



Howard Miller, Chair
City of Saratoga

Nancy Smith, Vice Chair
City of Sunnyvale

Liz Gibbons
City of Campbell

Rod Sinks
City of Cupertino

Fred M. Tovar
City of Gilroy

Neysa Fligor
City of Los Altos

George Tyson
Town of Los Altos Hills

Rob Rennie
Town of Los Gatos

Carmen Montano
City of Milpitas

Javed Ellahie
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Margaret Abe-Koga
City of Mountain View

Susan Ellenberg
County of Santa Clara

svcleanenergy.org

333 W El Camino Real
Suite 290
Sunnyvale, CA 94087

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

Wednesday, May 13, 2020
7:00 pm

Teleconference Meeting
Webinar:

<https://zoom.us/j/95358978471>

Telephone (Audio Only):
US: +1 669 900 9128
Webinar ID: 953 5897 8471

This meeting will be conducted in accordance with [State of California Executive Order N-29-20](#), dated March 17, 2020, in consideration of the Coronavirus (COVID-19). All members of the Silicon Valley Clean Energy Board of Directors and staff will participate in this meeting by teleconference.

Members of the public may observe this meeting electronically by accessing the meeting via instructions above. Public Comments can be sent in advance of the meeting to Board Clerk Andrea Pizano at Andrea.Pizano@svcleanenergy.org and will be read within the allotted three minutes for the public comment period or the applicable agenda item. The public will also have an opportunity to provide comments during the meeting.

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

AGENDA

Call to Order

Roll Call

Public Comment on Matters Not Listed on the Agenda

The public may provide comments on any item not on the Agenda. Speakers are limited to 3 minutes each.

Consent Calendar (Action)

- 1a) Approve Minutes of the April 8, 2020, Board of Directors Special Meeting



Howard Miller, Chair
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- 1b) Receive February 2020 Treasurer Report
- 1c) Approve Reschedule of November Board of Directors Meeting to November 13, 2020 at 3:00 p.m.
- 1d) Receive New SVCE Rate Schedules Effective May 1, 2020
- 1e) Approve Establishment of New SVCE Business Electric Vehicle Generation Rates for Commercial Customers to Correspond with New PG&E Rates
- 1f) Receive Decarbonization Programs Update
- 1g) Authorize the Chief Executive Officer to Execute Amendment to Engagement Letter Amending Not-to-Exceed Amount with Keyes and Fox, LLC
- 1h) Authorize the Chief Executive Officer to Execute Amendment to Agreement with Pisenti & Brinker, LLP for Financial Audit Services
- 1i) Authorize the Chief Executive Officer to Amend Agreement with Maher Accountancy, Execute Agreement with Well Connected Office, and Authorize the Chief Executive Officer to Negotiate an Agreement with Ascend Analytics in Support of SVCE's Business Continuity Plan
- 1j) Executive Committee Report
- 1k) Finance and Administration Committee Report
- 1l) Audit Committee Report
- 1m) Legislative and Regulatory Responses to Industry Transition Ad Hoc Committee Report

Regular Calendar

- 2) CEO Report (Discussion)
- 3) Approve FY 2019-20 SVCE Mid-year Operating Budget and Resolution Amending the Positions Chart, Job Classifications, and Salary Schedule (Action)
- 4) Approve Program Outlines for COVID Customer Relief and Longer-range Community Resilience (Action)
- 5) Authorize the Chief Executive Officer to Execute a 20-Year Power Purchase Agreement with NextEra Energy Yellow Pine Energy Center I, LLC for Renewable Solar PV Supply (PCC1) and Energy Storage in Substantial Form and Including Any Necessary Ancillary Agreements and Documents (Action)



Howard Miller, Chair
City of Saratoga

Board Member Announcements and Direction on Future Agenda Items

Nancy Smith, Vice Chair
City of Sunnyvale

Adjourn

Liz Gibbons
City of Campbell

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

Wednesday, April 08, 2020

7:00 pm

Pursuant to State of California Executive Order N-29-20, dated March 17, 2020, the meeting was conducted via teleconference.

DRAFT MINUTES

Call to Order

Chair Miller called the meeting to order at 7:03 p.m.

Roll Call

Present:

Chair Howard Miller, City of Saratoga
Vice Chair Nancy Smith, City of Sunnyvale
Director Liz Gibbons, City of Campbell
Director Rod Sinks, City of Cupertino
Director Neysa Fligor, City of Los Altos
Director George Tyson, Town of Los Altos Hills
Director Rob Rennie, Town of Los Gatos
Director Carmen Montano, City of Milpitas
Director Javed Ellahie, City of Monte Sereno
Director Yvonne Martinez Beltran, City of Morgan Hill
Director Margaret Abe-Koga, City of Mountain View

Absent:

Director Fred M. Tovar, City of Gilroy
Director Susan Ellenberg, County of Santa Clara

All present Board members participated via teleconference.

Public Comment on Closed Session

No speakers.

General Counsel Greg Stepanicich announced the group would meet in Closed Session to discuss anticipated litigation on two groups of items: 1) potential early termination of the Duran Mesa PPA and, 2) legal consequences of one of the parties to SVCE's PPAs invoking a force majeure due to the COVID-19 crisis.

The Board convened to Closed Session at 7:07 p.m.

Convene to Closed Session

Conference with Legal Counsel—Anticipated Litigation
Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2)
Number of potential cases: Three

The Board returned from Closed Session at 7:26 p.m. with Directors Ellenberg and Tovar absent.

Report from Closed Session

Chair Miller reported there was no report.

Public Comment on Matters Not Listed on the Agenda

No speakers.

Consent Calendar

MOTION: Director Gibbons moved and Director Martinez Beltran seconded the motion to approve the Consent Calendar.

Chair Miller opened public comment.

No speakers.

Chair Miller closed public comment.

The motion carried unanimously by roll call vote with Directors Ellenberg and Tovar absent.

- 1a) Approve Minutes of the March 11, 2020, Board of Directors Meeting**
- 1b) Approve Minutes of the March 11, 2020, Board of Directors Special Meeting**
- 1c) Receive January 2020 Treasurer Report**
- 1d) Adopt Resolution Amending SVCE Conflict of Interest Code to Add Position of Director of Regulatory and Legislative Policy to the List of Designated Positions for Filing**
- 1e) Authorize the Chief Executive Officer to Execute a 3-year Agreement with Enervee Corporation for an Appliance Marketplace for the Customer Resource Center for an Amount of \$471,500**
- 1f) Authorize the Chief Executive Officer to Execute a 3-year Agreement with CLEAResult Consulting Inc. for Program Administration Services for the Electric Vehicle Infrastructure Technical Assistance Program for an Amount not to exceed \$500,000**
- 1g) Approve Amendment to Fitness Reimbursement Policy**
- 1h) Executive Committee Report**
- 1i) Finance and Administration Committee Report**
- 1j) Audit Committee Report**
- 1k) Legislative and Regulatory Responses to Industry Transition Ad Hoc Committee Report**

Regular Calendar

2) CEO Report (Discussion)

CEO Girish Balachandran provided a CEO report on high-level framing of big issues related to COVID-19 including employee relations, the power charge indifference adjustment (PCIA), future PSPS events, customer load, and maintaining SVCE's mission. CEO Balachandran responded to Board member questions.

Chair Miller opened public comment.

No speakers.

Chair Miller closed public comment.

3) Adopt Resolution Delegating Authority to the Chief Executive Officer to Award Certain Contracts, Execute Agreements and Set Customer Rates on Behalf of Silicon Valley Clean Energy for the Next Ninety Days When Board Meetings are Cancelled or No Quorum Can Be Reached Due to a Public Health State of Emergency Relating to the COVID-19 Virus (Action)

Director of Finance and Administration Don Eckert introduced the item and provided a staff report; staff responded to Board member questions.

The Board discussed the timing of the proposed 90 days, and the cancelled July Board of Directors meeting.

CEO Balachandran noted staff would assess workload and determine if the July 8, 2020 Board of Directors meeting should be reinstated.

Chair Miller opened public comment.

James Tuleya, resident of Sunnyvale, commented he appreciated the work of the Board and staff during this time, and supported the plan.

Chair Miller closed public comment.

MOTION: Director Sinks moved and Vice Chair Smith seconded the motion to adopt Resolution 2020-13 delegating authority to the Chief Executive Officer (“CEO”) to enter into certain contracts, set rates, and take other specific actions necessary to ensure the continuous operation of Silicon Valley Clean Energy (“SVCE”) with the following amendments:

- Make the authority until the June 10, 2020 Board of Directors Meeting;
- Do everything to establish quorum for a Special Meeting; and,
- The Chief Executive Officer would seek advice and counsel from the Chair and/or Vice Chair prior to invoking the authority.

