investment in additional grid capacity, and help to keep power affordable, reliable and clean.

Agenda Item: 4**Agenda Date: 5/14/2025**

To date, Demand Response (DR) programs and Time-of-Use (TOU) electric rates have been the primary tools for flexing customer demand and reducing peak loads. With DR, large commercial customers are contracted and paid to manually turn down their factory loads during grid emergencies – typically reserved for peak hours on the hottest summer days. And most commercial and residential customers are now on daily 'Time of Use' electric rates, encouraging behavioral changes to reduce usage and avoid higher electric rates during peak hours, e.g., 4:00 - 9:00 PM. Together, DR and TOU have been shown to reduce overall peak demand on the California grid by approximately five to six percent (5-6%), or approximately three gigawatts.

California has set a goal to approximately double load flex capacity by 2030, to seven gigawatts. Much of this new load shift potential is expected to come from expanded use of automation – connecting dynamic prices or demand reduction signals with 'smart' loads - distributed energy resources (DERs) such battery storage, electric vehicles, smart control thermostats, heat pump water heaters, and commercial building energy management systems. In context, a proportional load-weighted 'share' of this new load flex goal would be approximately 70 megawatts (MW) in SVCE's service area – to be met by SVCE, PG&E, and a broad range of third-party equipment manufacturers (OEMs) and DR service providers.

New demand flexibility approaches including day-ahead hourly pricing or real-time pricing (RTP), and load modification (LM) programs, are now being piloted. SVCE pilots include the use of RTP to help direct EV charging into the hours when electricity is cheapest and cleanest, typically 11:00am – 3:00pm, and a third-party LM program in which a fleet of residential batteries are managed to discharge during the evening peak.

There are many DERs already deployed in SVCE's service area, and the number is growing rapidly. SVCE's goal is to provide all customers with opportunities to earn savings by easily, automatically and comfortably flexing their electricity use daily. In turn, they will contribute to a reliable and clean grid and generate operational savings for SVCE.

ANALYSIS & DISCUSSION

In late 2024, SVCE teamed with Peninsula Clean Energy (PCE) on a Request for Proposal (RFP) to identify potential vendor partners for SVCE's demand flexibility efforts. To meet SVCE's goals, the RFP included requirements for a Distributed Energy Resource Management System (DERMS), a software platform that communicates with DERs and manages them according to pre-defined, device-specific load shifting strategies. A DERMS would provide SVCE with the ability to support customers in maximizing benefits from their DER(s), including participation in capacity and energy markets. A DERMS is essential for enrollment and management of customer devices in future SVCE-hosted demand flexibility programs, including planned programs for battery energy storage, and commercial and industrial buildings.

The RFP had two parts:

- Part 1: installation of a DERMS, and provision of 5 MW or more of existing demand flexibility capacity (DR or LM) from currently installed DERs by 2026
- Part 2: enrollment of 25 MW of new SVCE demand flexibility capacity by 2030

The RFP sought DERMS provider experience in integrating a range of device types and original equipment manufacturers (OEMs), aggregators or sub-aggregators of DERs, as well as the platform's ability to scale over time as the market for DER technology expands. Demonstrated ability to deliver demand flexibility as a capacity product from existing DERs was crucial to RFP Part 1, and a vision and capability for delivery of new demand flexibility from new DERs was instrumental to Part 2.

Seventeen responses were received from firms across the demand flexibility industry. Several submissions did not meet the minimum RFP response requirements. Staff identified six proposals as finalists, for further consideration in two rounds of in-person interviews, where offers were presented and discussed in detail. During the interview process, two vendors addressing complementary scopes were identified as providing offers that best fit SVCE's needs.

Agenda Item: 4**Agenda Date: 5/14/2025**

Lunar Energy was determined to offer the best range of DERMS and programmatic services, including support for Part 1 and Part 2 battery storage programs, and a Part 2 program for support of commercial/industrial building energy management systems. Lunar's DERMS product is also capable of managing water heater, HVAC and EV charging loads, and SVCE may leverage the platform for these products in time. Approval of the Lunar Energy contract is the focus of this staff report. Approval of a recommended second contract for demand flexibility capacity focused on smart control thermostats will be addressed with the Board later this year.

Across both DERMS and program services, Lunar's proposed scope of work provided the best value to SVCE, providing SVCE an opportunity to benefit from Lunar's proven, flexible DERMS platform, global and California-specific expertise, and optionality to integrate new programs or launch new programs based on SVCE's needs. Lunar Energy's leading 'GridShare' DERMS platform supports more than 110,000 battery storage installations around the world. Based in the United Kingdom, Lunar's U.S. headquarters and product development center are located in Mountain View.

Lunar currently operates the DERMS platform that supports SVCE's third-party solar + battery load modification program. Also, Lunar was recently selected by Ava Community Energy as their DERMS provider.

The proposed five-year contract with Lunar involves the following elements:

- Main Services Agreement, including over-arching contract terms
- Scope 1: DERMS installation and operation, including one-time start-up costs, an annual fixed platform management fee, and a variable capacity fee based on devices being managed/controlled on the DERMS
- Scope 2: Integration of devices with the DERMS sourced from SVCE-managed incentive and rebate programs, for devices such as battery storage and heat pumps
- Scope 3: Enabling agreement for SVCE procurement of load-modifying capacity, from existing battery storage systems in SVCE's service area, independently contracted and managed by Lunar Energy
- Scope 4: Program design services for a forthcoming SVCE battery storage incentive program; Lunar Energy will manage the design of the program, oversee the customer enrollment, and the incentive settlement and disbursement. The marketing and customer acquisition initiatives necessary to drive battery enrollment will be sub-contracted by Lunar to ICF, a major energy industry services firm.

SVCE staff recommend approving the proposed contract with Lunar Energy for the Gridshare DERMS platform (Scope 1), the integration of SVCE-administered programs (Scope 2), the provision of pre-existing battery capacity (Scope 3), and the program design work for a new, integrated battery storage program (Scope 4). Staff will return to the Board with an additional funding request to approve the final program design and budget of the new battery storage program under Scope 4.

Budget

The proposed contract term is for five years with an initial not-to-exceed amount of \$971,238. This budget would cover fixed costs under Scope 1, forecasted fees for Scope 2, and program design and start-up fees for Scope 4. SVCE staff expect to return to the Board over the next year with additional funding requests for the full costs of a new battery storage program, a commercial and industrial (C&I) demand response program, and increased budget for growing connected capacity fees.

Agenda Item: 4**Agenda Date: 5/14/2025**

Scope 3 is for an enabling agreement to purchase load modification capacity. This would be arranged separately as a supply agreement, by the SVCE's power supply team, based on negotiated term, volume, and contract price/kW-year. Any capacity purchase utilizing the enabling agreement would either be brought to the Board for approval or are within the delegated authority under SVCE's Energy Risk Management Policy.

Since 2018, the Board has allocated \$1.6M of SVCE's Programs budget to be spent on demand flexibility efforts, largely used to run the GridShift app. Of that allocation, \$630,420 is currently unspent and not assigned to any specific program and staff proposes to dedicate it to the agreement with Lunar. The remaining \$340,818 required to cover this contract's not-to-exceed amount will need to come from the roughly \$10M in currently unallocated Programs budget. Approval of this item will allocate both the remaining \$630,420 of demand flexibility funds to this contract, and the balance from the Programs budget. Future expenditures on demand flexibility will be paid for using the power supply budget or an additional allocation from the Programs budget.

STRATEGIC PLAN

Implementing a comprehensive demand flexibility strategy supports a number of the Goals identified in SVCE's Strategic Plan, including:

Goal 5: "Manage and optimize load and power resources to meet affordability, GHG reduction and reliability objectives."

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

ALTERNATIVE

A DERMS platform enables SVCE to directly offer new demand flexibility services to our customers, that can provide savings to customers and help lower SVCE's capacity and energy-related costs.

Alternatives include leveraging demand flexibility offerings from PG&E or third-party providers. SVCE could reference PG&E offers for interested customers but would have little opportunity to manage or optimize flexible loads. SVCE can also purchase RA from portfolios of demand-side resources, although the load flexibility may not stem from SVCE customers.

FISCAL IMPACT

This recommendation will have no incremental fiscal impact on SVCE's budget, as it uses funds that the Board has already authorized to be spent on programs. Expenditures will be captured in the regular budget process moving forward.

ATTACHMENT

1. Resolution 2025-11 Authorizing the Chief Executive Officer to Negotiate and Execute a Contract with Lunar Energy for a Distributed Energy Resource Management System (DERMS) and Related Services
2. Draft Main Services Agreement with Lunar Energy

SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2025-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE A MAIN SERVICES AGREEMENT WITH LUNAR ENERGY FOR A DISTRIBUTED ENERGY RESOURCE MANAGEMENT SYSTEM (DERMS) AND RELATED SERVICES

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

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

WHEREAS, on April 1, 2017 Silicon Valley Clean Energy began offering service to residents and businesses throughout Santa Clara County; and

WHEREAS, Silicon Valley Clean Energy’s mission is to reduce dependence on fossil fuels by providing carbon free, affordable, and reliable electricity and innovative programs for the SVCE community; and

WHEREAS, increased penetration of solar and other renewables on the California grid has made energy and capacity costs highly dynamic hour to hour, and seasonally; and

WHEREAS, significant load growth is anticipated over the next 10-20 years, from electrification of buildings and transportation; and

WHEREAS, major cost and GHG impacts will result if load growth drives new usage peaks requiring significant new distribution infrastructure and fossil fuel-based generation; and

WHEREAS, new loads from electrification are growing rapidly in SVCE’s service area and are increasingly ‘smart’, capable of receiving grid status and pricing signals to optimize usage for the benefit of the customer and the grid while reducing compliance obligations and supply costs for SVCE; and

WHEREAS, SVCE’s goal is to provide all customers with the ability to earn savings, by easily, automatically and comfortably flexing their electricity use daily, contributing to a reliable and clean grid, and generating operational value for SVCE; and

WHEREAS, SVCE plans to develop customer programs for demand flexibility, integrating customer devices such as batteries and heat pumps with an SVCE-hosted Distributed Energy Management System (DERMS), needed to optimize usage for customer savings and grid benefits; and

WHEREAS, SVCE issued an RFP in the fall of 2024 for Customer Demand Flexibility Services, including a DERMS software platform, recruitment and management of demand flexibility capacity

from existing resources in SVCE's service area, and support of new SVCE demand flexibility programs; and

WHEREAS, SVCE received seventeen RFP responses, and selected Lunar Energy for their DERMS platform and related demand flexibility services, based on Lunar's proven expertise, technical capabilities, and fit with SVCE's requirements; and

WHEREAS, SVCE wishes to establish a five-year contract with Lunar Energy for an amount not-to-exceed \$971,238 for Lunar's DERMS platform, support services for integration of customer devices from existing SVCE decarbonization programs, establishment of an enabling agreement for load modification capacity from existing batteries in SVCE's service area, and design of a new battery program; and

WHEREAS, there will be no incremental fiscal impact on SVCE's budget for the proposed contract with Lunar Energy, as sufficient funding can be allocated from funds already authorized for expenditure on programs; and

WHEREAS, potential future budget requests associated with Lunar Energy and demand flexibility, e.g., a load modification capacity contract, or battery incentive program implementation, will be brought for approval to the SVCE Board of Directors as needed, at a later date.

NOW THEREFORE, the Board of Directors of the Silicon Valley Clean Energy Authority does hereby resolve that:

1. The foregoing recitals are true and correct.
2. The Board of Directors hereby approves and adopts the recommendation to authorize the CEO to negotiate and execute a five-year Main Services Agreement with Lunar Energy for a Distributed Energy Resource Management System (DERMS) to support services for integration of customer devices from existing SVCE decarbonization programs, establish of an enabling agreement for load modification capacity from existing batteries in SVCE's service area, and design of a new battery program; for an amount not-to-exceed \$971,238; and to execute all scopes of work needed to implement the contract.

ADOPTED and APPROVED this 14th day of May, 2025 by the following vote:

JURISDICTION	NAME	AYE	NO	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	Alternate Director Ristow				
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

ATTEST:

Clerk

MAIN SERVICES AGREEMENT

(DRAFT IN SUBSTANTIAL FORM)

This main services agreement (“Agreement”) is made and effective on the date of last signature below (“Effective Date”), by and between Silicon Valley Clean Energy, an independent public agency (“SVCE”) and Lunar Energy Limited, an English limited liability company with registered address at 55 Baker Street, London, W1U 7EU United Kingdom and with offices located at 11-29 Fashion Street, London E1 6PX United Kingdom (“Service Provider”). SVCE and Service Provider may be referred to herein in the singular as “Party” or jointly as “Parties”.