Director Sinks clarified that the preference would be to have a Special Board meeting if possible, and if a quorum cannot be met, then the hope would be to invoke the Executive Committee, and if that cannot happen, then consulting with the Chair and/or Vice Chair as available.

General Counsel Stepanicich confirmed with Director Rennie that if the state and County of Santa Clara terminate the state of emergency relating to the COVID-19 virus, the resolution would be cancelled.

The motion carried unanimously by roll call vote with Directors Ellenberg and Tovar absent.

4) Adopt Resolution to Implement SVCE Generation Rate Changes Effective May 1, 2020 (Action)

Director of Account Services and Community Relations Don Bray and Director of Finance and Administration Eckert presented a PowerPoint presentation.

CEO Balachandran provided additional information on the proposed \$10 million for customer relief and community resiliency efforts; staff responded to Board member questions.

Chair Miller opened public comment.

James Tuleya, resident of Sunnyvale and Chair of Carbon Free Silicon Valley, voiced support of the staff recommendation.

Chair Miller closed public comment.

MOTION: Director Sinks moved and Director Gibbons seconded the motion to Adopt Resolution 2020-14

1. authorizing the CEO to implement SVCE generation rate changes effective May 1, 2020, resulting in an updated FY19/20 contribution to reserves of \$30M and utilizing an applicable SVCE discount to PG&E rates under the ‘Discount Framework’ described herein; the applicable discount is expected to be 4%, but may be modified per the Discount Framework to reflect the impact of actual versus currently-projected May 1 PG&E generation rate and PCIA changes.

2. Set aside \$10 million for customer relief and community resiliency efforts and direct the CEO to develop a program for such efforts and present it to the Board at the May Board meeting

The motion carried unanimously by roll call vote with Directors Ellenberg and Tovar absent.

5) Authorize the Chief Executive Officer to Execute a Confirmation Agreement with PG&E to Receive Carbon-free Allocation for 2020 Deliveries (Action)

CEO Balachandran presented a PowerPoint presentation and responded to Board member questions.

Chair Miller opened public comment.

James Tuleya, resident of Sunnyvale and Carbon Free Silicon Valley, expressed his support for the staff recommendation to accept the PG&E allocations for both hydro and nuclear power.

Board Clerk Andrea Pizano read a comment submitted by Bruce Karney supporting the staff recommendation (attached).

Chair Miller closed public comment.

MOTION: Director Ellahie moved and Vice Chair Smith seconded the motion to Authorize the Chief Executive Officer (“CEO”) to execute a Confirmation Agreement with Pacific Gas and Electric (PG&E) to receive an allocation of greenhouse gas free (“GHG or carbon-free”) attributes paid for by SVCE customers and associated with PG&E’s large hydroelectric plants and its nuclear plant (Diablo Canyon Power Plant (“DCPP”)) for deliveries to start in mid-2020 and go through the end of 2020.

Director Fligor questioned if there was a way to add footnotes to the Power Content Label to clarify that SVCE is not actually using the nuclear power; General Counsel Stepanicich and CEO Balachandran noted a sentence could be added to the website and label to the effect that SVCE does not directly source nuclear energy, but the nuclear energy came to SVCE as an environmental attribute associated with an allocation from PG&E.

The motion carried unanimously by roll call vote with Directors Ellenberg and Tovar absent.

6) Authorize the Chief Executive Officer to Execute a 15-Year Power Purchase Agreement with Rabbitbrush Solar, LLC for Renewable Solar PV Supply (PCC1) and Energy Storage in Substantial Form and Including Any Necessary Ancillary Agreements and Documents (Action)

Director of Power Resources Monica Padilla presented a PowerPoint presentation and responded to Board member questions.

MOTION: Director Fligor moved and Vice Chair Smith seconded the motion to authorize the Chief Executive Officer (CEO) to execute a Power Purchase Agreement (PPA) with Rabbitbrush Solar, LLC (“Rabbitbrush”) in substantial form and any necessary ancillary agreements and documents with the following key terms:

- 40 MW of Solar photovoltaic (PV) supply with 8 MW of energy storage qualifying as Portfolio Category Content One (PCC1) renewable resource;
- 15-Year term power delivery from June 30, 2022 to June 29, 2037; and
- Total amount not-to-exceed \$64,323,500.

Chair Miller opened public comment.

No speakers.

Chair Miller closed public comment.

The motion carried unanimously by roll call vote with Directors Ellenberg and Tovar absent.

Board Member Announcements and Direction on Future Agenda Items

Chair Miller announced there were no social events in the City of Saratoga for the month of April.

Director Gibbons commented the notes from staff following Board meetings are helpful; CEO Balachandran noted they would be sent following the Board meeting. Director Gibbons thanked staff for the support during the meeting.

Director Sinks recognized staff and Chair Miller for their work in preparing for and running the Board meeting. Director Sinks commented he hopes various agencies band together to offer solutions for grid resiliency, and offered his appreciation to staff for their continued leadership in resiliency projects.

Vice Chair Smith announced three of SVCE's Board members were featured on the cover of CalCCA's and announced CalCCA would be holding a webinar on April 24, 2020 regarding microgrid projects throughout the state; Vice Chair Smith requested staff forward both to the other members of the Board.

Director Martinez Beltran announced she attended the Hispanics in Energy Summit in Washington D.C. and provided information on the summit.

Adjourn

Chair Miller adjourned the meeting at 9:57 p.m.

Attachment

1. Public Comment Received, Bruce Karney

Andrea Pizano

From: BRUCE KARNEY <bkarney@comcast.net>
Sent: Wednesday, April 8, 2020 3:50 PM
To: Andrea Pizano
Cc: Girish Balachandran; Monica Padilla
Subject: Bruce Karney's input on Agenda Item 5

Andrea, please read these comments for me on Item 5 tonight.

“My name is Bruce Karney. My comments are my personal opinion and I am not speaking on behalf of any group. I support Staff Recommendation Alternative 1 to take both the hydro and nuclear carbon-free allocation.

“We are all aware that sometimes nuclear power plants cause devastating environmental damage. So too has climate change. We hardly need look farther than Australia to understand the magnitude of the damage that fires across the country have done in one single year. Though fewer human lives were lost in those fires than at Chernobyl, in my opinion the total environmental devastation was far greater in Australia than in Chernobyl. Off Australia's east coast, the magnificent Great Barrier Reef is dying. The fires and the bleaching are taking place in a world that is only one degree C warmer than pre-industrial averages. What will happen in the not-so-distant future when temperatures rise another degree, or two, or three?

“SVCE is the source of most of the leadership and funding in our area for the most vital human endeavor or the 21st Century, namely bending the carbon curve. The more funding that SVCE has for programs, the faster the curve can be bent. So much needs to be done, and done quickly, that I believe it would be a mistake to pursue any course other than Alternative 1.

“Thank you very much for your attention.”

Cheers,
Bruce Karney



TREASURER REPORT

**Fiscal Year to Date
As of February 29, 2020**

(Preliminary & Unaudited)

Issue Date: May 13, 2020

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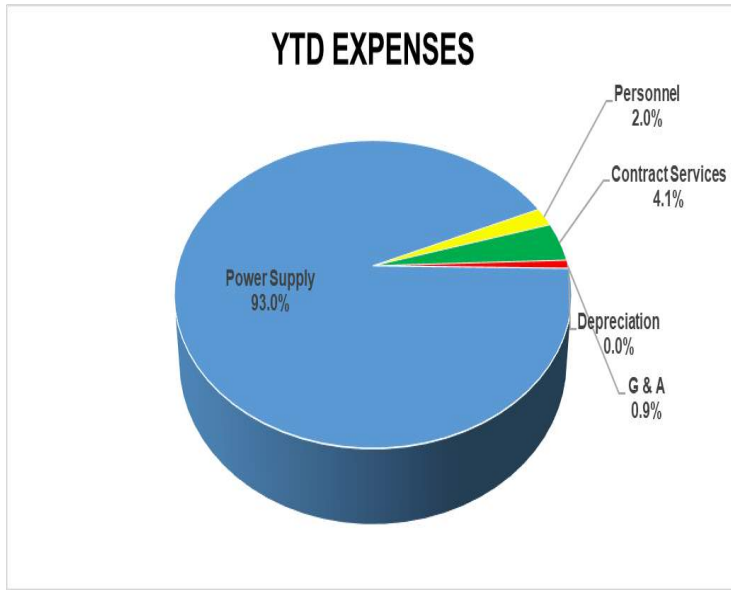
SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights (\$ in 000's)

Financial Highlights for the month of February 2020:

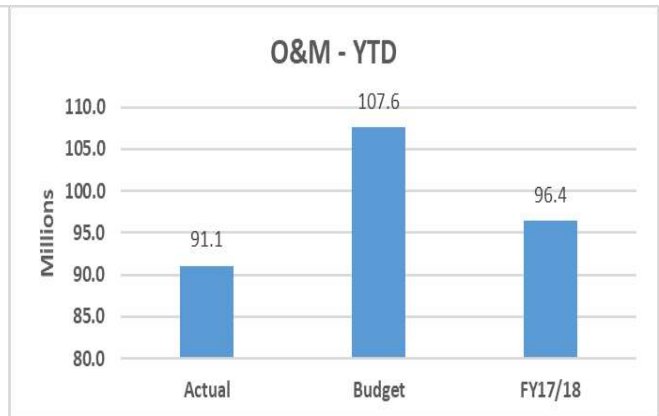
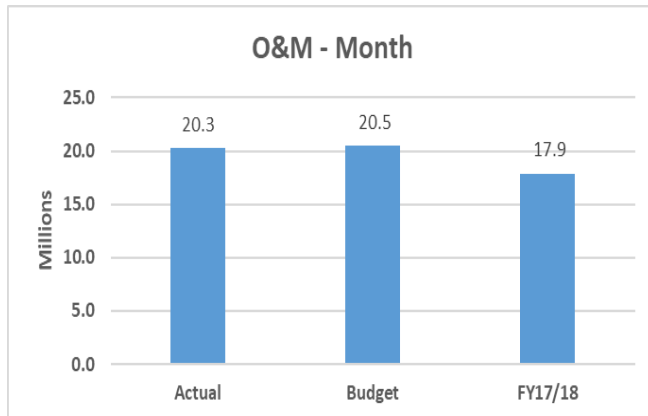
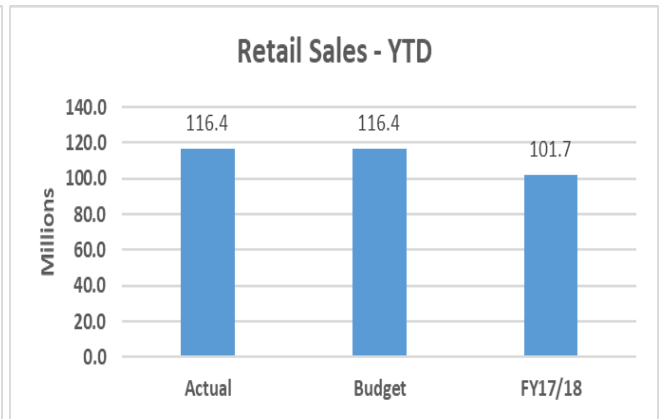
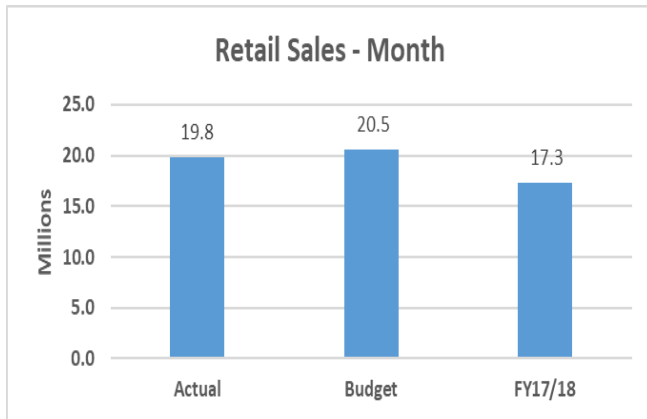
Note: SVCE is financially well positioned for the impact from the COVID-19 economic shock.

- > SVCE operations resulted in a negative change in net position for the month of (\$0.3) million and year-to-date change in net position of \$26.0 million.
 - o February revenue of \$19.8 million accounted for 304 GWh in net retail consumption.
 - o Year-to-date operating margin is \$31.7 million or 27%, mostly due to power supply costs being below budget.
 - o February was expected to be near break-even as it is between the cooling and heating seasons.
- > Retail GWh sales for the month were close to target.
 - o Year-to-date retail load is 9 GWh's or <1% below budget.
 - o February heating and cooling degree days were near the 15-year average.
- > Power Supply costs are 14% below budget year-to-date.
 - o The primary driver for the favorable variance is timing. Most of the REC's budgeted through February are expected to be invoiced in April/May.
 - o Market prices have been stable and near budget.
 - o There are three remaining long-term PPA negotiations remaining from 2019's RFD. Negotiations are expected to conclude by summer.
- > Decarbonization and Grid Innovations
 - o The Programs Roadmap was recently updated by the Board.
 - o Programs continue to ramp up.
- > Other
 - o The Board approved a new facility lease to allow agency expansion. Move-in date expected summer 2020.
 - o SVCE is investing ~90% of available funds generating year-to-date investment income of \$1.0 million

Change in Net Position	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Actual	14,432	5,732	4,159	2,047	(326)								26,044	50,910
Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Energy & REC's	12,881	13,068	13,525	15,681	15,771								70,926	
Wholesale Sales	(807)	(9)	(10)	(21)	(46)								(893)	
Capacity	2,185	1,581	1,757	1,673	1,674								8,871	
CAISO Charges	451	400	763	678	715								3,006	
NEM Expense	155	(43)	(223)	(275)	(60)								(447)	
Charge/Credit (IST/Net Rev)	482	254	(224)	1,736	993								3,242	
Net Power Costs	15,347	15,251	15,588	19,473	19,047	-	-	-	-	-	-	-	84,706	245,340
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Capital Expenditures	-	6	6	2	-								14	400
Energy Programs	51	101	127	145	102								526	6,360
Load Statistics - GWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Adopted Budget
Retail Sales Actual	325	314	332	334	304								1,609	
Retail Sales Budget	325	318	335	329	311	316	308	307	321	360	348	339	3,916	3,916



Other Statistics and Ratios	
Working Capital	\$168,753,943
Current Ratio	6.4
Operating Margin	27%
Expense Coverage Days	195
Expense Coverage Days with LOC	238
Long-Term Debt	\$0
Total Accounts	271,636
Opt-Out Accounts (Month)	113
Opt-Out Accounts (Life-to-Date)	10,535
Opt-Up Accounts (Month)	7
Opt-Up Accounts (Life-to-Date)	3,301



SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION

As of February 29, 2020

ASSETS

Current Assets

Cash & Cash Equivalents	\$ 158,629,128
Accounts Receivable, net of allowance	18,839,584
Accrued Revenue	12,955,187
Other Receivables	167,515
Prepaid Expenses	2,755,405
Deposits	1,643,482
Restricted cash	5,000,000

Total Current Assets	199,990,301
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Noncurrent assets

Capital assets, net of depreciation	139,655
Deposits	145,630

Total Noncurrent Assets	285,285
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Total Assets	200,275,586
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LIABILITIES

Current Liabilities

Accounts Payable	886,251
Accrued Cost of Electricity	28,988,011
Accrued Payroll & Benefits	482,173
Other accrued liabilities	50,000
User Taxes and Energy Surcharges due to other gov'ts	801,603
Supplier Security Deposits	28,320

Total Current Liabilities	31,236,358
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NET POSITION

Net investment in capital assets	139,655
Restricted for security collateral	5,000,000
Unrestricted (deficit)	163,899,573

Total Net Position	\$ 169,039,228
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SILICON VALLEY CLEAN ENERGY AUTHORITY

**STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION**

October 1, 2019 through February 29, 2020

OPERATING REVENUES	
Electricity Sales, Net	\$ 115,668,378
GreenPrime electricity premium	551,369
Other Income	146,723
TOTAL OPERATING REVENUES	<u>116,366,470</u>
 OPERATING EXPENSES	
Cost of Electricity	84,706,056
Contract services	3,731,725
Staff compensation and benefits	1,833,917
General & Administrative	789,402
Depreciation	<u>22,534</u>
TOTAL OPERATING EXPENSES	<u>91,083,634</u>
OPERATING INCOME (LOSS)	<u>25,282,836</u>
 NONOPERATING REVENUES (EXPENSES)	
Interest Income	954,329
Financing costs	(192,894)
TOTAL NONOPERATING EXPENSES	<u>761,435</u>
 CHANGE IN NET POSITION	 26,044,271
Net Position at beginning of period	<u>142,994,957</u>
Net Position at end of period	<u>\$ 169,039,228</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS
October 1, 2019 through February 29, 2020

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers	\$ 136,597,293
Other operating receipts	1,138,867
Payments to suppliers for electricity	(89,867,032)
Payments for other goods and services	(4,620,220)
Payments for staff compensation and benefits	(1,701,158)
Tax and surcharge payments to other governments	(2,760,792)
Net cash provided (used) by operating activities	<u>38,786,958</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Finance costs paid	(146,316)
Net cash provided (used) by non-capital financing activities	<u>(146,316)</u>