RECITALS

WHEREAS, SVCE requires distributed energy resources management services, including Service Provider hosted “software as a service” services, as further described herein, with respect to certain of its information technology needs;

WHEREAS, SVCE requested a proposal from Service Provider for the Services (defined below);

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

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

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

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

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

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

1. Term. This Agreement is legally binding as of the Effective Date and shall continue until terminated as provided for herein. Unless this Agreement is terminated earlier in accordance with the terms set forth herein, the initial term (the “Initial Term”) shall commence on the Effective Date and continue for five (5) years. Following the Initial Term and unless otherwise terminated as provided for in this Agreement, this Agreement may be renewed for successive one (1) year terms (each, a “Renewal Term”) upon mutual written agreement of the Parties.
2. Termination of Scopes. Unless otherwise provided herein, termination of the Agreement shall mean termination of the Agreement and all Scopes (as defined in Section 3). Notwithstanding anything to the contrary herein, in the event that SVCE terminates Scope One for cause pursuant to the terms herein or therein, SVCE may, at its sole election and in its sole discretion, terminate one or more other Scopes for cause. In the event that SVCE terminates all Scopes pursuant to the terms herein or therein, then SVCE may, at its sole election and in its sole discretion, terminate the Agreement.
3. The Services. This Agreement sets forth the terms and conditions under which Service Provider agrees to provide distributed energy resource management services to SVCE for distributed energy resources such as residential solar battery systems, electric vehicles, electric vehicle supply equipment, smart thermostats, heat

pump water heaters and to license certain Service Provider hosted software, for the visibility and performance tracking of such management services including, customization / integration, user identification and password change management, data import / export, monitoring, technical support, maintenance, training, backup and recovery, and change management services (collectively, the “Services”) as further set forth in various “Scopes” in writing from time to time, for the provision of, access to and use of the Services (as appropriate), each Scope further describing the specific Services to be provided, fees for such Services (“Services Fees”), and any other terms the Parties mutually agree to, excepting any delays impacted by Force Majeure events and Excused Events (as defined in the Scope). Services includes any Software Services (as may be defined in the applicable Scope). Once duly executed by both parties, each Scope shall be incorporated herein by reference and shall stand alone with respect to any other Scope. If there is a conflict between the terms of this Agreement and the terms of a Scope, the terms of the Scope will take precedence over this Agreement, but only with respect to the Services specified in that Scope. Except as otherwise set forth herein, a breach or default by one Party under one Scope shall not automatically result in a breach or default by the same Party under a separate Scope unless the same circumstances result independently in a breach or default of such other independent Scope and the matter is separately enforced by the Parties to such Scope. Any amendment or modification made by the Parties to one Scope in accordance with its terms shall not serve to amend or modify this Agreement as it pertains to any other separate and independent Scope. Any amendment or modification by the Parties to a Scope, or waiver given by a Party under one Scope, shall only apply to amend, modify, or waive provisions of the separate and independent Scope to which it relates. The first Scopes issued pursuant to this Section are attached hereto and incorporated herein by reference.

- 3.1 Compliance with All Laws. During the Term, Service Provider shall keep itself informed of all applicable federal, state and local laws, ordinances, codes, regulations and requirements which may, in any manner, affect those employed by it or in any way affect the performance of its services pursuant to this Agreement (and the Scopes). During the Term, Service Provider shall, at all times, observe and comply with all such laws and regulations, including, but not limited to the Americans with Disabilities Act, 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. SVCE, and its officers and employees, shall not be liable at law or in equity by reason of the failure of the Service Provider to comply with this paragraph.
- 3.2 Subcontractors. During the Term, Service Provider shall not enter into any subcontracts for the performance of the Services, or assign or transfer any of its rights or obligations under this Agreement (or any Scope), without SVCE’s prior written consent and any attempt to do so shall be void and without further effect and shall be a material breach of this. Service Provider’s use of subcontractors shall not relieve Service Provider of any of its duties or obligations under this Agreement (or any Scope). Service Provider shall ensure that all subcontractors comply with the terms and conditions of this Agreement, carry the insurance required of Service Provider as set forth in Section 16.7 and make the representations and warranties applicable to Service Provider set forth in Section 11. Service Provider shall be fully responsible and liable for the works, services, and materials furnished by and the acts, defaults and neglects of any subcontractor, its agents or employees as fully as if they were Service Provider’s own or those of Service Provider’s agents or employees. For avoidance of doubt, a breach by a subcontractor of any provision of this Agreement shall be considered a breach by Service Provider, and SVCE may obtain complete relief from Service Provider arising out of any breach of this Agreement as a result of such breach without the need to pursue the subcontractor directly. Service Provider shall only subcontract with subcontractors that are suitably qualified, experienced and duly licensed to perform the Services as required by applicable law and that have posted license bonds as required by applicable law.
- 3.3 Software Services. Notwithstanding anything to the contrary, the following terms of this Section 3.3 are only applicable to the Software Services (as may be defined in the applicable Scope):
 - 3.3.1 Authorized Users. Unless otherwise limited herein, Service Provider grants SVCE a renewable, irrevocable, nonexclusive, royalty-free, and worldwide right and license for any SVCE employee, contractor, or agent, or any other individual or entity authorized by SVCE, (each, an “Authorized User”) to access and use the Software

Services; provided that no Authorized Users are permitted without Service Provider's express written consent to (i) copy, transmit or modify the Software Services; (ii) decompile or reverse engineer the Software Services; (iii) use the Software Services to provide services to third parties; or (iv) sell or sublicense the Software Services. Other than any limitations otherwise described herein, Authorized Users will have no other limitations on their access to or use of the Software Services.

- 3.3.2 Unauthorized Use. SVCE is responsible for the actions and omissions of its Authorized Users as if such actions and omissions were those of SVCE provided such Authorized Users have accessed the Software Services by virtue of their employment or contract with SVCE or as otherwise authorized by SVCE. If there is unauthorized access and/or use by anyone who obtained access to the Software Services and/or Documentation (defined below) directly or indirectly through SVCE, SVCE will notify Service Provider and take all steps reasonably necessary promptly to terminate such unauthorized access and/or use. SVCE will cooperate and assist with any actions taken by the Service Provider to prevent or terminate unauthorized access and/or use of the Software Services and/or any Documentation. The Service Provider reserves the right to suspend SVCE's or an Authorized User's access to, or their account on, the Software Services if SVCE materially breaches this Agreement.
- 3.3.3 Acknowledgement of License Grant. For the purposes of 11 U.S.C. § 365(n), the Parties acknowledge and agree that this Agreement constitutes a grant of license to use intellectual property in software form, to SVCE by Service Provider.
- 3.3.4 Control and Location of Services. The method and means of providing the Software Services shall be under the exclusive control, management, and supervision of Service Provider, giving due consideration to the written requests of SVCE. The Parties hereby acknowledge and agree that Service Provider will use cloud-based storage in the provision of the Software Services. Such cloud-based storage shall be in compliance with ISO 27001 or successor standards thereto. Except as otherwise expressly set forth herein, the Software Services (including all data storage, including cloud-based storage), shall be provided solely from within the continental United States, and all such locations shall be disclosed to SVCE annually and within thirty (30) days of the Effective Date of this Agreement. The SVCE Data will at all times be stored on servers located within the continental United States.
- 3.3.5 Storage. The Software Services shall include the applicable allocation of base data storage.
- 3.3.6 Test Environment. In addition to production use of the Software Services, SVCE is entitled to one test environment for use by Authorized Users at no additional charge. Service Provider shall cooperate with SVCE's requests in managing the non-production environments such as refreshing SVCE Data upon request.
- 3.3.7 Documentation. The documentation for the Software Services ("Documentation") will accurately and completely describe the functions and features of the Software Services, including all subsequent revisions thereto. The Documentation shall be understandable by a typical end user and shall provide Authorized Users with sufficient instruction such that an Authorized User can become self-reliant with respect to access and use of the Software Services. SVCE shall have the right to make any number of additional copies of the Documentation at no additional charge.
- 3.3.8 Changes in Functionality. During the term of this Agreement, Service Provider shall not reduce or eliminate functionality in the Software Services. Where Service Provider has reduced or eliminated functionality in the Software Services, SVCE, at SVCE's sole election and in SVCE's sole determination, shall: (a) have, in addition to

any other rights and remedies under this Agreement or at law, the right to immediately terminate this Agreement with respect to some or all of the Scopes where functionality has been reduced or eliminated and be entitled to a return of any prepaid Services Fees for any terminated Software Services; or, (b) determine the value of the reduced or eliminated functionality and Service Provider will immediately adjust the Services Fees accordingly on a prospective basis. Where Service Provider has introduced like functionality in other services, SVCE shall have an additional license and subscription right to use and access the new services, at no additional charge, with the same rights, obligations, and limitations as for the Software Services. Where Service Provider increases functionality in the Software Services, such functionality shall be provided to SVCE without any increase in the Services Fees.

3.3.9 No Effect of Click-Through Terms and Conditions. Where an Authorized User is required to “click through” or otherwise accept or made subject to any online terms and conditions in accessing or using the Software Services, such terms and conditions are not binding and shall have no force or effect as to the Software Services or this Agreement.

3.3.10 Modification of the Services. SVCE’s Director of Information Technology, Senior Manager of Information Technology or another person authorized by SVCE, shall be authorized to waive, in writing, any of the Service Provider’s obligations with respect to the Software Services, where deemed to be in SVCE’s best interests, provided that no such modification shall result in any increase in the amount of the Services Fees.

4. Service Level Standards. Notwithstanding anything to the contrary, the following terms of this Section 4 are only applicable to the Software Services.

4.1 Service Levels. For the term of this Agreement, Service Provider shall provide the Software Services, Force Majeure events and Excused Events (as defined in the applicable Scope) excepted, in accordance with the applicable Service Level Standards, each as described the applicable Scope.

4.2 Cure Plan; Historical Reports. On (a) a biannual basis, commencing on the date that is six (6) months after the Effective Date, in arrears and no later than the sixtieth (60th) calendar day after the end of each biannual period, provided Performance Credits have been included or deemed included on an invoice provided in accordance with Section 10.1 during such biannual period, and (b) upon SVCE’s reasonable request if Performance Credits have been included or deemed included on an invoice provided in accordance with Section 10.1, Service Provider shall provide a cure plan to SVCE, in a form mutually agreed by SVCE and Service Provider, describing (x) the cause or basis for not meeting the Service Level Standard, and (y) the specific remedial actions Service Provider has undertaken or will undertake to ensure that the Service Level Standard will be subsequently achieved. Service Provider and SVCE will meet as often as shall be reasonably requested by SVCE to review the performance of Service Provider as it relates to the Service Level Standards. Service Provider shall, without charge, make SVCE’s historical Service Level Standard reports available to SVCE upon request.

4.3 Failure to Meet Service Level Standards. In the event Service Provider does not meet a Service Level Standard, Service Provider shall: (a) owe to SVCE any applicable Performance Credit, as liquidated damages and not as a penalty; and (b) use commercially reasonable efforts to ensure that any unmet Service Level Standard is subsequently met. Notwithstanding the foregoing, Service Provider will use commercially reasonable efforts to minimize the impact or duration of any outage, interruption, or degradation of Service. In no case shall SVCE be required to notify Service Provider that a Performance Credit is due as a condition of payment of the same. Except as set forth in Section 4.4, this Section sets forth the Service Provider’s sole and exclusive remedy with respect to failure to meet Service Level Standards.

- 4.4 Termination for Repeated Failures. SVCE shall have, in addition to any other rights and remedies under this Agreement (or applicable Scope) or at law, the right to immediately terminate this Agreement (or applicable Scope) in accordance with the following sentence, and be entitled to a return of any prepaid Services Fees where Service Provider fails to meet any Service Level Standard for four (4) months out of any twelve (12) month period. If SVCE exercises its termination right under this Section 4.4, SVCE may, at its sole discretion, elect to terminate the Agreement with respect to (i) the Scope(s) for which Service Provider failed to meet any Service Level Standard, or (ii) all Scopes.
- 4.5 Audit of Service Levels. No more than annually, SVCE or SVCE's agent shall have the right to audit Service Provider's books, records, and measurement and auditing tools to verify Service Level Standard achievement and to determine correct payment of any Performance Credit on giving at least ten (10) Business Days' prior notice in writing and during normal business hours; provided, if SVCE has cause to believe that Service Provider has not accurately reported the Service Level Standard achievement and/or determined any Performance Credit due to SVCE, SVCE may exercise the audit right described in this sentence more frequently than annually. Where it is determined that any Performance Credit was due to SVCE but not paid, Service Provider shall immediately owe to SVCE such Performance Credit. As used herein, "Business Day" means any day other than a Saturday, Sunday, or a United States of America Federal Reserve Bank holiday.
5. Support; Maintenance; Additional Services.
- 5.1 Technical Support. Service Provider shall provide the Technical Support as defined and described in each Scope. The Services Fees shall be inclusive of the fees for the Technical Support.
- 5.2 Maintenance. Service Provider shall provide bug fixes, corrections, modifications, enhancements, upgrades, and new releases to the Services to ensure: (a) the functionality of the Services, as described in the Documentation, is available to Authorized Users; (b) the functionality of the Services in accordance with the representations and warranties set forth herein, including but not limited to, the Services conforming in all material respects to the specifications, functions, descriptions, standards, and criteria set forth in the Scopes and the Documentation; (c) the Service Level Standards can be achieved; and, (d) the Services work with the then-current version and the three prior versions of Internet Explorer, Mozilla Firefox, and Google Chrome Internet browsers. The Services Fees shall be inclusive of the fees for maintenance.
- 5.2.1 Required Notice of Maintenance. Unless as otherwise agreed to by SVCE on a case-by-case basis, Service Provider shall provide no less than thirty (30) calendar day's prior written notice to SVCE of all non-emergency major maintenance to be performed on the Services involving code interfacing with SVCE and the management system directly and which would have the effect of taking the management system offline, such written notice including a detailed description of all such non-emergency major maintenance to be performed. For emergency maintenance, Service Provider shall provide as much prior notice as commercially practicable to SVCE and shall provide a detailed description of all such emergency maintenance performed no greater than one (1) calendar day following the implementation of the emergency maintenance.
- 5.2.2 Acceptance of Non-Emergency Major Maintenance. Unless as otherwise agreed to by SVCE on a case-by-case basis, for major non-emergency maintenance described in Section 5.2.1, SVCE shall have a ten (10) Business Day period to test any such major non-emergency maintenance changes prior to Service Provider introducing such maintenance changes into production (the "Maintenance Acceptance Period"). In the event that SVCE rejects, for good cause, any such major non-emergency maintenance changes during the Maintenance Acceptance Period, Service Provider shall not introduce such rejected maintenance changes into production. At the end of the Maintenance Acceptance Period, if SVCE has not rejected the major non-emergency maintenance changes, the maintenance changes shall be deemed to be accepted by

SVCE and Service Provider shall be entitled to introduce the maintenance changes into production.