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Acquisition of capital assets	<u>(14,149)</u>
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CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Interest income received	<u>954,329</u>
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Net change in cash and cash equivalents	39,580,822
Cash and cash equivalents at beginning of year	<u>124,048,306</u>
Cash and cash equivalents at end of period	<u>\$ 163,629,128</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)
October 1, 2019 through February 29, 2020

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

Operating Income (loss)	\$ 25,282,836
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	22,534
Revenue reduced for uncollectible accounts	466,744
(Increase) decrease in net accounts receivable	10,970,484
(Increase) decrease in energy settlements receivable	166,657
(Increase) decrease in other receivables	(149,615)
(Increase) decrease in accrued revenue	6,616,913
(Increase) decrease in prepaid expenses	(1,468,068)
(Increase) decrease in current deposits	600,504
Increase (decrease) in accounts payable	(59,796)
Increase (decrease) in accrued payroll & benefits	126,981
Increase (decrease) in energy settlements payable	337,812
Increase (decrease) in accrued cost of electricity	(3,482,110)
Increase (decrease) in accrued liabilities	(207,530)
Increase (decrease) in taxes and surcharges due to other governments	(437,388)
Net cash provided (used) by operating activities	<u>\$ 38,786,958</u>

SILICON VALLEY CLEAN ENERGY
BUDGETARY COMPARISON SCHEDULE
October 1, 2019 through February 29, 2020

	FYTD	FYTD	Variance		FY 2019-20	FY 2019-20
	Actual	Budget	\$	%	Budget	Remaining Budget
OPERATING REVENUES						
Energy Sales	\$115,668,378	\$115,985,658	-\$317,280	0%	\$317,230,000	\$201,561,622
Green Prime Premium	551,369	388,397	162,972	42%	940,000	388,631
Other Income	146,723	20,833	125,890	604%	50,000	(96,723)
TOTAL OPERATING REVENUES	116,366,470	116,394,888	(28,418)	0%	318,220,000	201,853,530
ENERGY EXPENSES						
Power Supply	84,706,056	98,262,175	(13,556,119)	-14%	245,340,000	160,633,944
Operating Margin	31,660,414	18,132,713	13,527,701	75%	72,880,000	
OPERATING EXPENSES						
Data Management	1,394,842	1,468,962	(74,120)	-5%	3,530,000	2,135,158
PG&E Fees	479,675	560,876	(81,201)	-14%	1,350,000	870,325
Salaries & Benefits	1,833,917	2,288,899	(454,982)	-20%	5,490,000	3,656,083
Professional Services	1,334,458	1,617,679	(283,221)	-18%	3,710,000	2,375,542
Marketing & Promotions	264,595	418,068	(153,473)	-37%	960,000	695,405
Notifications	30,547	34,000	(3,453)	-10%	160,000	129,453
Lease	137,968	250,000	(112,032)	-45%	600,000	462,032
General & Administrative	353,301	455,000	(101,699)	-22%	1,150,000	796,699
TOTAL OPERATING EXPENSES	5,829,303	7,093,484	(1,264,181)	-18%	16,950,000	11,120,697
OPERATING INCOME/(LOSS)	25,831,111	11,039,229	14,791,882	134%	55,930,000	30,098,889
NON-OPERATING REVENUES						
Investment Income	954,329	612,292	342,037	56%	1,470,000	515,671
Grant Income	-	67,708	(67,708)	-100%	160,000	160,000
TOTAL NON-OPERATING REVENUES	954,329	680,000	274,329	40%	1,630,000	675,671
NON-OPERATING EXPENSES						
Financing	192,894	126,163	66,731	53%	180,000	(12,894)
CAPITAL EXPENDITURES, TRANSFERS, & OTHER						
Capital Outlay	14,151	150,000	(135,849)	-91%	400,000	385,849
Refund of Bond (Cash Inflow)	-	-	-	0%	(100,000)	(100,000)
Financial Security Requirement	-	-	-	0%	147,000	147,000
Transfer to Program Fund	6,360,000	6,360,000	-	0%	6,360,000	-
TOTAL OTHER USES	6,374,151	6,510,000	(135,849)	-2%	6,807,000	432,849
NET INCREASE(DECREASE) IN AVAILABLE FUND BALANCE	\$20,218,395	\$5,083,066	\$15,135,329	298%	\$50,573,000	

**SILICON VALLEY CLEAN ENERGY
PROGRAM FUND
BUDGETARY COMPARISON SCHEDULE
October 1, 2019 through February 29, 2020**

REVENUE & OTHER SOURCES:	<u>BUDGET</u>	<u>ACTUAL</u>	<u>BUDGET REMAINING</u>	<u>ACTUAL/ BUDGET</u>
Transfer from Operating Fund	\$6,360,000	\$6,360,000	\$0	100%
EXPENDITURES & OTHER USES:				
Program expenditures	6,360,000	525,741	5,834,259	8.3%
Net increase (decrease) in fund balance	<u>\$0</u>	<u>\$5,834,259</u>		
Fund balance at beginning of period		-		
Fund balance at end of period		<u>\$5,834,259</u>		

SILICON VALLEY CLEAN ENERGY AUTHORITY

**BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES AND CHANGES IN NET POSITION**

Net Increase (decrease) in available fund balance per budgetary comparison schedule	\$ 20,218,395
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position	
Subtract depreciation expense	(22,534)
Subtract program expense not in operating budget	(525,741)
Add back transfer to Program fund	6,360,000
Add back capital asset acquisition	14,151
Change in Net Position	<u>26,044,271</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
October 1, 2019 through February 29, 2020

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	\$ 30,729,014	\$ 21,850,841	\$ 20,977,174	\$ 22,440,755	\$ 19,670,594								\$ 115,668,378
Green electricity premium	117,448	97,649	111,859	121,089	103,324								551,369
Other income	40,200	53,094	-	29,662	23,767								146,723
Total operating revenues	30,886,662	22,001,584	21,089,033	22,591,506	19,797,685	-	-	-	-	-	-	-	116,366,470
OPERATING EXPENSES													
Cost of electricity	15,346,608	15,251,256	15,587,871	19,473,377	19,046,944								84,706,056
Staff compensation and benefits	358,403	325,710	427,518	371,306	350,980								1,833,917
Data manager	291,256	290,953	291,025	260,475	261,133								1,394,842
Service fees - PG&E	96,070	95,877	95,882	95,000	96,846								479,675
Consultants and other professional fees	249,638	266,760	499,433	353,118	488,259								1,857,208
General and administration	153,979	210,400	211,420	183,108	30,495								789,402
Depreciation	4,375	4,375	4,560	4,612	4,612								22,534
Total operating expenses	16,500,329	16,445,331	17,117,709	20,740,996	20,279,269	-	-	-	-	-	-	-	91,083,634
Operating income (loss)	14,386,333	5,556,253	3,971,324	1,850,510	(481,584)	-	-	-	-	-	-	-	25,282,836
NONOPERATING REVENUES (EXPENSES)													
Interest income	180,933	184,968	196,888	206,014	185,526								954,329
Financing costs	(135,103)	(9,316)	(9,315)	(9,316)	(29,844)								(192,894)
Total nonoperating revenues (expenses)	45,830	175,652	187,573	196,698	155,682	-	-	-	-	-	-	-	761,435
CHANGE IN NET POSITION	\$ 14,432,163	\$ 5,731,905	\$ 4,158,897	\$ 2,047,208	\$ (325,902)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 26,044,271