6. Audit Rights of Service Provider. Service Provider shall have no right to conduct an on-premises audit of SVCE's compliance with the use of the Services. No more than once annually, Service Provider shall have the right to request from SVCE its certification of compliance of Authorized Users with this Agreement and each relevant Scope.
7. Change Control Procedure. SVCE may, upon written notice, request changes to any applicable Scope. If SVCE requests any changes to an applicable Scope, SVCE shall notify Service Provider, and, not more than five (5) Business Days (or other mutually agreed upon period) after receiving the request, Service Provider shall notify SVCE whether or not the change has an associated cost impact that will require an adjustment to the relevant Services Fees. If SVCE approves, SVCE shall issue a change order, which will be executed by the Service Provider.
8. Termination; Renewals.
 - 8.1 Termination for Convenience. Without limiting the right of a Party to terminate this Agreement as provided for in this Agreement, SVCE may terminate this Agreement with respect to some or all of the Scopes, for convenience upon not less than sixty (60) days' prior written notice to the Service Provider. If Service Provider is directed by SVCE to use a certain subcontractor to perform a Scope, and SVCE elects to terminate the services under such Scope by exercising its rights as a third party beneficiary under the applicable agreement between such subcontractor and Service Provider, then Service Provider may immediately terminate or suspend the performance of its obligations under this Agreement with respect to such Scope without liability.
 - 8.2 Termination for Cause. Without limiting the right of a Party to immediately terminate this Agreement for cause as provided for in this Agreement, including, without limitation, in Section 14.8, if either Party materially breaches any of its duties or obligations under this Agreement and such breach is not cured, or the breaching Party is not diligently pursuing a cure to the non-breaching Party's sole satisfaction, within thirty (30) calendar days after written notice of such breach, the non-breaching Party may terminate this Agreement, with respect to some or all of the Scopes, for cause as of a date specified in such notice. Notwithstanding the foregoing, SVCE shall have the right to immediately terminate this Agreement with respect to some or all of the Scopes if a change in law renders the Services provided under this Agreement (or any applicable Scope) illegal (and such illegality cannot be cured within thirty (30) calendar days after written notice of such illegality) or if an Event of Bankruptcy occurs with respect to Service Provider.
 - 8.3 Payments upon Termination. Upon the termination of this Agreement (or applicable Scope), SVCE shall pay to Service Provider all undisputed amounts due and payable hereunder (or thereunder), if any, and Service Provider shall pay to SVCE all amounts due and payable hereunder (or thereunder), such as Performance Credits and prepaid Services Fees, if any. Due to SVCE's termination for (i) convenience in accordance with Section 8.1, or (ii) cause due to illegality, where no cure is possible within the thirty (30) calendar day timeframe in accordance with Section 8.2, and unless otherwise agreed upon by the Parties, SVCE shall pay, or Service Provider shall retain if Services Fees were prepaid, two (2) month's worth of additional Service Fees for the terminated Scope(s) calculated based on the most recent month's Service Fees for such terminated Scope(s) multiplied by two (2); provided that if SVCE terminates this Agreement (or applicable Scope) for (i) convenience in accordance with Section 8.1 or (ii) cause due to illegality, where no cure is possible within the thirty (30) calendar day timeframe in accordance with Section 8.2, less than [UNDER NEGOTIATION] after the Effective Date, then SVCE shall pay, or Service Provider shall retain if Services Fees were prepaid, one (1) month's worth of additional Services Fees for the terminated Scope(s) for every month that the termination date is shy of the six (6) month anniversary of the Effective Date, based on the most recent month's Services Fees for such terminated Scope(s). Any remaining prepaid funds shall be refunded to SVCE.

- 8.4 Return of SVCE Data. Upon the termination of this Agreement (or an applicable Scope), Service Provider shall, within thirty (30) days following the termination of this Agreement (or applicable Scope), provide SVCE, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any Services Fees due to Service Provider), with a final extract of the SVCE Data in the format reasonably specified by SVCE. Further, Service Provider shall certify to SVCE the destruction of any SVCE Data within the possession or control of Service Provider, in accordance with Section 13.5, but such destruction shall occur only after the SVCE Data has been returned to SVCE.
- 8.5 Renewals. Should the Services continue beyond the Initial Term, so long as the scope of the Services have stayed substantially similar, the Services Fees for the Renewal Term may be increased no more than three percent (3%) on an annualized basis.
9. Transition Services. Provided that this Agreement (or applicable Scope) has been terminated by SVCE, Service Provider will provide to SVCE and/or to the service provider selected by SVCE ("Successor Service Provider") assistance reasonably requested by SVCE to effect the orderly transition of the applicable Services, in whole or in part, to SVCE or to Successor Service Provider ("Transition Services") following the termination of this Agreement (or such Scope), in whole or in part. The Transition Services shall be provided for a period of no greater than six (6) months from the date of termination at the then-current Services Fees for the applicable Services, and may include: (a) developing a plan for the orderly transition of the terminated Services from Service Provider to SVCE or Successor Service Provider; (b) if required, transferring the SVCE Data to Successor Service Provider; (c) using commercially reasonable efforts to assist SVCE in acquiring any necessary rights to legally and physically access and use any third-party technologies and documentation then being used by Service Provider in connection with the applicable Services; (d) using commercially reasonable efforts to make available to SVCE, pursuant to mutually agreeable terms and conditions, any third-party services then being used by Service Provider in connection with the terminated Services; and, (e) such other activities upon which the Parties may agree. All applicable terms and conditions of this Agreement shall apply to the Transition Services.
10. Fees; Billing. SVCE shall be responsible for and shall pay to Service Provider the Services Fees as further described in each Scope, subject to the terms and conditions contained in this Agreement (and such Scope). Any sum due to Service Provider for the Services for which payment is not otherwise specified shall be due and payable thirty (30) days after receipt by SVCE of an invoice from Service Provider.
- 10.1 Billing Procedures. Service Provider shall, on a monthly basis in arrears and within fifteen (15) days after the end of each month, provide SVCE a Service Level Standard report and bill to SVCE the sums due pursuant to each Scope by Service Provider's invoice, which shall contain: (a) SVCE's purchase order number, if any, and Service Provider's invoice number; (b) description of Services for which an amount is due; (c) a statement of the Services Fees or portion thereof that are due; (d) a statement of taxes, if any; (e) a statement of actual performance compared to the Service Level Standards; (f) a statement of any credit for failing to meet the Service Level Standard, as determined in accordance with the applicable Scope ("Performance Credits") or other credits as required by a Scope due to SVCE; and, (g) total amount due from SVCE. Where Service Provider fails to timely provide an invoice meeting the requirements set forth in (e) and (f) of the foregoing sentence, the Service Level Standard shall be deemed unmet for the purpose of calculating Performance Credits, and such Performance Credits shall be deemed included on such invoice. Service Provider shall forward invoices in digital format to invoices@svcleanenergy.org. Service Provider shall submit a completed W-8BEN-E form electronically to the same email addresses. Service Provider understands that no invoice will be paid by SVCE unless and until a W-8BEN-E form is received by SVCE.
- 10.2 Invoice Disputes. If SVCE disputes any invoice, or part thereof, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute shall be made only in good faith, in writing and shall state the basis for the dispute. The Parties shall seek to resolve all such disputes expeditiously and in good faith within two (2) months. Upon resolution of the dispute, any required payment shall be made (or any inadvertent overpayment shall be returned) within five

(5) Business Days of such resolution. Except for invoiced payments that SVCE has successfully disputed, all late payments shall bear interest at lower of (a) the rate of four per cent (4%) per month, or (b) the highest rate permissible under applicable law, calculated daily and compounded monthly.

- 10.3 Taxes. Service Provider represents and warrants that it is an independent contractor for purposes of federal, state, and local taxes. Service Provider agrees that SVCE is not responsible to collect or withhold any such taxes, including income tax withholding and social security contributions, for Service Provider. Any and all taxes, interest, or penalties, including any federal, state, or local withholding or employment taxes, imposed, assessed, or levied as a result of this Agreement shall be paid or withheld by Service Provider.
- 10.4 Credits. Any amounts due to SVCE, such as a Performance Credit, from Service Provider may be applied by SVCE, at the sole election of SVCE, against any current or future Services Fees due to Service Provider. Any such amounts that are not so applied by SVCE shall be paid to SVCE by Service Provider within thirty (30) Business Days following Service Provider's delivery of the invoice detailing such amounts.
- 10.5 Non-binding Terms. Any terms and conditions included in a Service Provider invoice shall be deemed to be solely for the convenience of the Service Provider, and no such term or condition shall be binding upon the SVCE.
- 10.6 Auditable Records. Service Provider shall maintain accurate records relating to the Services and records of all fees billable to, and payments made by, SVCE in a format that will permit audit by SVCE for a period of no less than five (5) years, for records relating to the Services, and three (3) years, for records of all fees billable to, and payments made by, SVCE, after SVCE makes final payment and all other pending matters are closed, and Service Provider shall be subject to the examination and/or audit by SVCE, a Federal grantor agency, and the State of California. Service Provider shall [UNDER NEGOTIATION] with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by SVCE. Service Provider agrees upon reasonable notice to provide to SVCE, to any Federal or State department having monitoring or review authority, to SVCE's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed. For the term of this Agreement, upon SVCE's written request, Service Provider shall provide SVCE with a copy of its annual American Institute of Certified Public Accountants Service Organization Control (SOC) 2 Type 1 report and SOC 2 Type 2 report (for at least three (3) SOC 2 Trust Services Criteria), or successor form of SOC reports.
- 10.7 No Suspension of Services. Except as set forth in Section 8.2, Service Provider shall not suspend any part of the Services where: (a) SVCE is reasonably disputing any amount due to Service Provider in accordance with Section 10.2; or, (b) any unpaid but undisputed amount due to Service Provider is less than thirty (30) calendar days in arrears.
11. Representations and Warranties.
- 11.1 Mutual. SVCE and Service Provider represent and warrant that:
- 11.1.1 it is a public entity or business duly incorporated, validly existing, and in good standing under the laws of its country or state of incorporation (as applicable) and is authorized to do business and in good standing in the state of California;
- 11.1.2 it has all requisite corporate power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement and each Scope;

- 11.1.3 the execution, delivery, and performance of this Agreement has been (and for each Scope, will be) duly authorized by it, and this Agreement constitutes (and for each Scope, will constitute) the legal, valid, and binding agreement of it and is enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganizations, moratoriums, and similar laws affecting creditors' rights generally and by general equitable principles;
- 11.1.4 it shall comply with all applicable federal, state, local, or other laws and regulations applicable to the performance by it of its obligations under this Agreement (and Scope) and shall obtain all applicable permits and licenses required of it in connection with its obligations under this Agreement (and each Scope);
- 11.1.5 there is no outstanding litigation, arbitrated matter or other dispute to which it is a party which, if decided unfavorably to it, would reasonably be expected to have a potential or actual material adverse effect on its ability to fulfill its obligations under this Agreement or any Scope; and
- 11.1.6 no Event of Bankruptcy has occurred. As used herein "Event of Bankruptcy" means the occurrence of any of the following events: (i) the filing by such Party of a voluntary case or the seeking of relief under any chapter of Title 11 of the United States Bankruptcy Code, as now constituted or hereafter amended (the "Bankruptcy Code"), (ii) the making by such Party of a general assignment for the benefit of its creditors, (iii) the admission in writing by such Party of its inability to pay its debts as they mature, (iv) the filing by such Party of an application for, or consent to, the appointment of any receiver or a permanent or interim trustee of such Party or of all or any portion of its property, including the appointment or authorization of a trustee, receiver or agent under applicable law or under a contract to take charge of its property for the purposes of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of its creditors, (v) the filing by such Party of a petition seeking a reorganization of its financial affairs or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute, (vi) an involuntary case is commenced against such Party by the filing of a petition under any chapter of Title 11 of the Bankruptcy Code and within ninety (90) calendar days after the filing thereof either the petition is not dismissed or the order for relief is not stayed or dismissed, (vii) an order, judgment or decree is entered appointing a receiver or a permanent or interim trustee of such Party or of all or any portion of its property, including the entry of an order, judgment or decree appointing or authorizing a trustee, receiver or agent to take charge of the property of such Party for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the creditors of such Party, and such order, judgment or decree shall continue unstayed and in effect for a period of sixty (60) calendar days, or (viii) an order, judgment or decree is entered, without the approval or consent of such Party, approving or authorizing the reorganization, insolvency, readjustment of debt, dissolution or liquidation of such Party under any such law or statute, and such order, judgment or decree shall continue unstayed and in effect for a period of sixty (60) calendar days.