PERSONNEL REPORT FOR FEBRUARY 2020

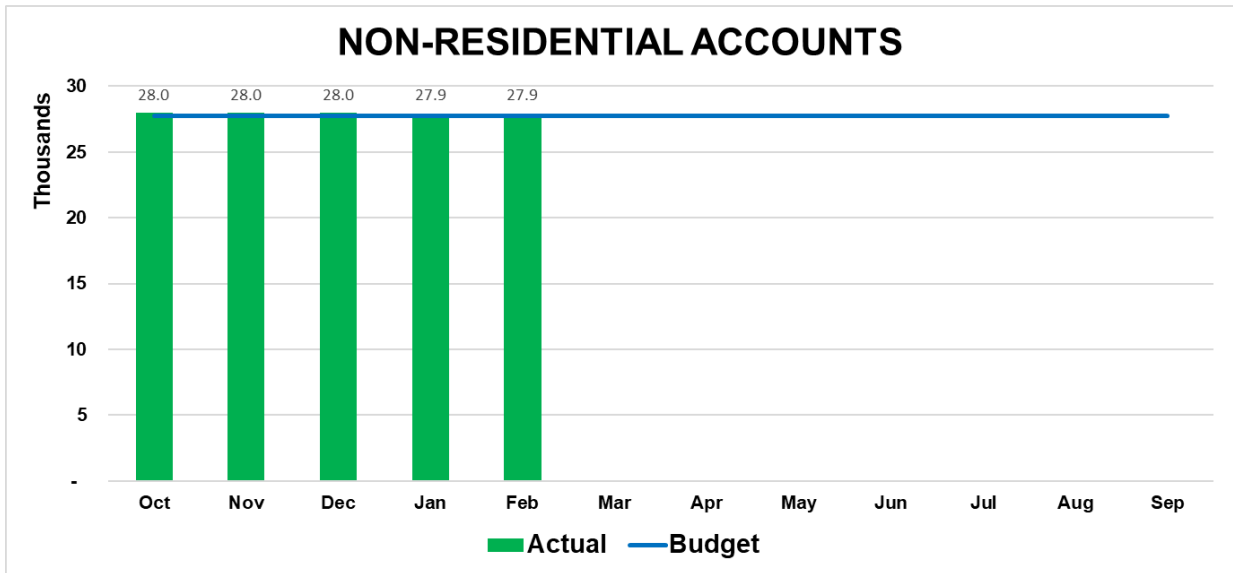
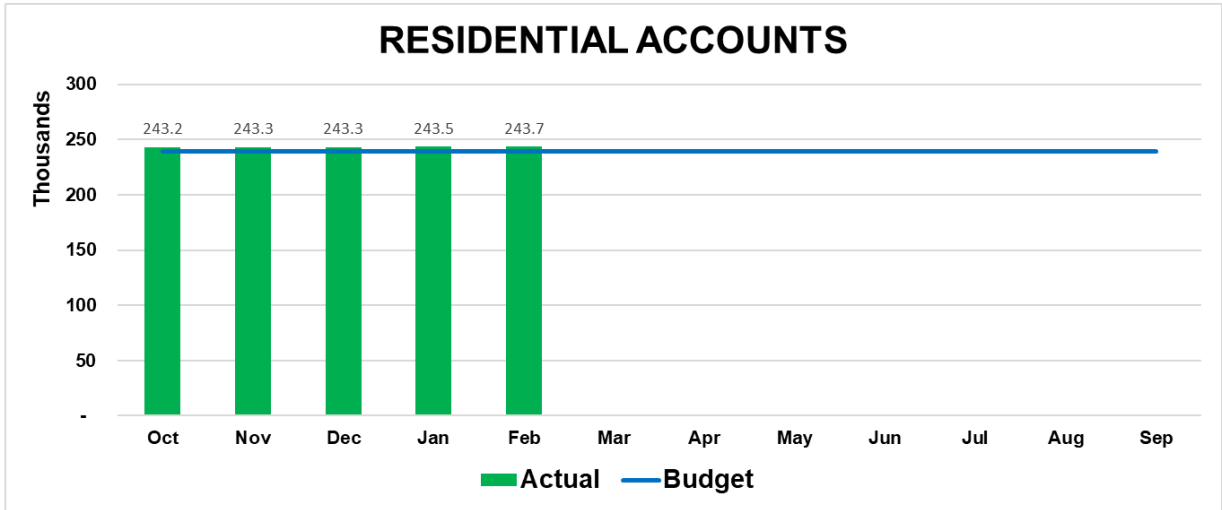
HEADCOUNT				
Position	Budget		Actual	Variance
Director of Account Services and Community Relations	1		1	0
Account Services Manager	1		1	0
Sr. Energy Consultant	1		1	0
Energy Consultant	1		1	0
Associate Energy Consultant	2		1	1
Communications Manager	1		1	0
Community Outreach Specialist	1		1	0
Communications Specialist	1		1	0
Board Clerk/Executive Assistant	1		1	0
Chief Executive Officer	1		1	0
Director of Finance and Administration	1		1	0
Administrative Services Manager	1		1	0
Rates Manager	1		0	1
Management Analyst	1		1	0
Administrative Analyst	1		1	0
Administrative Assistant	1		1	0
Director of Power Resources	1		1	0
Power Resources Manager	1		1	0
Power Resources Planner	1		1	0
Power Settlements & Compliance Analyst	1		1	0
Manager of Regulatory and Legislative Affairs	1		1	0
Senior Regulatory Analyst	1		1	0
Director of Decarboniation and Grid Innovation	1		1	0
Associate Data Analyst	1		1	0
Analyst	<u>2</u>		<u>1</u>	<u>1</u>
Total	<u>27</u>		<u>24</u>	<u>3</u>

**SILICON VALLEY CLEAN ENERGY AUTHORITY
INVESTMENTS SUMMARY
October 1, 2019 through February 29, 2020**

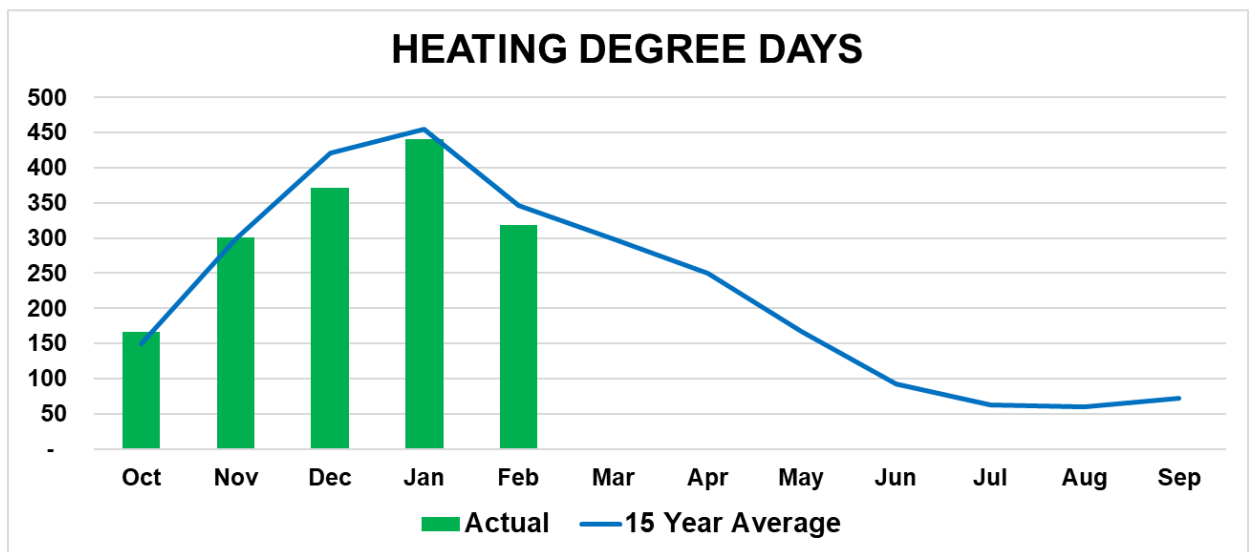
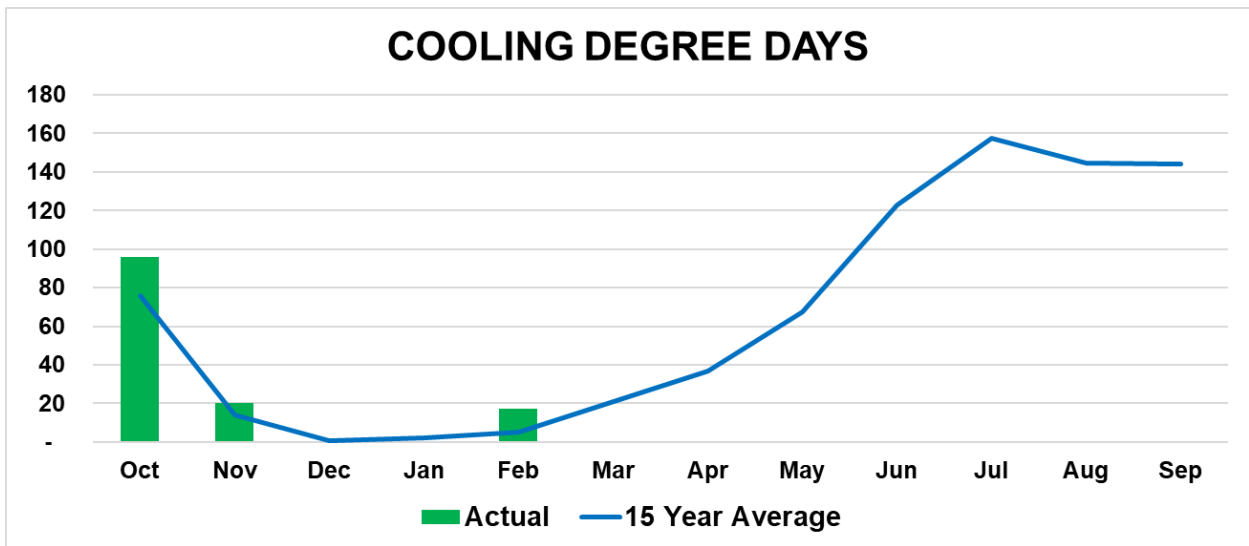
Return on Investments	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>YTD Total</u>
<i>Money Market</i>	\$180,933	\$184,968	\$196,888	\$206,014	\$185,526								<u>\$954,329</u>
<hr/>													
Portfolio Invested													
<i>Average daily portfolio available to invest*</i>	114,832,942	124,956,925	140,310,822	148,981,775	150,166,653								
<i>Average daily portfolio invested</i>	102,127,452	120,538,388	130,715,414	137,957,394	137,649,041								
<i>% of average daily portfolio invested</i>	88.9%	96.5%	93.2%	92.6%	91.7%								
<hr/>													
Detail of Portfolio													
	<u>Opening Rate</u>		<u>February Rate</u>		<u>Carrying Value</u>								
<i>Money Market - River City Bank</i>	1.26%		1.61%		\$128,864,126								

* Note: Balance available to invest does not lockbox or debt serve reserve funds.