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

- 11.2.1 it is in the business of providing the Services;
- 11.2.2 EXCEPT AS EXPRESSLY SET FORTH HEREIN AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICES AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND (EXPRESS,

STATUTORY OR IMPLIED) INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT;

- 11.2.3 it is the lawful licensee or owner of the Services (excluding any SVCE Data therein) and has all the necessary rights in the Services to provide the Services to SVCE;
- 11.2.4 the Services and any other work performed by Service Provider hereunder shall not infringe upon any United States or foreign copyright, patent, trade secret, or other intellectual proprietary right, or misappropriate any trade secret, of any third-party, and that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Agreement or any Scope;
- 11.2.5 it shall disclose any third-party (which shall, for purposes of this Agreement and any Scope, be deemed a subcontractor) whose intellectual property is incorporated into the Services or who is necessary for the performance of the Services and it shall maintain in-force written agreements with such third-party, if any, for the term of this Agreement;
- 11.2.6 it has the expertise to perform the Services in a competent, workmanlike, and professional manner and in accordance with the highest professional standards;
- 11.2.7 it will use its commercially reasonable efforts to ensure that no computer viruses, worms, malware, or similar items (collectively, a "Virus") are introduced into SVCE's computing and network environment by the Services, and that, where it transfers a Virus to SVCE through the Services, it shall reimburse SVCE the actual documented cost incurred by SVCE to remove or recover from the Virus, including the costs of persons employed by SVCE to perform such services;
- 11.2.8 the Services are free of any mechanism which may disable the Services and Service Provider warrants that no loss of SVCE Data will result from such items if present in the Services;
- 11.2.9 unless otherwise permitted by this Agreement, in the case of SVCE's reasonable dispute of any Service Provider invoice in accordance with Section 10.2, it shall not withhold the performance of Services for up to two (2) months, including, without limitation, access and use of the Services, Technical Support, Maintenance, and extract of SVCE Data; and,
- 11.2.10 the Services will conform in all material respects to the specifications, functions, descriptions, standards, and criteria set forth in the applicable Scope and the Documentation.

12. SVCE Data.

- 12.1 Ownership. SVCE's data ("SVCE Data," which shall also be known and treated by Service Provider as Confidential Information) shall include any and all data, including personally identifiable information ("PII"), originating from SVCE and/or from any Authorized User, that is collected, accessed, transmitted, used, processed, stored, or generated by Service Provider, or that is otherwise made accessible to Service Provider, as the result of or in connection with SVCE's use, or Service Provider's provision of the Services. PII includes, without limitation, "personal information" as defined in California Civil Code Section 1798.81.5(d), any information that identifies an individual, such as an individual's social security number or other government-issued identification number,

date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements listed herein. Except where subject to a third party's intellectual property rights, all SVCE Data is and shall remain the sole and exclusive property of SVCE and all right, title, and interest in the same belongs to SVCE. Notwithstanding the foregoing, Service Provider may use the SVCE Data to create anonymized, deidentified datasets ("Resulting Data"), provided that (a) the SVCE Data has been made "anonymous" using technology that irreversibly alters data in such a way that the data subject can no longer be identified directly or indirectly, either by the data controller alone or in collaboration with any other party, and such data is thereby rendered "anonymized data", as generally described in ISO 29100:2024, Section 3.3, and (b) the resulting datasets do not identify SVCE as the source thereof and do not include any non-anonymized or individual identifiable information of any person, and may use the Resulting Data for its business purposes, only to improve its products and services, including the provision of the Services to SVCE, and may not, for the avoidance of doubt, use the Resulting Data for direct marketing.

- 12.2 AMI Data. Lunar shall treat all advanced metering infrastructure data, ("AMI Data"), received from SVCE as SVCE Data under all circumstances. Lunar will treat all data sets generated with AMI Data as SVCE Data and shall not generate any Resulting Data from them.]
- 12.3 Service Provider Use of SVCE Data. Except as set forth in Section 12.1, Service Provider is provided a limited license to access SVCE Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display SVCE Data only to the extent necessary in the providing of the Services. Service Provider shall: (a) keep and maintain SVCE Data in strict confidence, maintaining reasonable and appropriate security measures and using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement, each Scope and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose SVCE Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Agreement, such Scope, and applicable law; (c) allow access to SVCE Data only to those employees of Service Provider who are directly involved with and responsible for providing the Services; (d) not use, sell, rent, transfer, distribute, or otherwise disclose or make available SVCE Data for Service Provider's own purposes or for the benefit of anyone other than SVCE without SVCE's prior written consent, except as set forth in Section 12.1; and (e) inform SVCE immediately upon learning that there has been a breach in the security of the system or in the security of PII. For the purposes of this Section 12.3, security procedures are "reasonable and appropriate" when Service Provider complies with ISO27001 and SOC 2 Type 1, and Type 2 controls in connection with its access of PII.
- 12.4 Access to, and Extraction of SVCE Data. SVCE shall have full and complete virtual access to, and ability to virtually download (with Service Provider's assistance but without the need for physical access), its SVCE Data twenty-four (24) hours per day, seven (7) days per week, except during SVCE periods of maintenance conducted by Service Provider pursuant to Section 5.2. Further, Service Provider shall, within ten (10) Business Days of SVCE's request, provide SVCE, without charge and without any conditions or contingencies whatsoever (including, but not limited to, the payment of any Service Fees due to Service Provider), an extract of the SVCE Data in the format reasonably specified by SVCE, provided Service Provider shall within a reasonable amount of additional time, if necessary, furnish such extract if needed to support the format type specified by SVCE. In the event SVCE gives Service Provider written notice of a "litigation hold" or request under the California Public Records Act (Gov. Code § 7920.000 *et seq.*, "Public Records Act"), then as to all data identified in such notice or request, Service Provider shall, at no additional cost to SVCE, isolate and preserve all such data pending receipt of further direction from SVCE.
- 12.5 Backup and Recovery of SVCE Data. As a part of the Services, Service Provider is responsible for maintaining a backup of SVCE Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted. Service Provider shall maintain a contemporaneous backup of SVCE Data that can be recovered within eight (8) hours at any point in time. Additionally, Service Provider shall store a backup of SVCE Data in an off-site (but within the continental United States)

“hardened” facility no less than daily, maintaining the security of SVCE Data, the security requirements of which are further described herein.

12.6 Loss or Unauthorized Access to Data. In the event of any act, error or omission, negligence, misconduct, or breach involving SVCE Data in the possession of Service Provider that permits any unauthorized access to, or that compromises or is suspected to compromise the security, confidentiality, or integrity of SVCE Data or the physical, technical, administrative, or organizational safeguards put in place by Service Provider that relate to the protection of the security, confidentiality, or integrity of SVCE Data, Service Provider shall, as applicable: (a) notify SVCE as soon as practicable but no later than forty eight (48) hours of becoming aware of such occurrence; (b) cooperate with SVCE in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise reasonably required by SVCE; (c) in the case of PII, at SVCE’s sole election, (i) notify the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law including, but not limited to, the provisions of California Civil Code Section 1798.82, or, in the absence of any legally required notification period, within ten (10) calendar days of becoming aware of the occurrence; or, (ii) reimburse SVCE for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twelve (12) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Service Provider’s obligations of indemnification as further described in this Agreement, indemnify, defend, and hold harmless SVCE for any and all Claims (as defined herein) to the extent caused by breach of obligations of Service Provider in providing the Services, including reasonable attorneys’ fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from SVCE in connection with the occurrence; (g) be responsible for recreating lost SVCE Data in the manner and on the schedule set by SVCE without charge to SVCE; (h) provide to SVCE a detailed plan within ten (10) calendar days of the discovery of the occurrence, describing the measures Service Provider will undertake to prevent a future occurrence and (i) upon conclusion of the occurrence, or at SVCE’s reasonable request, provide to SVCE a comprehensive summary of the occurrence, including reason for occurrence, details of occurrence, how occurrence was addressed and any other information required by SVCE, which shall be executed by Service Provider and may be relied upon by SVCE as a true and accurate account of the occurrence. Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Service Provider’s representative; a description of the nature of the loss; a list of the types of data involved; and the known or approximate date of the loss; how such loss may affect the affected individual; what steps Service Provider has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Service Provider.

13. Non-Disclosure of Confidential Information. The Parties acknowledge that each Party may be exposed to or acquire communication or data of the other Party that is confidential, privileged communication not intended to be disclosed to third parties.

13.1 Meaning of Confidential Information. For the purposes of this Agreement, the term “Confidential Information” shall mean all SVCE: information and documentation of a Party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such Party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing Party and marked “confidential” or with words of similar meaning; or, (c) should reasonably be recognized as confidential information of the disclosing Party. Confidential Information may include, without limitation, the following information about SVCE customers: (i) names; (ii) service agreement numbers and account numbers; (iii) meter and other identification numbers; (iv) SVCE-designated account numbers; (v) electricity and gas usage

(including monthly usage, monthly maximum demand, electrical or gas consumption, HP load, and other data detailing electricity or gas needs and patterns of usage); (vi) billing information (including rate schedule, baseline zone, CARE participation, end use code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); (vii) payment / deposit status; (viii) number of units; and (ix) other similar information specific to SVCE customers individually or in the aggregate. Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by Service Provider or its representatives that are derived from or based on Confidential Information disclosed by SVCE, regardless of the form of media in which it is prepared, recorded or retained. Except for electric and gas usage information provided to Service Provider pursuant to this Agreement, the term “Confidential Information” does not include any information or documentation that was: (A) already in the possession of the receiving Party without an obligation of confidentiality; (B) developed independently by the receiving Party, as demonstrated by the receiving Party, without violating the disclosing Party’s proprietary rights; (C) obtained from a source other than the disclosing Party without an obligation of confidentiality; (D) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving Party); (E) disclosed pursuant to a requirement of law, including, but not limited to, the California Public Records Act (Cal. Gov’t Code Section 7920, et seq.); or (F) disclosed to or by a duly empowered government agency, or a court of competent jurisdiction after due notice and an adequate opportunity to intervene is given to SVCE, unless such notice is prohibited. For purposes of this Agreement, in all cases and for all matters, SVCE Data shall be deemed to be Confidential Information.

- 13.2 Obligation of Confidentiality. The Parties agree to hold all Confidential Information in strict confidence, take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information, and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties (other than employees, agents, lenders or investors, counsel, advisors, or subcontractors of a Party who have agreed to be bound by the confidentiality terms of this Agreement and have a need to know in connection with this Agreement) or to use such Confidential Information for any purposes whatsoever other than the purposes permitted by this Agreement, or as required by law, or in connection with a proposed financing or purchase of the receiving Party; provided, in connection with a proposed financing or purchase of the receiving Party, SVCE Data or PII shall not be disclosed. The Parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential in accordance with the terms of this Agreement and to remain responsible for the actions and omissions of such employees, agents, and subcontractors as if such actions and omissions were those of such Party; however, such liability shall not limit or prevent any actions by SVCE directly against such employees or representatives for improper disclosure and/or use. In no event shall Service Provider or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence.
- 13.3 Cooperation to Prevent Disclosure of Confidential Information. Each Party shall use its commercially reasonable efforts to assist the other Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each Party shall advise the other Party immediately in the event either Party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each Party will cooperate with the other Party in seeking injunctive or other equitable relief against any such person. Nothing in this Agreement shall obligate SVCE to monitor or enforce the Service Provider’s compliance with the terms of this Agreement. It is understood that SVCE is subject to the California Public Records Act. If a request under the California Public Records Act is made to view Service Provider’s Confidential Information, SVCE shall notify Service Provider of the request and the date that such records will be released to the requester unless Service Provider obtains a court order enjoining that disclosure. If Service Provider

fails to obtain a court order enjoining that disclosure, SVCE will release the requested information on the date specified. Service Provider shall promptly notify SVCE should Service Provider, 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 hereunder or with respect to any project or property located within SVCE's jurisdiction. SVCE may, but has no obligation to, represent Service Provider or be present at any deposition, hearing or similar proceeding. Service Provider agrees to cooperate fully with SVCE and to provide SVCE with the opportunity to review any response to discovery requests provided by Service Provider. However, SVCE's right to review any such response does not imply or mean the right by SVCE to control, direct or rewrite the response.

13.4 Remedies for Breach of Obligation of Confidentiality. Each Party acknowledges that breach of its obligation of confidentiality as set forth in Section 13.2 may give rise to irreparable injury to the other Party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings (without posting bond), in addition to any other legal or equitable remedies which may be available, to include, in the case of SVCE, at the sole election of SVCE, the immediate termination, without liability to SVCE, of this Agreement (and all Scopes).

13.5 Surrender of Confidential Information upon Termination. SVCE: Upon termination of this Agreement or a Scope, in whole or in part, each Party shall, within five (5) calendar days from the date of termination, return to the other Party any and all Confidential Information received from the other Party, or created or received by a Party on behalf of the other Party, which is in such Party's possession, custody, or control; provided, however, that Service Provider shall return SVCE Data to SVCE following the timeframe and procedure described in Section 8.4. Should Service Provider or SVCE determine that the return of any SVCE Data or non-SVCE Data Confidential Information is not feasible, Service Provider shall destroy the data comprising such Confidential Information in compliance with the most current version of NIST standard SP800-88, or other standard acceptable to SVCE, and shall certify the same in writing within five (5) calendar days from the date of termination to the other Party.

14. Data Privacy and Information Security.

14.1 Undertaking by Service Provider. Without limiting Service Provider's obligation of confidentiality as further described herein, Service Provider shall be responsible for establishing, maintaining, and providing a written description to SVCE of, a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that comply with or are substantially similar to the security controls identified in the current version of NIST SP800-53, and that is designed to, consistent with prudent industry standards: (a) ensure the security and confidentiality of the SVCE Data; (b) protect against any anticipated threats or hazards to the security or integrity of the SVCE Data; (c) protect against unauthorized disclosure, access to, or use of the SVCE Data; (d) ensure the proper disposal of SVCE Data; and, (e) ensure that all employees, agents, and subcontractors of Service Provider, if any, comply with all of the foregoing. In no case shall the safeguards of Service Provider's data privacy and information security program used to protect SVCE Data be less stringent than the safeguards used by Service Provider for its own data.

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

14.2 SOC 2 report. Annually, Service Provider shall provide SVCE with its SOC 2 Type 2 report (for at least three (3) SOC 2 Trust Services Criteria), or successor form of SOC reports, when available, to

demonstrate Services Provider's ongoing SOC 2 compliance, where relevant to the Services, and shall conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to SVCE. The required audit shall be a SOC 2 Type 2 (or successor standard) compliant audit, and Service Provider shall provide the audit findings in the form of a SOC 2 Type 2 (or successor standard) report.

- 14.3 Right of Audit by SVCE. Without limiting any other audit rights of SVCE, SVCE shall have the right to review Service Provider's data privacy and information security program prior to the commencement of Services and from time to time during the term of this Agreement or relevant Scope. During the providing of the Services, no more than annually, for not more than three (3) Business Days, on no less than thirty (30) days' prior written notice, and during normal business hours, on an ongoing basis from time to time, SVCE, at its own expense, shall be entitled to perform, or to have performed, an on-site audit of Service Provider's data privacy and information security program. In lieu of an on-site audit, upon request by SVCE, Service Provider agrees to complete, within forty-five (45) days of receipt, an audit questionnaire provided by SVCE regarding Service Provider's data privacy and information security program.
- 14.4 Audit Findings. Service Provider shall use reasonable commercial efforts, consistent with prudent industry standards, to implement any required safeguards as identified by SVCE or by any audit of Service Provider's data privacy and information security program as applicable to the Services.
- 14.5 Pattern of Violations. It shall be considered a material breach of this Agreement if Service Provider engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Service Provider understands that if SVCE finds that Service Provider is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement SVCE may promptly cease all disclosures of Confidential Information to Service Provider. Service Provider further understands that if SVCE receives a customer complaint about Service Provider's misuse of data or other violation of the Disclosure Provisions, SVCE may promptly cease disclosing that customer's information to Service Provider and may notify the California Public Utilities Commission ("CPUC") of the complaint.
- 14.6 CPUC Compliance. Service Provider shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.
- 14.7 [UNDER NEGOTIATION]
- 14.8 SVCE's Right to Termination for Deficiencies. SVCE reserves the right, at its sole election, to immediately terminate this Agreement (with respect to some or all of the Scopes) without limitation and without liability if SVCE reasonably determines that Service Provider fails or has failed materially to meet its obligations under this Section 14.8 and such breach is not cured, or the Service Provider is not diligently pursuing a cure to SVCE's sole satisfaction, within thirty (30) days after receiving written notice of such failure.
15. Proprietary Rights.
- 15.1 Pre-existing Materials. SVCE acknowledges that, in the course of performing the Services, Service Provider may use software and related processes, instructions, methods, and techniques that have been previously developed by Service Provider (collectively, the "Pre-existing Materials," which shall include the Services) and that the same shall remain the sole and exclusive property of Service Provider.
- 15.2 No License. Except as expressly set forth herein, including in Section 3, no license is granted by either Party to the other with respect to the Confidential Information or Pre-existing Materials.

Nothing in this Agreement (or any Scope) shall be construed to grant to either Party any ownership or other interest, in the Confidential Information or Pre-existing Materials, except as may be provided under a license specifically applicable to such Confidential Information or Pre-existing Materials.

15.3 Reports.

15.3.1 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 Service Provider pursuant to or in connection with this Agreement, shall be the exclusive property of SVCE. Service Provider shall not copyright any Report required by this Agreement and shall on request, and at SVCE expense execute appropriate documents to assign to SVCE the copyright to Reports created pursuant to this Agreement. Any Report, information and data (other than Resulting Data) acquired or required by this Agreement shall become the property of SVCE, and all publication rights are reserved to SVCE. Service Provider may retain a copy of any Report furnished to the SVCE pursuant to this Agreement.

15.3.2 All Reports prepared by Service Provider may be used by SVCE in execution or implementation of: (1) the original project for which Service Provider was hired; (2) completion of the original project by a Successor Service Provider; (3) subsequent additions to the original project; and/or (4) other SVCE projects as SVCE deems appropriate in its sole discretion.

15.3.3 No Report, information or other data given to or prepared or assembled by Service Provider pursuant to this Agreement that has not been publicly released shall be made available to any individual or organization by Service Provider without prior approval by SVCE, other than as permitted pursuant to Section 13.2, and as described in Sections 13.1(E) and (F).

15.3.4 SVCE 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 Service Provider prior to termination of this Agreement or upon completion of the work pursuant to this Agreement.

16. Indemnification; Limitation of Liability; Insurance.

General Indemnification. Service Provider agrees to indemnify, defend, and hold harmless SVCE and its elected officials, officers, directors, agents, attorneys and employees (each, an "Indemnitee") from and against any and all liabilities, damages, losses, expenses, claims, demands, suits, fines, or judgments (each, a "Claim," and collectively, the "Claims"), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to, or recoverable from any Indemnitee, by reason of any Claim arising out of or relating to: (a) bodily injury (including death) or damage to tangible personal or real property caused by Service Provider's performance hereunder, provided any such Claim is brought by a third party; (b) any payment required to be paid to subcontractors, if any, of Service Provider, provided any such Claim is brought by a third party; (c) any material misrepresentation or breach of warranty set forth in this Agreement; (d) any destruction, or unauthorized access, use, or theft of SVCE Data (collectively, "Cyber Theft"), to the extent arising out of or relating to Service Provider's breach of any covenant set forth in this Agreement, provided, however, that Service Provider's liability for Cyber Theft shall be limited to the cyber liability insurance policy limits set forth in Section 16.5; and/or, (e) any other material breach of any covenant set forth in this Agreement not covered by the foregoing clauses (a) - (d) provided any such Claim is brought by a third party; provided, however, that the foregoing indemnity shall not apply to the extent that the applicable Claim was caused by an Indemnitee.

- 16.1 Proprietary Rights Indemnification. Service Provider agrees to indemnify, defend, and hold harmless Indemnitees from and against any and all Claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to, or recoverable from any Indemnatee, by reason of any Claim arising out of or relating to the Services allegedly or actually infringing or misappropriating any United States or foreign patent, copyright, trade secret, trademark, or other proprietary right. In the event that Service Provider is enjoined from providing the Services and such injunction is not dissolved within thirty (30) calendar days, or in the event that SVCE is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any patent, copyright, trade secret, trademark, or other proprietary right in the access or use of the Services, then Service Provider shall, at its expense: (a) obtain for SVCE the right to continue using such Services; (b) replace or modify such Services so that they do not infringe upon or misappropriate such proprietary right and is free to be used by SVCE; or, (c) in the event that Service Provider is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Service Provider shall reimburse to SVCE any prepaid Service Fees and the full cost associated with any Transition Services.
- 16.2 Indemnification Procedures. Promptly after receipt by SVCE of a threat, notice, or filing of any Claim against an Indemnatee, SVCE shall give notice thereof to Service Provider, provided that failure to give or delay in giving such notice shall not relieve Service Provider of any liability it may have to the Indemnatee except to the extent that Service Provider demonstrates that the defense of the Claim is prejudiced thereby. Service Provider shall have sole control of the defense and of all negotiations for settlement of a Claim and SVCE shall not independently defend or respond to a Claim; provided, however, that: (a) SVCE may defend or respond to a Claim, at Service Provider's expense, if SVCE's counsel determines, in its sole discretion, that such defense or response is necessary to preclude a default judgment from being entered against an Indemnatee; and, (b) SVCE shall have the right, at its own expense, to monitor Service Provider's defense of a Claim. At Service Provider's request, SVCE shall reasonably cooperate with Service Provider in defending against or settling a Claim; provided, however, that Service Provider shall reimburse SVCE for all reasonable out-of-pocket costs incurred by SVCE (including, without limitation, reasonable attorneys' fees and expenses) in providing such cooperation.
- 16.3 Third-Party Beneficiaries. Nothing, express or implied, in this Agreement (or any Scope, unless expressly provided therein) is intended to benefit, or to create or be construed to create any rights of enforcement in any persons or entities who are neither signatories to this Agreement nor Indemnitees (nor, in relation to a specific Scope, such Scope).
- 16.4 LIMITATION OF LIABILITY. NOTWITHSTANDING ANY OTHER PROVISION SET FORTH HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, AND / OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (OR ANY SCOPE); PROVIDED, HOWEVER, THAT THE FOREGOING EXCULPATION OF LIABILITY SHALL NOT APPLY WITH RESPECT TO (I) DAMAGES INCURRED AS A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY, (II) DAMAGES INCURRED AS A RESULT OF A PARTY'S BREACH OF ITS OBLIGATIONS OF CONFIDENTIALITY OR CYBER SECURITY, OR (III) SERVICE PROVIDER'S INDEMNIFICATION OBLIGATIONS, PROVIDED THAT IN THE CASE OF CLAUSE (II) RELATING TO DATA BREACHES OR OTHER CYBER SECURITY LIABILITY, THE LIABILITY OF A PARTY SHALL NOT EXCEED THE AMOUNT OF THE APPLICABLE INSURANCE LIMITS SET FORTH IN SECTION 16.7. A PARTY SHALL BE LIABLE TO THE OTHER FOR ANY DIRECT DAMAGES ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT (OR ANY SCOPE); PROVIDED, HOWEVER, THAT EXCEPT AS OTHERWISE SPECIFICALLY NOTED IN SECTION 16.1, THE LIABILITY OF A PARTY, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, EQUITY, NEGLIGENCE, TORT, OR OTHERWISE FOR ALL EVENTS, ACTS, OR OMISSIONS UNDER THIS AGREEMENT (OR ANY SCOPE) SHALL NOT EXCEED [UNDER NEGOTIATION], AND PROVIDED, FURTHER, THAT THE

FOREGOING LIMITATIONS SHALL NOT APPLY TO: (A) DAMAGES INCURRED AS A RESULT OF A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; (B) DAMAGES INCURRED AS A RESULT OF A PARTY'S BREACH OF ITS OBLIGATIONS OF CONFIDENTIALITY; OR (C) SERVICE PROVIDER'S INDEMNIFICATION OBLIGATIONS, AS FURTHER DESCRIBED IN THIS AGREEMENT.

- 16.5 Insurance. Unless otherwise approved in writing by SVCE's risk manager, Service Provider shall, at its own expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts as follows, with responsible insurance carriers duly admitted and qualified in California covering the operations of Service Provider, pursuant to this Agreement: commercial general liability (\$1,000,000 per occurrence, \$2,000,000 aggregate); excess liability (\$2,000,000 per occurrence, \$2,000,000 aggregate); workers' compensation (statutory limits) and employers' liability (\$500,000 per accident); cyber liability [UNDER NEGOTIATION], providing protection against claims and liabilities arising from: (i) errors and omissions in connection with maintaining security of SVCE Data; (ii) data breach including theft, destruction, and/or unauthorized use of SVCE Data; (iii) identity theft; and (iv) violation of privacy rights due to a breach of SVCE Data; and professional liability (\$1,000,000 per occurrence, \$1,000,000 aggregate). Any of the foregoing policy limits shall be subject to reasonable modification by the SVCE's risk manager upon thirty (30) days prior, written notice to Service Provider, and at any time prior to commencement of the Services.

17. General.

- 17.1 Relationship between SVCE and Service Provider. Service Provider represents and warrants that it is an independent contractor with no authority to contract for SVCE or in any way to bind or to commit SVCE to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of SVCE. Under no circumstances shall Service Provider, or any of its staff, if any, hold itself out as or be considered an agent employee, joint venture, or partner of SVCE. In recognition of Service Provider's status as an independent contractor, SVCE shall carry no Workers' Compensation insurance or any health or accident insurance to cover Service Provider or Service Provider's agents or staff, if any. SVCE shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, nor provide any other contributions or benefits which might be expected in an employer-employee relationship. Neither Service Provider nor its staff, if any, shall be eligible for, participate in, or accrue any direct or indirect benefit under any other compensation, benefit, or pension plan of SVCE.
- 17.2 Governing Law. This Agreement and each Scope shall be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America. Service Provider hereby consents and submits to the jurisdiction and forum of the state and federal courts in the County of Santa Clara, State of California, in all questions and controversies arising out of this Agreement or any Scope.
- 17.3 Attorneys' Fees and Costs. In any arbitration, litigation, or other proceeding, informal or formal, by which one Party either seeks to enforce this Agreement or a Scope or seeks a declaration of any rights or obligations under this Agreement or Scope, the non-prevailing Party shall pay the prevailing Party's costs and expenses, including but not limited to, reasonable attorneys' fees.
- 17.4 Compliance with Laws; SVCE Policies and Procedures. Service Provider agrees to comply with all applicable federal, state, and local laws, executive orders and regulations issued, where applicable. Service Provider shall comply with SVCE policies and procedures where the same are posted, conveyed, or otherwise made available to Service Provider.
- 17.5 Cooperation. Where agreement, approval, acceptance, consent or similar action by either Party hereto is required by any provision of this Agreement or Scope, such action shall not be unreasonably delayed or withheld. Each Party will cooperate with the other by, among other things,

making available, as reasonably requested by the other, management decisions, information, approvals, and acceptances in order that each Party may properly accomplish its obligations and responsibilities hereunder, subject to such Party's need to comply with confidentiality provisions as set forth in Section 13. Without limiting the foregoing, Service Provider shall, at SVCE's cost, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested in order for SVCE to comply with CPUC, California Energy Resources Conservation and Development Commission ("CEC"), and/or California Independent System Operator ("CAISO") requirements applicable to SVCE's intended use of the Services where such cost has not been included in the relevant Scope. Service Provider will, at SVCE's cost, cooperate with any SVCE supplier performing services, and all parties supplying hardware, software, communication services, and other services and products to SVCE, including, without limitation, the Successor Service Provider. Service Provider agrees, at SVCE's cost, to cooperate with such suppliers, and shall not commit or permit any act which may interfere with the performance of services by any such supplier.