CUSTOMER ACCOUNTS



WEATHER STATISTICS



**SILICON VALLEY CLEAN ENERGY AUTHORITY
ACCOUNTS RECEIVABLE AGING REPORT**

	Total	Days				
		0-30	31-60	61-90	90-120*	Over 120*
Accounts Receivable	\$22,462,928	\$18,183,061	\$1,029,968	\$393,879	\$210,153	\$989,269
Period %	93%	80.9%	4.6%	1.8%	0.9%	4.4%

*Note: A portion of accounts that are greater than 90 days old have been sent back to PG&E, however the receivable remains outstanding until PG&E writes the account off.



Staff Report – Item 1c

Item 1c: Approve Reschedule of November Board of Directors Meeting to November 13, 2020 at 3:00 p.m.

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 5/13/2020

RECOMMENDATION

Approve a Special Meeting on November 13, 2020 at 3:00 p.m. to replace the regularly scheduled November Board meeting which lands on November 11, 2020 (Veteran’s Day holiday).

BACKGROUND

The November 2020 regularly scheduled Board of Directors meeting falls on Veteran’s Day holiday; the Board approved to reschedule this meeting following a Doodle poll to find a date that would work for a majority of Directors.

ANALYSIS & DISCUSSION

Staff distributed a Doodle poll the week of April 16, 2020; based on responses received, November 13, 2020 at 3:00 p.m. worked best for a majority of members. As of May 8th, the location for the meeting has not been confirmed, but will be secured and announced at a later date.

STRATEGIC PLAN

Not applicable.

ALTERNATIVE

The Board may select an alternative day/time to host the November meeting.

FISCAL IMPACT

None.



Staff Report – Item 1d

Item 1d: Receive New SVCE Rate Schedules Effective May 1, 2020

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Don Bray, Director of Account Services and Community Relations
Peyton Parks, Energy Consultant

Date: 5/13/2020

RECOMMENDATION

Receive staff report and rate tables for new SVCE rates effective May 1, 2020 at a 4% discount to PG&E, established per the discount framework approved by the Board on April 8, 2020 via Resolution 2020-14.

BACKGROUND

At the April 8th Board meeting, the Board approved a framework by which SVCE's discount to PG&E rates would be updated and made effective as of May 1, 2020. Based on the most recent information regarding anticipated PG&E power charge indifference adjustment (PCIA) and generation rate changes to be effective as of May 1, the Board directed staff to apply an across-the-board 4% discount to PG&E generation rates when calculating new SVCE rates for May 1, 2020.

Importantly, as PG&E's May 1st rates were not yet known with certainty, the Board also requested the creation of a 'discount framework' (aka guard rails). Under such a framework, the actual SVCE discount to be applied effective May 1st would ultimately depend on the net rate impact of actual changes to PG&E's PCIA and generation rates effective May 1st. Accordingly, the expected 4% discount could be reduced, if PG&E's actual PCIA and/or generation rates were more negative to SVCE than anticipated.

As shown below, the net rate impact of PG&E rate changes to SVCE is calculated using actual percentage changes in the PG&E generation rate, and the PCIA rate. Since the average PCIA rate is roughly equivalent to 40% of the SVCE generation rate, the impact of PCIA rate changes is only 40% of the impact of a change to the PG&E generation rate. Conversely, a change in the PG&E generation rate has a multiplicative impact on the SVCE generation rate of 1.4x.

**Net SVCE Rate
Impact from
PG&E Gen & PCIA
Changes**

$$\approx (1.4 * \text{PG\&E Gen Rate \% Change}) - (\text{PCIA \% Change} * 0.4)$$

Anticipated SVCE Net Rate Impact:

$$- 8.0 \% \approx (1.4 * 0.4\%) - (21.4\% * 0.4)$$

As of the April SVCE board meeting, PG&E generation rates were anticipated to increase by 0.4%, and PCIA rates to increase by 21.4%. Accordingly, these anticipated values would represent a negative 8.0% impact to SVCE rates. But if actual rate changes were to vary from projections, per the 'Discount Framework' shown below, the calculated net rate impact of percentage changes for PG&E generation and PCIA rates effective May 1, 2020 would then be used to finalize the discount to be applied to SVCE rates effective May 1, 2020.

Discount Framework for Finalizing May 1st SVCE Rates

Net Rate Impact PG&E Gen & PCIA (Range)	May 1 SVCE Discount	Average May 1 SVCE Rate Reduction	Projected Contribution FY 2020
- 8% or less	4%	- 8% or less	> \$30M
- 8 to - 9%	4%	- 8%	\$30M
- 9 to - 10%	3%	- 8%	\$30M
- 10 to - 11%	2%	- 8%	\$30M
- 11% or greater	1%	greater than - 8%	> \$30M

If actual PG&E gen or PCIA rates published for May 1 move still more negatively for SVCE . . .

the recommended 4% SVCE discount would be decreased according to this framework, preserving a similar contribution to reserves

ANALYSIS & DISCUSSION

PG&E published new generation and PCIA rates on April 22, 2020, which became effective as of May 1. The load-weighted average increase in PG&E’s PCIA rate was 21.19%, and load-weighted average increase in the generation rate was 1.03%. Both rate changes were close to what had been anticipated. The net rate impact to SVCE of these changes, calculated as shown in the formula above, is -7.034%

Per the Discount Framework approved in April, the resulting SVCE discount to PG&E is being set at 4% as of May 1st, consistent with what was anticipated at the April Board meeting. SVCE’s discount to PG&E has been near 4% since summer of 2019, so the newly-set discount is consistent with recent history. In light of the significant increase to the PCIA effective May 1st, SVCE lowered its generation rates by an average of 7% on May 1st to maintain this level of discount to PG&E.

All SVCE rate schedules and associated billing determinants were updated and made effective as of May 1st, 2020 to reflect this new 4% discount level relative to PG&E’s generation rates. Updated rate schedules are attached.

STRATEGIC PLAN

Rate setting is directly supported by SVCE Strategic Plan Goal 2 – maintain competitive rates to acquire and retain customers.

FISCAL IMPACT

As noted in the April 8th Board presentation on rates, the fiscal impact of the SVCE new generation rates for May 1st is a reduction in planned contribution to operating reserves for FY19/20 of \$9.2M. Including additional revenue impacts associated with COVID-19, SVCE’s overall contribution to reserves for FY19/20 are now expected to be approximately \$30M.