- 17.6 Force Majeure; Excused Performance. Neither Party shall be liable for delays or any failure to perform the Services or this Agreement due to Force Majeure. As used herein, "Force Majeure" 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 commercially 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. Such Force Majeure events may include fire, explosion, flood or other natural catastrophe, pandemic, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, and failures in communication lines and routes not under a Party's control. Any such excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed Party. However, the delayed Party shall use commercially reasonable efforts to minimize the delays caused by any Force Majeure event. Where Service Provider fails to use commercially reasonable efforts to minimize such delays, the delays shall be included in the determination of Service Level Standard achievement for the applicable Scope. The delayed Party must notify the other Party promptly upon the occurrence of any such event, or performance by the delayed Party will not be considered excused pursuant to this Section, and inform the other Party of its plans to resume performance. A Force Majeure event does not excuse Service Provider from providing Services and fulfilling its responsibilities relating to the requirements of backup and recovery of SVCE Data. In no event shall any of the following constitute a Force Majeure event: (a) failure, inadequate performance, or unavailability of Service Provider's subcontractors, unless their failure, inadequate performance or unavailability is itself due to a Force Majeure event; (b) configuration changes, other changes, Viruses, or other errors or omissions introduced, or permitted to be introduced, by Service Provider that result in an outage or inability for SVCE to access or use the Services unless such event is caused as a result of the gross negligence or willful misconduct of SVCE; or (c) economic conditions that render a Party's performance of this Agreement unprofitable or otherwise uneconomic. Within thirty (30) calendar days following the Effective Date and on an annual basis thereafter until the termination of this Agreement, Service Provider shall provide its then-current business continuity plan ("Business Continuity Plan") to SVCE upon SVCE's request. The Business Continuity Plan shall include: (a) Services and SVCE Data backup and recovery procedures, including procedures and resources for disaster recovery; (b) fail-over procedures; and, (c) how Service Provider will interact with its business continuity suppliers, if any. Service Provider shall test its Business Continuity Plan on an annual basis in line with the renewal of ISO 27001 certification, until the termination of this Agreement and shall provide the test results to SVCE upon SVCE's request.
- 17.7 Advertising and Publicity. Service Provider shall not refer to SVCE directly or indirectly in any advertisement, news release, or publication, or use any SVCE logo, seal or mark, without prior written approval from SVCE.

- 17.8 No Waiver. The failure of either Party at any time to require performance by the other Party of any provision of this Agreement (or Scope) shall in no way affect that Party's right to enforce such provisions, nor shall the waiver by either Party of any breach of any provision of this Agreement (or Scope) be taken or held to be a waiver of any further breach of the same provision.
- 17.9 Notices. Any notice given pursuant to this Agreement (or any Scope) shall be in writing and shall be given by personal service or by United States certified mail, return receipt requested, postage prepaid, or by email to the addresses appearing at the end of this Agreement, or as changed through written notice to the other Party. Notice given by personal service shall be deemed effective on the date it is delivered to the addressee, and notice mailed shall be deemed effective on the third day following its placement in the mail addressed to the addressee. Notice given by email shall be deemed effective on the next Business Day following transmission.
- 17.10 Assignment of Agreement (and Scope). This Agreement (and any applicable Scope) and the obligations of Service Provider hereunder are personal to Service Provider. Neither Service Provider nor any successor, receiver, or assignee of Service Provider shall directly or indirectly assign this Agreement (or applicable Scope) or the rights or duties created by this Agreement (or such Scope), without the prior written consent of SVCE, which consent shall not be unreasonably conditioned, delayed, or withheld, whether such assignment is to an affiliate or effected in connection with a sale of Service Provider's assets or stock or through merger, an insolvency proceeding or otherwise. In the case of an assignment by Service Provider, Service Provider represents and warrants that it has all requisite rights and power to transfer any agreements or other rights with third-parties whose software is incorporated into the Services or who are necessary for the performance and use of the Services. SVCE, at SVCE's sole election, may assign any and all of its rights and obligations under this Agreement to any company that succeeds to substantially all of SVCE's business.
- 17.11 Counterparts; Facsimile/PDF/Electronic Signature. This Agreement (and each Scope) may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement (or Scope, as applicable). The Parties agree that a facsimile, PDF or electronic signature may substitute for and have the same legal effect as the original signature.
- 17.12 Entire Agreement. This Agreement, together with each Scope, and any and all attached addenda, schedules and exhibits, each of which is incorporated by reference herein, constitute the entire agreement between the Parties and supersede any and all previous representations, understandings, or agreements between SVCE and Service Provider as to the subject matter hereof. No representation or promise not expressly set forth herein shall be binding. The provisions of each Scope shall govern over any inconsistent or conflicting provisions contained in this Agreement. This Agreement and each Scope may only be amended by an instrument in writing signed by the Parties. This Agreement and each Scope 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.
- 17.13 Cumulative Remedies. All rights and remedies of each Party herein (and each Scope) shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance against the other Party for the enforcement of this Agreement (and each Scope), and temporary and permanent injunctive relief.
- 17.14 No Recourse against Constituent Members of Authority. SVCE is organized as a Joint Powers SVCE in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016 and is a public entity separate from its constituent members. SVCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Service Provider shall have no rights and shall not make any claims, take any actions or assert any remedies against any of SVCE's constituent members in connection with this Agreement.

- a. Section 504 of the Rehabilitation Act of 1973. Service Provider shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.
 - b. Employee Benefits. With respect to the provision of benefits to its employees, Service Provider shall ensure that employee benefits provided to employees with domestic partners are the same as those provided to employees with spouses.
 - c. Discrimination Against Individuals with Disabilities. The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Service Provider and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.
- 17.15 Conflict Of Interest. Service Provider warrants that it, its officers, employees, associates and subcontractors, presently have no interest, and will not acquire any interest, direct or indirect, financial or otherwise, that would conflict in any way with the performance of this Agreement, and that it, its officers, employees, associates and subcontractors, will not employ any person having such an interest. Service Provider and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Service Provider's services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Service Provider may perform similar services for other clients, but Service Provider and its officers, employees, associates and subcontractors shall not, without the SVCE Representative's prior written approval, perform work for another person or entity for whom Service Provider is not currently performing work that would require Service Provider or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Service Provider shall incorporate a clause substantially similar to this Section into any subcontract that Service Provider executes in connection with the performance of this Agreement. Service Provider understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Service Provider to make certain governmental decisions or serve in a staff SVCE, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.
- 17.16 Severability. If any provision in this Agreement (or any Scope) 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.
- 17.17 Final Payment Acceptance Constitutes Release. The acceptance by Service Provider of the final payment made under this Agreement shall operate as and be a release of SVCE from all claims and liabilities for compensation to Service Provider for anything done, furnished or relating to Service Provider's work or services. Acceptance of payment shall be any negotiation of SVCE'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 SVCE shall not constitute, nor be deemed, a release of the responsibility and liability of Service Provider, 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 SVCE for any defect or error in the work prepared by Service Provider, its employees, subcontractors and agents.
- 17.18 SVCE's Rights to Employ Other Consultants. SVCE reserves the right to employ other consultants in connection with the subject matter of the Services.

- 17.19 Captions and Terms. The captions in this Agreement (and any Scope) are for convenience only, are not a part of the Agreement (or Scope) and in no way affect, limit or amplify the terms or provisions of this Agreement (or Scope).
- 17.20 Successors and Assigns. The terms and conditions of this Agreement shall be binding on the successors and assigns of the Parties to this Agreement.
- 17.21 Survival. The following sections shall survive the termination or expiration of this Agreement or any Scope: Section 4.2, Section 4.3, Section 4.5, Section 8.4, Section 9, Section 10.3, Section 10.4, Section 10.6, Section 12.1, Section 12.3, Section 12.6, Section 13, Section 15, Sections 0 - 16.4, Section 17.

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

RECOMMENDED FOR APPROVAL

Enter Your Name, Enter Your Title

APPROVED AS TO FORM

SILICON VALLEY CLEAN ENERGY (SVCE)

By:
Name:
Title:
Date:

Address for Notice:

LUNAR ENERGY LIMITED (SERVICE PROVIDER)

By:
Name: Ed Franklin
Title: General Manager
Date:

Address for Notice: % Lunar Energy, Inc., 755 Ravendale Drive, Mountain View, CA 94043

Email for Notice: EdF@lunarenergy.com cc legal@lunarenergy.com

Draft Contract with Lunar Energy Ltd. - Description of Contract Scopes

Governed by a **Main Service Agreement** (MSA) with Lunar Energy will be four contract Scope attachments as outlined below. These include a Distributed Energy Resource Management System (DERMS) and related support services. Services definition and structure, key deliverables, general service level obligations, and costs associated with the initial contract have been agreed upon. Detailed terms and conditions are in the process of final negotiation. Upon finalization by SVCE and Lunar Energy, the MSA and four contract Scopes will be signed as a single agreement.

Scope	Title / Description	Key Elements
1	DERMS Platform Software and operational support services for a Distributed Energy Resource Management System, utilized to manage customer-sited devices enrolled in SVCE-sponsored demand flexibility programs	• Gridshare DERMS Platform functions, tasks, and deliverables • Operations services tasks and deliverables • DER program administration services tasks and deliverables • Service level standards and performance credits • Fixed and capacity-based fee structure
2	SVCE-Administered Programs Establishes a framework and statement of work template for onboarding specific device types to the DERMS platform for control and optimization, from customers participating in current and past SVCE-led electrification incentive and rebate programs.	Template with definitions/instructions needed for onboarding SVCE-originated customer devices to the DERMS Platform, e.g. • Customer and device eligibility criteria • Device integration • Dispatch parameters • Performance metrics for reporting • Measurement and verification • Program-specific service levels • Budget/capacity forecasting per Scope 1
3	Load Modification Agreement Establishes an enabling agreement for future procurement of Load Modifying capacity from Lunar Energy, sourced by Lunar Energy from existing battery installations in SVCE's service area, via third-party aggregators, operators and original equipment manufacturers (OEMs).	• Portfolio development/recruitment • Portfolio operational characteristics and reporting • Form for procurement term, qualifying capacity and associated contract price • Operations • Dispatch • Measurement and verification • Service levels and performance assurance
4	Vendor-Administered Programs Residential Energy Storage Program Design Development of a program design manual for a new, large-scale incentive program for residential battery installation and enrollment	• Customer/SVCE grid service value modeling • Dispatch strategy /asset optimization design • Approved vendor list and technical requirements • Measurement and verification setup and baseline design

	in a DERMS-supported demand flexibility program, for customers in SVCE's service area.	• Customer recruitment, marketing, outreach • Program incentive design and budgeting

DRAFT



Staff Report – Item 5

Item 5: Adopt Resolution to End SVCE’s “E-ELEC 1.0” Electrification Discount Rate Pilot Program and Establish the “E-ELEC 2.0” Rate Pilot Program with Dedicated Funding

From: Monica Padilla, CEO

Prepared by: Peter Mustacich, Technical Manager of Decarbonization Planning and Strategy
Justin Zagunis, Director of Customer Success

Date: 5/14/2025

RECOMMENDATION

Request the Silicon Valley Clean Energy (SVCE) Board of Directors (Board) adopt Resolution 2025-12 to:

1. Authorize the termination of the E-ELEC Rate Pilot Program (“E-ELEC 1.0”) effective July 1, 2025;
2. Following the required rate change notification period, authorize the transfer of currently enrolled E-ELEC 1.0 Rate Pilot Program customers to the default E-ELEC rate;
3. Establish the “E-ELEC 2.0” Rate Pilot Program with a budget of \$3.5M to better meet the goals of the original E-ELEC 1.0 Rate Pilot Program; and
4. Authorize the release of the remaining \$4.5M from the E-ELEC 1.0 Rate Pilot Program budget to the general program budget.

EXECUTIVE COMMITTEE RECOMMENDATION

At the April 22, 2025 Executive Committee meeting, SVCE staff presented an update on the current status of the E-ELEC 1.0 Rate Pilot Program, including learnings and recommendations for improving the rate pilot structure to better meet the program goals. The Executive Committee supported staff’s recommendation to end the current version of the rate pilot program (“E-ELEC 1.0”), adopt a new rate pilot program (“E-ELEC 2.0”) with a budget of \$3.5M, and to release the remaining program budget to the general decarbonization fund.

BACKGROUND

In December of 2022, the SVCE Board established by Resolution No. 2022-38 the E-ELEC (“Electric Home”) residential rate mirroring PG&E’s new rate established December 1, 2022. Qualification for the E-ELEC rate includes owning and operating a heat pump space or water heater, an energy storage system (ESS), and/or an electric vehicle (EV). The E-ELEC rate follows a time-of-use (TOU) structure similar to the EV-2A rate, which includes a daily schedule of Peak (4-9pm), Partial-Peak (3-4pm and 9pm-12am), and Off-Peak (12am-3pm) periods. The E-ELEC rate is currently only available to non-NEM customers, to be reevaluated by PG&E later this year as part of an E-ELEC Phase 2 rate release. Currently SVCE defers to PG&E for customer eligibility in the E-ELEC rate.

In December 2022, the SVCE Board approved \$9.5M for an electrification discount, referred to in this report as the E-ELEC 1.0 Rate Pilot Program. This was intended to support decarbonization of existing homes by reducing potential on-bill impacts of electrifying major gas-fired appliances. As part of the December 2022 resolution, a 10% SVCE generation rate discount was implemented on the E-ELEC rate beginning January 1, 2023. Staff informed the Board at the time of adoption that they intended to revisit the E-ELEC discount structure in order to explore further alignment with SVCE’s decarbonization objectives.

Agenda Item: 5**Agenda Date: 5/14/2025**

In April 2023, the SVCE Board voted to modify the structure of the E-ELEC 1.0 Rate Pilot program to better accomplish the primary goals of the program, specifically a) to reduce customer bills from home electrification, and b) to encourage load shifting to align behavioral-driven usage with periods of lower grid emissions. To accomplish this, the Board approved a generation discount design of generation rates 30% lower than PG&E's generation rates during Off-Peak summer and winter time-of-use periods, 10% higher than PG&E's generation rates during Peak summer and winter time-of-use periods, and with no deviation (0%) from PG&E's generation rates during Partial-Peak summer and winter time-of-use periods.

ANALYSIS & DISCUSSION**Program Overview**

Since launching in January 2023, SVCE's E-ELEC Pilot Rate Program currently has over 5,300 enrolled customers. Customers who enroll in the E-ELEC rate through PG&E are automatically enrolled by SVCE in the E-ELEC 1.0 Rate Pilot Program for the generation portion of their bill. To qualify for PG&E's opt-in E-ELEC residential rate, customers must demonstrate eligibility by providing PG&E proof of owning an EV, heat pump, and/or standalone battery storage system.

At the time of the E-ELEC 1.0 Pilot Rate design, approval, and implementation PG&E did not allow net energy metering (NEM) customers to enroll in the E-ELEC rate. This changed over time, first with PG&E allowing NEM 1.0 and 2.0 customers to enroll in E-ELEC (effective April 2023), then with PG&E making E-ELEC the default rate for new Solar Billing Plan (SBP, also referred to as "NEM 3.0") customers (effective April 2024).

SVCE performs monthly monitoring and tracking of customer discounts and performance on the rate pilot program, serving the dual purpose of learning from the program as well as monitoring to ensure customers weren't experiencing significant bill increases due to the structure of the pilot rate design. On average, SVCE customers are saving \$15 per month beyond what they would be paying on PG&E's E-ELEC rate, with less than 5% of customers at risk of experiencing bill increases.

Design of the E-ELEC 2.0 Rate Pilot Program

Through ongoing tracking and customer engagement it has become clear that the current E-ELEC 1.0 Pilot Rate Program is not meeting the desired goals. Thus, staff is recommending closing the current pilot in order to launch the updated E-ELEC 2.0 Rate Pilot Program which has been designed to better achieve the pilot program goals, including:

1. To reduce bill impacts of home electrification, and
2. To incentivize behavior-driven load shifting to periods of lower grid emissions

The following table addresses the four major learnings from the E-ELEC 1.0 Rate Pilot Program, their relation to the program goals described above, and the E-ELEC 2.0 Rate Pilot design updates to address these issues:

E-ELEC 1.0 Key Learning	Relation to Program Goal	E-ELEC 2.0 Design Update
80% of enrolled customers are EV owners rather than heat pump owners.	Program was intended to reduce costs of home electrification, specifically heat pump space and water heaters. EV owners have access to the EV-2 residential rate which generally provides comparable bill savings for home EV charging without being subsidized through a pilot program budget.	Require proof of ownership of both a heat pump space and water heater to qualify for the program.
Could not correlate behavior-driven load	Program was intended to incentivize shifting out of Peak (4-9pm) periods and into Off-Peak (midnight – 3pm)	Introduce a new daily Time-of-Use (TOU) period referred to as the Super-Off-Peak period between the hours of

Agenda Item: 5**Agenda Date: 5/14/2025**

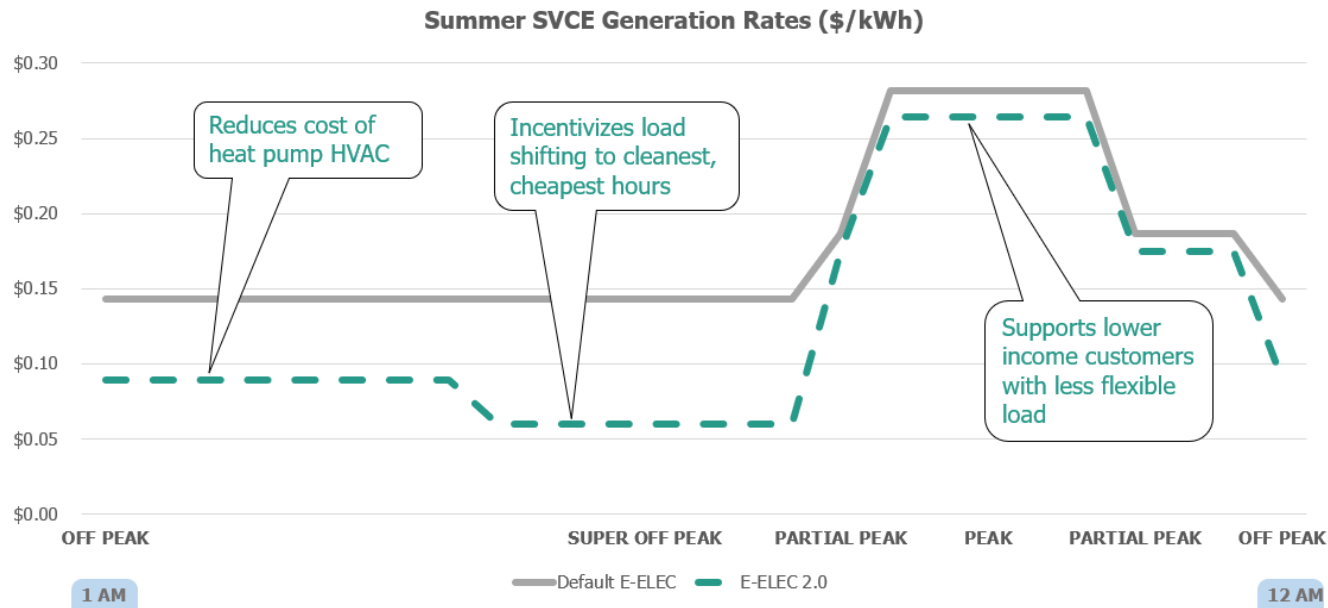
E-ELEC 1.0 Key Learning	Relation to Program Goal	E-ELEC 2.0 Design Update
shift with the pilot rate design.	periods. However, with the high volume of EV owners most customer load profiles reflected maximum energy usage around 1am when EVs are most commonly charging. Because this usage was already in the lowest cost Off-Peak period, there was no further incentive to shift usage to periods of lowest grid emissions (typically 9am to 3pm daily).	9am to 3pm daily, with the largest generation discount applied during this period to incentivize behavior-driven load shift. This better aligns with the cheapest, cleanest hours on the grid, and shifting load to this period helps reduce SVCE compliance and procurement costs which ultimately helps reduce costs for all customers, even those on other rates.
Customer awareness of our rate pilot program was low, even for enrolled customers participating in the rate.	Customer engagement was a central plan in meeting our goal to encourage behavior-driven load shifting. With low awareness of our rate design, our ability to dialogue with customers and educate around the benefits of load shifting were greatly impeded, and most messaging focused on general awareness of what our rate pilot program is. Additionally, customers reported difficulty understanding and contextualizing savings from participating in the rate pilot, even after reviewing their bills in detail.	SVCE will control pilot rate enrollment directly. Any qualifying customer will be able to enroll in the default E-ELEC residential rate through PG&E and will be automatically placed on SVCE's default E-ELEC rate at the same generation discount as all other residential rates (e.g., 4%). To enroll in the E-ELEC 2.0 Rate Pilot Program, customers already on the default E-ELEC rate must then apply to SVCE and prove they meet program eligibility requirements. By controlling enrollment, SVCE will have an established dialogue with customers from day one of participating in the rate pilot program, and customers will be fully aware of the program they are enrolling in. Additionally, if approved SVCE will spend several months before launching the E-ELEC 2.0 Rate Pilot Program designing tools and processes to better support and inform customers around their performance in the pilot, including savings they have earned, tips to increase future savings, and general education about household energy usage.
Studies have increasingly shown that low-income customers have flatter loads (meaning less variation between the highest and lowest amounts of energy consumed throughout the day) and less ability to implement behavior-	The rate pilot program was intended to benefit all customers. While very few customers saw any increase in bills due to the rate pilot program (less than 3%), the E-ELEC 1.0 rate structure included an increase in the cost of electricity during Peak periods relative to PG&E's generation rates, which may disproportionately reduce bill savings for low-income customers.	The generation rate structure has been modified to provide customer discounts at all times of day relative to PG&E, guaranteeing savings for all participating customers compared to the default E-ELEC rate, regardless of when or how they use energy. This will enable SVCE to help low-income customers enroll in the E-ELEC 2.0 Rate Pilot Program immediately after participating in our Full-Service Home Upgrade program and receiving free home electrification

Agenda Item: 5

Agenda Date: 5/14/2025

E-ELEC 1.0 Key Learning	Relation to Program Goal	E-ELEC 2.0 Design Update
driven load shift in their daily lives.		services, ensuring they maximize bill savings moving forward.

The following graph compares the E-ELEC 2.0 generation rate to default E-ELEC rate, with comments highlighting the significance and rationale for the design structure:



The table below compares the generation rate discount for E-ELEC 1.0 Rate Pilot Program (crossed out by the red "X"), the default E-ELEC rate, and the E-ELEC 2.0 Rate Pilot Program.

			E-ELEC 1.0 (Current)	E-ELEC (default)	E-ELEC 2.0 Rate Pilot
Winter	Super-Off-Peak	9a-3p	-30%	-4%	-60%
	Off-Peak	12-9a	-30%	-4%	-30%
	Partial-Peak	3-4p & 9p-12a	0%	-4%	-10%
	Peak	4-9p	+10%	-4%	-10%
Summer	Super-Off-Peak	9a-3p	-30%	-4%	-60%
	Off-Peak	12-9a	-30%	-4%	-30%
	Partial-Peak	3-4p & 9p-12a	0%	-4%	-10%
	Peak	4-9p	+10%	-4%	-10%

Note: Negative means "cheaper than PG&E", positive means "more expensive".

Agenda Item: 5**Agenda Date: 5/14/2025**

The following table shows the specific generation rate components e, which includes both the Power Charge Indifference Adjustment (PCIA) and the Franchise Fee Surcharge (FFS):

			E-ELEC 1.0 (Current)	E-ELEC (default)	E-ELEC 2.0 Rate Pilot
Winter	Super-Off-Peak	9a-3p	\$0.06851	\$0.09396	\$0.03915
	Off-Peak	12-9a	\$0.06851	\$0.09396	\$0.06851
	Partial-Peak	3-4p & 9p-12a	\$0.11122	\$0.10677	\$0.10010
	Peak	4-9p	\$0.14431	\$0.12594	\$0.11807
Summer	Super-Off-Peak	9a-3p	\$0.10438	\$0.14315	\$0.05964
	Off-Peak	12-9a	\$0.10438	\$0.14315	\$0.10438
	Partial-Peak	3-4p & 9p-12a	\$0.19421	\$0.18644	\$0.17479
	Peak	4-9p	\$0.32265	\$0.28159	\$0.26399

Planned Timing and Approach**E-ELEC 1.0 Rate Pilot Program Closure:**

If this recommendation is approved by the Board, SVCE will begin closing the pilot rate program. SVCE will provide customers 30 days written notification of closure of the rate pilot program, effective on or after July 1, 2025, at which time all enrolled customers will be transferred to the default E-ELEC rate at SVCE's standard residential rate discount. There will be no impact to their rate enrollment on PG&E's end and minimal customer disruption is anticipated in this process.

E-ELEC 2.0 Rate Pilot Program Design and Implementation:

If this recommendation is approved by the Board, staff will spend the remainder of the calendar year setting up the administrative and marketing structures necessary to implement the updated pilot. Staff anticipates launching the updated pilot in January 2026. This time period will allow SVCE to perform the following actions:

- Work with billing service provider to set up new TOU rate structure and discount design
- Coordinate data transmission process from PG&E to billing service provider to accommodate new TOU period
- Establish enrollment process including refining qualifications, generating enrollment forms or portals, and creating workflow for communicating enrollments and un-enrollments with billing service provider
- Evaluate data tools and processes required to track and monitor customer performance, including resources required to accomplish regular customer tracking and report (which may include hiring a consultant or additional SVCE staff member)
- Develop thorough customer messaging and engagement strategies and materials, from awareness and recruitment to regular performance check-ins to education and additional engagement opportunities
- Develop an ongoing measurement and verification (M&V) strategy to leverage ongoing learnings from administering the pilot rate program, including analyzing customer usage, quantifying behavior-driven load shift, evaluating trends in customer demographics and discount levels, and monitoring impact to SVCE net revenue to inform future rates and help move towards a scalable (non-pilot) version of the rate in future iterations.