ATTACHMENT

1. SVCE Residential Rate Schedule effective May 1, 2020
2. SVCE Non-Residential Rate Schedule effective May 1, 2020

Silicon Valley Clean Energy



Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
E-1	Year-round	\$ 0.07885	\$ 0.11282	\$ 0.11752	Rates applicable to all usage throughout the year
E-6	Summer (May-Oct)				
	SUMMER PEAK	\$ 0.22012	\$ 0.25409	\$ 0.26468	1:00 p.m. to 7:00 p.m. Monday through Friday
	SUMMER PART-PEAK	\$ 0.10211	\$ 0.13608	\$ 0.14175	10:00 a.m. to 1:00 p.m. AND 7:00 p.m. to 9:00 p.m. Monday through Friday, 5:00 p.m. to 8:00 p.m. Saturday and Sunday
	SUMMER OFF-PEAK	\$ 0.05394	\$ 0.08791	\$ 0.09157	All other times including Holidays
	Winter (Nov-Apr)				
	WINTER PART-PEAK	\$ 0.08067	\$ 0.11464	\$ 0.11942	5:00 p.m. to 8:00 p.m. Monday through Friday
	WINTER OFF-PEAK	\$ 0.06743	\$ 0.10140	\$ 0.10563	All other times including Holidays
EV-A, EV-B	Summer (May-Oct)				
	SUMMER PEAK	\$ 0.23187	\$ 0.26584	\$ 0.27692	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	\$ 0.09414	\$ 0.12811	\$ 0.13345	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	\$ 0.03042	\$ 0.06439	\$ 0.06707	All other hours
	Winter (Nov-Apr)				
	WINTER PEAK	\$ 0.06537	\$ 0.09934	\$ 0.10348	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	\$ 0.02809	\$ 0.06206	\$ 0.06465	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	\$ 0.03271	\$ 0.06668	\$ 0.06946	All other hours□

Silicon Valley Clean Energy



Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
EV-2A	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.14209	\$ 0.17606	\$ 0.18340	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	SUMMER PART-PEAK	\$ 0.09917	\$ 0.13314	\$ 0.13869	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	\$ 0.05968	\$ 0.09365	\$ 0.09755	All other hours
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.08750	\$ 0.12147	\$ 0.12653	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
	WINTER PART-PEAK	\$ 0.07551	\$ 0.10948	\$ 0.11404	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	\$ 0.05297	\$ 0.08694	\$ 0.09056	All other hours
E-TOU-A	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.15887	\$ 0.19284	\$ 0.20087	3:00 p.m. to 8:00 p.m. Monday through Friday
	SUMMER OFF-PEAK	\$ 0.08632	\$ 0.12029	\$ 0.12530	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.07502	\$ 0.10899	\$ 0.11353	3:00 p.m. to 8:00 p.m. Monday through Friday
	WINTER OFF-PEAK	\$ 0.06129	\$ 0.09526	\$ 0.09923	All other times including Holidays

Silicon Valley Clean Energy



Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
E-TOU-B	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.17955	\$ 0.21352	\$ 0.22242	4:00 p.m. to 9:00 p.m. Monday through Friday
	SUMMER OFF-PEAK	\$ 0.08062	\$ 0.11459	\$ 0.11936	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.07699	\$ 0.11096	\$ 0.11558	4:00 p.m. to 9:00 p.m. Monday through Friday
	WINTER OFF-PEAK	\$ 0.05894	\$ 0.09291	\$ 0.09678	All other times including Holidays
E-TOU-C	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.12669	\$ 0.16066	\$ 0.16735	4:00 p.m. to 9:00 p.m. everyday
	SUMMER OFF-PEAK	\$ 0.07538	\$ 0.10935	\$ 0.11391	All other times
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.07988	\$ 0.11385	\$ 0.11859	4:00 p.m. to 9:00 p.m. everyday
	WINTER OFF-PEAK	\$ 0.06545	\$ 0.09942	\$ 0.10356	All other times
E-TOU-D	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.13832	\$ 0.17229	\$ 0.17947	5:00 p.m. to 8:00 p.m. everyday
	SUMMER OFF-PEAK	\$ 0.05676	\$ 0.09073	\$ 0.09451	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.09867	\$ 0.13264	\$ 0.13817	5:00 p.m. to 8:00 p.m. everyday
	WINTER OFF-PEAK	\$ 0.08420	\$ 0.11817	\$ 0.12309	All other times including Holidays

Silicon Valley Clean Energy

SVCE Rate Schedule



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
GreenPrime			+ \$ 0.00800		Same as applicable rate, with \$0.008/kWh adder for 100% Renewable energy

¹ SVCE Generation Rates, without added PG&E fees, effective 5/1/2020

² SVCE Generation Service reflects our price for Generation, with added PG&E fees (PCIA and Franchise Fees), effective 5/1/2020

³ PG&E Generation service rate effective 5/1/2020

Silicon Valley Clean Energy

Small Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison

- [Small Commercial](#)
- [Medium Commercial](#)
- [Commercial EV](#)
- [Large Commercial](#)
- [Agriculture](#)
- [Stand By](#)
- [Lighting](#)

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes	
A-1-A	Summer (May-Oct)	\$ 0.09561	\$ 0.12816	\$ 0.13350	Rates applicable to all usage throughout the season	
	Winter (Nov-Apr)	\$ 0.05708	\$ 0.08963	\$ 0.09336	Rates applicable to all usage throughout the season	
A-1-B	Summer (May-Oct)					
	PEAK	\$ 0.11002	\$ 0.14257	\$ 0.14851	12 Noon to 6 P.M. Monday through Friday (except holidays)	
	PART-PEAK	\$ 0.08732	\$ 0.11987	\$ 0.12486	8:30 A.M. to 12 Noon and 6 P.M. to 9:30 P.M. Monday through Friday (except holidays)	
	OFF-PEAK	\$ 0.06105	\$ 0.09360	\$ 0.09750	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays	
	Winter (Nov-Apr)					
	PART-PEAK	\$ 0.08712	\$ 0.11967	\$ 0.12466	8:30 A.M. to 9:30 P.M. Monday through Friday (except holidays)	
	OFF-PEAK	\$ 0.06705	\$ 0.09960	\$ 0.10375	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays	
	B-1	Summer (Jun-Sep)				
		PEAK	\$ 0.13773	\$ 0.17028	\$ 0.17737	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
		PART-PEAK	\$ 0.09046	\$ 0.12301	\$ 0.12814	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.07049	\$ 0.10304	\$ 0.10733	All other hours	
Winter (Oct-May)						
PEAK		\$ 0.08469	\$ 0.11724	\$ 0.12212	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays	
OFF-PEAK	\$ 0.06921	\$ 0.10176	\$ 0.10600	All other hours		
	SUPER OFF-PEAK	\$ 0.05345	\$ 0.08600	\$ 0.08958	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only	



Silicon Valley Clean Energy

Small Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
A-6 Summer (May-Oct)					
PEAK		\$ 0.34170	\$ 0.37425	\$ 0.38984	12 Noon to 6 P.M. Monday through Friday (except holidays)
PART-PEAK		\$ 0.11170	\$ 0.14425	\$ 0.15026	8:30 A.M. to 12 Noon and 6 P.M. to 9:30 P.M. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.05573	\$ 0.08828	\$ 0.09196	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays
Winter (Nov-Apr)					
PART-PEAK		\$ 0.08018	\$ 0.11273	\$ 0.11743	8:30 A.M. to 9:30 P.M. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.06338	\$ 0.09593	\$ 0.09993	9:30 P.M. to 8:30 A.M. Monday through Friday and all day Saturday and Sunday, holidays
B-6 Summer (Jun-Sep)					
PEAK		\$ 0.14214	\$ 0.17469	\$ 0.18197	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.07383	\$ 0.10638	\$ 0.11081	All other hours
Winter (Oct-May)					
PEAK		\$ 0.08116	\$ 0.11371	\$ 0.11845	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.06478	\$ 0.09733	\$ 0.10139	All other hours
SUPER OFF-PEAK		\$ 0.04903	\$ 0.08158	\$ 0.08498	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only



Silicon Valley Clean Energy

Medium Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes	
A-10-A	Summer (May-Oct)	\$ 0.08332	\$ 0.11838	\$ 0.12331	Rates applicable to all usage throughout the season	
	SUMMER MAX (kW)	\$ 5.55	\$ 5.55	\$ 5.78		
	Winter (Nov-Apr)	\$ 0.05710	\$ 0.09216	\$ 0.09600	Rates applicable to all usage throughout the season	
A-10-B	Summer (May-Oct)					
	PEAK	\$ 0.13505	\$ 0.17011	\$ 0.17720	12 Noon to 6 P.M. Monday through Friday (except holidays)	
	PART-PEAK	\$ 0.08213	\$ 0.11719	\$ 0.12207	8:30 A.M. to 12 Noon and 6 P.M. to 9:30 P.M. Monday through Friday (except holidays)	
	OFF-PEAK	\$ 0.05518	\$ 0.09024	\$ 0.09400	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays	
	SUMMER MAX (kW)	\$ 5.55	\$ 5.55	\$ 5.78		
	Winter (Nov-Apr)					
	PART-PEAK	\$ 0.06682	\$ 0.10188	\$ 0.10613	8:30 A.M. to 9:30 P.M. Monday through Friday (except holidays)	
	OFF-PEAK	\$ 0.05045	\$ 0.08551	\$ 0.08907	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays	
	A-10-B-P	Summer (May-Oct)				
		PEAK	\$ 0.12364	\$ 0.15870	\$ 0.16531	12 Noon to 6 P.M. Monday through Friday (except holidays)
PART-PEAK		\$ 0.07510	\$ 0.11016	\$ 0.11475	8:30 A.M. to 12 Noon and 6 P.M. to 9:30 P.M. Monday through Friday (except holidays)	
OFF-PEAK		\$ 0.04954	\$ 0.08460	\$ 0.08812	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays	
SUMMER MAX (kW)		\$ 4.82	\$ 4.82	\$ 5.02		
Winter (Nov-Apr)						
PART-PEAK		\$ 0.06195	\$ 0.09701	\$ 0.10105	8:30 A.M. to 9:30 P.M. Monday through Friday (except holidays)	
OFF-PEAK		\$ 0.04670	\$ 0.08176	\$ 0.08517	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays	