E-ELEC Pilot Program Budget Update

Of the allocated \$9.5M for the E-ELEC 1.0 Pilot Rate Program, \$8.0M of the budget remains (roughly 85%) after two years of administering the pilot rate program. Staff recommends that \$3.5M of the remaining budget

Agenda Item: 5**Agenda Date: 5/14/2025**

be allocated to the proposed E-ELEC 2.0 Rate Pilot Program, with the remaining \$4.5M released to the programs fund.

Allocating \$3.5M to establish the E-ELEC 2.0 Rate Pilot Program will provide an estimated \$2.5M in direct customer bill savings, supporting up to 5,000 customers over a period of five years (assuming linear enrollment growth). The additional budget will support the implementation the new rate structure.

Staff is recommending the remaining \$4.5M from the E-ELEC 1.0 budget be released to the general program budget to support other decarbonization efforts.

STRATEGIC PLAN

Rate pilot programs to reduce customer bills from electrification is directly supported by SVCE Strategic Plan Goal 7 – “Support all SVCE communities to decarbonize through local investments that reduce barriers and demonstrate sensible, scalable, and equitable solutions”. Additionally, the level of customer education and communication included in the rate pilot program design support Goal 8 – “Engage customers and community stakeholders to build trust of SVCE and advance decarbonization”.

ALTERNATIVE

Not adopting the proposed resolution would result in SVCE continuing to offer the E-ELEC 1.0 Rate Pilot Program in its current format. With 85% of the approved budget remaining, it is anticipated SVCE could continue offering the pilot rate program as-is through the end of 2027. Given the lack of realized goals, staff does not recommend this alternative.

FISCAL IMPACT

The Board’s approval of the proposed Resolution will not have a fiscal impact as the funds are already accounted for in the existing budget and financial forecasts.

ATTACHMENT

1. Resolution 2025-12, Approving ending SVCE’s “E-ELEC 1.0” Rate Pilot Program and Establishing the “E-ELEC 2.0” Rate Pilot Program with Dedicated Funding

SILICON VALLEY CLEAN ENERGY AUTHORITY

RESOLUTION NO. 2025-12

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY APPROVING ENDING THE “E-ELEC 1.0” HOME ELECTRIFICATION RATE PILOT PROGRAM AND ESTABLISHING THE “E-ELEC 2.0” RATE PILOT PROGRAM WITH DEDICATED FUNDING

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

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

WHEREAS, on December 14, 2022, the Board of Directors adopted Resolution No. 2022-38 approving establishing an E-ELEC (“Electric Home”) residential rate to correspond with PG&E’s new rate; and

WHEREAS, on December 14, 2022, the Board of Directors adopted Resolution No. 2022-39 approving \$9.5M for an electrification discount, to be commenced January 1, 2023 as a 10% discount to the E-ELEC residential rate, but which staff would reevaluate in 2023; and

WHEREAS, on April 12, 2023, the Board of Directors adopted Resolution No. 2023-07 approving amendment of the E-ELEC generation discount of 10% to establish generation rates 30% lower than PG&E’s generation rates during Off-Peak summer and winter time-of-use periods, 10% higher than PG&E’s generation rates during Peak summer and winter time-of-use rates, and with no deviation (0%) from PG&E’s generation rates during Partial-Peak summer and winter time-of-use periods, effective May 1, 2023; and

WHEREAS by establishing the E-ELEC 2.0 Rate Pilot Program SVCE will help reduce customers’ monthly electricity bills for homes with heat pump technology while incentivizing behavior-driven load shift to hours when the California electric grid is cheapest and cleanest, thereby helping reduce SVCE’s regulatory compliance costs to ultimately reduce system costs for all customers.

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

Section 1. The Authority shall terminate the E-ELEC Rate Pilot Program (“E-ELEC 1.0”) adopted by Resolution No. 2022-39 and Resolution No. 2023-07, to allocate \$9.5M for a customized discount from PG&E’s E-ELEC residential generation rates, effective July 1, 2025.

Section 2. The Authority shall transfer customers currently enrolled in the E-ELEC 1.0 Rate Pilot Program to the default E-ELEC rate established by Resolution No. 2022-38.

Section 3. The Authority shall allocate \$3.5M to establish the E-ELEC 2.0 Rate Pilot Program to achieve the objectives stated above.

Section 4. The Authority’s adjusted E-ELEC 2.0 Rate Pilot Program electric generation rates shall be set forth in an updated 2025 Electric Generation Rates Schedule. The Board of Directors will be presented for approval with the updated 2025 Electric Generation Rates Schedule at its first meeting after the E-ELEC 2.0 Rate Pilot Program SVCE electric generation rates are updated.

PASSED AND ADOPTED this 14th day of May 2025, by the following vote:

JURISDICTION	NAME	AYE	NO	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	Alternate Director Ristow				
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

ATTEST:

Andrea Pizano, Board Secretary

DRAFT



Staff Report – Item 6

Item 6: Approve Formation of Ad Hoc Committee to Review and Propose Amendments to Silicon Valley Clean Energy’s Operating Rules and Regulations

To: Silicon Valley Clean Energy Board of Directors

From: Monica Padilla, CEO

Date: 5/14/2025

RECOMMENDATION

Approve the formation of an Ad Hoc Committee to review Silicon Valley Clean Energy’s (SVCE) Operating Rules and Regulations (ORR) and propose amendments for adoption by the Board of Directors (Board). Members of this Ad Hoc Committee to include Board Chair George Tyson, Board Vice Chair Larry Klein, and Director Pat Showalter. The term of the Ad Hoc Committee shall run through the end of 2025.

EXECUTIVE COMMITTEE RECOMMENDATION

Board Chair George Tyson presented a proposal to form an Ad Hoc Committee to review SVCE’s ORR to the Executive Committee on April 22, 2025; all committee members supported the formation of an Ad Hoc Committee consisting of the proposed members. The presentation to the Executive Committee is included as Attachment 1.

BACKGROUND

SVCE’s ORR were first adopted in June 2016 as the Authority was in its infancy with the intent that they can be expanded as the board further addressed its operations and policies. Since then, the ORR has been amended numerous times with minor amendments, enhancements, and clarifications with the most recent amendment occurring in May 2023 to amend language that the Executive Committee membership can be up to six Board members.

ANALYSIS & DISCUSSION

SVCE continues to grow in size and complexity. The current governance and decision-making processes are effective, however there are enhancements which may better position SVCE for future growth and a strong ability to fulfill SVCE’s mission. A full review of SVCE’s ORR will be undertaken to identify areas for refinement, clarification and/or additions.

Ad Hoc Committee Scope

Proposed scope for this Ad Hoc Committee would be:

- Review SVCE’s current ORR;
- Research neighboring CCA bylaws, best practices and operations;
- Identify potential amendments to the ORR;
- Present a recommendation to the Executive Committee and final to the Board for approval

Membership

Proposed membership of this group would be:

- Board Chair George Tyson
- Board Vice Chair Larry Klein
- Director Pat Showalter

Agenda Item: 6**Agenda Date: 5/14/2025**

The proposed members reflect a diverse representation of SVCE's membership with demonstrated experience in understanding the operating needs of the agency.

The term of this Ad Hoc Committee will be appointment date (anticipated May 14, 2025) through completion of the amendment recommendations to the Board of Directors. This is expected to be before the end of 2025. Staff will be consulted as necessary, however the primary work of reviewing and proposing modifications will be conducted by the Ad Hoc Committee.

STRATEGIC PLAN

Formation of the Ad Hoc Committee would directly support Goal 9 of SVCE's 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)."

ALTERNATIVES

The Board can choose not to form the Ad Hoc Committee, however it would be beneficial to have multiple board members research, review and discuss best practices to develop a more comprehensive recommendation.

FISCAL IMPACT

No anticipated fiscal impact as a result of the formation of an ad hoc committee.

ATTACHMENT

1. April 22, 2025 Presentation to the SVCE Executive Committee

Best Practices and Process to develop Recommended Changes to SVCE Operating Rules and Regulations

April 22, 2025



SVCE Operating Rules and Regulations

- Initially adopted June 2016
- Consists of bylaws, regulations and procedures governing the operation of SVCE
- Latest update was [May 2023](#)

SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING RULES AND REGULATIONS

ARTICLE I

FORMATION

The Silicon Valley Clean Energy Authority (the "Authority") was established on March 31, 2016 pursuant to the execution of the Silicon Valley Clean Energy Authority Joint Powers Agreement (the "Agreement") by the County of Santa Clara, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Monte Sereno, Morgan Hill, Mountain View, Saratoga and Sunnyvale and the Towns of Los Altos Hills and Los Gatos. The members of the Authority are referred to as Party or Parties in these Operating Rules and Regulations. As defined by the Agreement, these Operating Rules and Regulations consist of rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

ARTICLE II

PURPOSES

The Authority is formed to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. These programs include but are not limited to the establishment of a Community Choice Aggregation Program known as Silicon Valley Clean Energy in accordance with the terms of the Agreement.

ARTICLE III

BOARD OF DIRECTORS

Section 1. Appointment of Chair and Vice-Chair. The Board shall appoint from among themselves by majority vote a Chair and Vice-Chair. The Chair and Vice-Chair shall be appointed for one-year terms expiring at the annual meeting held in January of each year. As provided by the Agreement, there are no limits on the number of terms that a Board member may serve as Chair or Vice-Chair.

Section 2. Appointment of Secretary and Treasurer. The Secretary and Treasurer shall be appointed by the Board for one-year terms expiring at the annual meeting held in January of each year.

Section 3. Extension of Term of Office. If for any reason, the appointment of a Board officer is not made in January of any year, such officer shall continue to serve in his or her position until an appointment is made at a meeting of the Board.

Section 4. Removal of Officers. An officer of the board shall be subject to removal as an officer of the board at any time for any reason by a majority vote of the entire Board.

ORR Sections

- Article I: Formation
- Article II: Purposes
- Article III: Board of Directors
 - Appointment of Chair and Vice-Chair
 - Appointment of Secretary and Treasurer
 - Extension of Term of Office
 - Removal of Officers
 - Removal of Board Members for Cause
- Article IV: Committees
 - Establishment of Committees
 - Executive Committee
- Article V: Meetings
 - Regular Meetings
 - Special Meetings
 - Annual Meeting
 - Open Meeting Requirements
 - Chair and Vice Chair Vacancies
- Article VI: Amendments

Some Context! By Chair Tyson

- SVCE is a large, growing, and increasingly complex entity
- Our current governance is good – we have an effective board and solid decision-making processes
- Other CCAs have had discussions about their governance, and this seems like a good time to perform a review of our own, consider and discuss potential changes, and position ourselves for future growth and a strong ability to fulfill our mission long term

Ad Hoc Committee Proposed Scope

- Review SVCE's current Operating Rules and Regulations
- Research neighboring CCA bylaws
- Identify potential amendments
- Present recommendation to Executive Committee and final to Board of Directors for approval



Recommendation

Form an Ad Hoc Committee to review SVCE's Operating Rules and Regulations for potential amendments.

Thank you

Appendix



ORR Amendment Process

- Any amendments must be proposed at a regular meeting and acted upon at the next or later regular meeting of the Board for final adoption
- Notice of proposed amendment must be sent at least 10 days prior to the date of the meeting at which final action on the amendment is to be taken (full text)



SVCE Operating Rules and Regulations

Past Amendments

- Amendments to-date have included:
 - Regular meeting location;
 - Authorization for the Chair of the Board to designate an alternative meeting place within the jurisdiction of the authority after consultation with the Chief Executive Officer on available meeting locations in the event that the Cupertino Community Hall is not available for a regular or adjourned regular meeting;
 - Changing the Date of the Annual Meeting and the Appointment of Officers and Committee Members and Conforming the Provisions Regarding the Holding of Regular Meetings to Board Resolution Nos. 2016-14 and 2017-11;
 - Defining unexcused absences from board meetings;
 - Including reference to SVCE's Code of Ethics Policy;
 - Clarification of general Committee Membership and maximum number of members;
 - Clarification of Executive Committee appointments in January of each year; and
 - Addition of Chair and Vice Chair Vacancy language.



Ad Hoc Committees

Article IV, Section 1

“Each duly established Committee may establish any Standing or Ad Hoc Committees determined to be appropriate or necessary. The duties and authority of all Committees shall be subject to the approval and direction of the Board.”



CEO Transition Ad Hoc Committee (2024)

Best Practice Recommendations

- **Communications:** We decided that a formal policy regarding Director's communications with and response to staff was beyond what is needed, and we encourage the CEO to communicate any issues with individual Directors directly.
- **Attendance:** Regarding Director's attendance at Board meetings, we wish to remind Directors to communicate their expected absence, change in plans (e.g. in person vs. remote), and preparation of their Alternates as substitutes as early as possible.
- **Committees:** Regarding Director's role on subcommittees, we find it highly advisable that Directors wishing to serve as Chairs should expect to attend a high percentage of planned meetings in person. Those attending subcommittees as members should also be aware that, since Alternates are not permitted, meeting quorum requires a high degree of communication and response.
- **Meetings:** More broadly, we see the value of staff scheduling recurring meetings early in the year and also for Directors providing to staff information on their vacation or other travel plans as soon as these are established (or even prior, if extensive).
- **Stipend:** We also discussed the possibility of providing a stipend for meeting attendance, as is done in some other agencies to serve as an inducement for attendance. No decision was reached on a recommendation, and we recognize that this would require a change in the JPA.