Silicon Valley Clean Energy

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Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
A-10-B-T	Summer (May-Oct)				
	PEAK	\$ 0.10953	\$ 0.14459	\$ 0.15061	12 Noon to 6 P.M. Monday through Friday (except holidays)
	PART-PEAK	\$ 0.06452	\$ 0.09958	\$ 0.10373	8:30 A.M. to 12 Noon and 6 P.M. to 9:30 P.M. Monday through Friday (except holidays)
	OFF-PEAK	\$ 0.04023	\$ 0.07529	\$ 0.07843	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays
	SUMMER MAX (kW)	\$ 3.79	\$ 3.79	\$ 3.95	
	Winter (Nov-Apr)				
	PART-PEAK	\$ 0.05320	\$ 0.08826	\$ 0.09194	8:30 A.M. to 9:30 P.M. Monday through Friday (except holidays)
	OFF-PEAK	\$ 0.03922	\$ 0.07428	\$ 0.07737	9:30 P.M. to 8:30 A.M. Monday through Friday, all day Saturday and Sunday, holidays
B-10-S	Summer (Jun-Sep)				
	PEAK	\$ 0.15877	\$ 0.19383	\$ 0.20191	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	PART-PEAK	\$ 0.09955	\$ 0.13461	\$ 0.14022	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.06828	\$ 0.10334	\$ 0.10765	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.10305	\$ 0.13811	\$ 0.14386	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.06898	\$ 0.10404	\$ 0.10838	All other hours
	SUPER OFF-PEAK	\$ 0.03410	\$ 0.06916	\$ 0.07204	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only

Silicon Valley Clean Energy

Medium Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
B-10-P	Summer (Jun-Sep)				
PEAK		\$ 0.14512	\$ 0.18018	\$ 0.18769	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.08914	\$ 0.12420	\$ 0.12938	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05955	\$ 0.09461	\$ 0.09855	All other hours
	Winter (Oct-May)				
PEAK		\$ 0.09267	\$ 0.12773	\$ 0.13305	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.06038	\$ 0.09544	\$ 0.09942	All other hours
SUPER OFF-PEAK		\$ 0.02550	\$ 0.06056	\$ 0.06308	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
B-10-T	Summer (Jun-Sep)				
PEAK		\$ 0.13324	\$ 0.16830	\$ 0.17531	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.07877	\$ 0.11383	\$ 0.11857	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04990	\$ 0.08496	\$ 0.08850	All other hours
	Winter (Oct-May)				
PEAK		\$ 0.08231	\$ 0.11737	\$ 0.12226	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05079	\$ 0.08585	\$ 0.08943	All other hours
SUPER OFF-PEAK		\$ 0.01591	\$ 0.05097	\$ 0.05309	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only

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Medium Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
BEV1	Summer/Winter				
PEAK		\$ 0.22496	\$ 0.25247	\$ 0.26299	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04970	\$ 0.07721	\$ 0.08043	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 9:00 a.m.; Every day, including weekends and holidays
SUPER OFF-PEAK		\$ 0.02533	\$ 0.05284	\$ 0.05504	All other hours; Every day, including weekends and holidays
BEV2S	Summer/Winter				
PEAK		\$ 0.23820	\$ 0.27097	\$ 0.28226	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04297	\$ 0.07574	\$ 0.07890	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 9:00 a.m.; Every day, including weekends and holidays
SUPER OFF-PEAK		\$ 0.01859	\$ 0.05136	\$ 0.05350	All other hours; Every day, including weekends and holidays
BEV2P	Summer/Winter				
PEAK		\$ 0.22823	\$ 0.26100	\$ 0.27188	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04009	\$ 0.07286	\$ 0.07590	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 9:00 a.m.; Every day, including weekends and holidays
SUPER OFF-PEAK		\$ 0.01686	\$ 0.04963	\$ 0.05170	All other hours; Every day, including weekends and holidays

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Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
E-19-S	Summer (May-Oct)				
PEAK		\$ 0.10981	\$ 0.14194	\$ 0.14785	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.06400	\$ 0.09613	\$ 0.10014	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03367	\$ 0.06580	\$ 0.06854	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
PEAK (kW)		\$ 14.28	\$ 14.28	\$ 14.88	
PART-PEAK (kW)		\$ 3.53	\$ 3.53	\$ 3.68	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.05773	\$ 0.08986	\$ 0.09360	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.04119	\$ 0.07332	\$ 0.07638	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays
E-19-P	Summer (May-Oct)				
PEAK		\$ 0.09879	\$ 0.13092	\$ 0.13637	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.05561	\$ 0.08774	\$ 0.09140	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.02786	\$ 0.05999	\$ 0.06249	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
PEAK (kW)		\$ 12.70	\$ 12.70	\$ 13.23	
PART-PEAK (kW)		\$ 3.09	\$ 3.09	\$ 3.22	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.04979	\$ 0.08192	\$ 0.08533	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03471	\$ 0.06684	\$ 0.06963	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays

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Large Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
E-19-T	Summer (May-Oct)				
PEAK		\$ 0.05826	\$ 0.09039	\$ 0.09416	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.04408	\$ 0.07621	\$ 0.07939	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.02532	\$ 0.05745	\$ 0.05984	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
PEAK (kW)		\$ 13.98	\$ 13.98	\$ 14.56	
PART-PEAK (kW)		\$ 3.50	\$ 3.50	\$ 3.65	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.04631	\$ 0.07844	\$ 0.08171	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03190	\$ 0.06403	\$ 0.06670	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays
E-19-R-S	Summer (May-Oct)				
PEAK		\$ 0.26378	\$ 0.29591	\$ 0.30824	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.10266	\$ 0.13479	\$ 0.14041	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03794	\$ 0.07007	\$ 0.07299	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.06114	\$ 0.09327	\$ 0.09716	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.04521	\$ 0.07734	\$ 0.08056	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays



Silicon Valley Clean Energy

Large Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
E-19-R-P	Summer (May-Oct)				
	PEAK	\$ 0.24930	\$ 0.28143	\$ 0.29316	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
	PART-PEAK	\$ 0.09262	\$ 0.12475	\$ 0.12995	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
	OFF-PEAK	\$ 0.03165	\$ 0.06378	\$ 0.06644	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
	Winter (Nov-Apr)				
	PART-PEAK	\$ 0.05282	\$ 0.08495	\$ 0.08849	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK	\$ 0.03828	\$ 0.07041	\$ 0.07334	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays	
E-19-R-T	Summer (May-Oct)				
	PEAK	\$ 0.24059	\$ 0.27272	\$ 0.28408	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
	PART-PEAK	\$ 0.09073	\$ 0.12286	\$ 0.12798	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
	OFF-PEAK	\$ 0.03059	\$ 0.06272	\$ 0.06533	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
	Winter (Nov-Apr)				
	PART-PEAK	\$ 0.05084	\$ 0.08297	\$ 0.08643	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK	\$ 0.03694	\$ 0.06907	\$ 0.07195	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays	

Silicon Valley Clean Energy

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Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
B-19-S	Summer (Jun-Sep)				
PEAK		\$ 0.10110	\$ 0.13323	\$ 0.13878	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.07250	\$ 0.10463	\$ 0.10899	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05227	\$ 0.08440	\$ 0.08792	All other hours
PEAK		\$ 14.32	\$ 14.32	\$ 14.92	
PART-PEAK (kW)		\$ 2.08	\$ 2.08	\$ 2.17	
	Winter (Oct-May)				
PART-PEAK		\$ 0.08294	\$ 0.11507	\$ 0.11986	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05220	\$ 0.08433	\$ 0.08784	All other hours
SUPER OFF-PEAK		\$ 0.01095	\$ 0.04308	\$ 0.04488	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
PEAK (kW)		\$ 1.70	\$ 1.70	\$ 1.77	
B-19-P	Summer (Jun-Sep)				
PEAK		\$ 0.08593	\$ 0.11806	\$ 0.12298	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.06422	\$ 0.09635	\$ 0.10036	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04533	\$ 0.07746	\$ 0.08069	All other hours
PEAK (kW)		\$ 12.25	\$ 12.25	\$ 12.76	
PART-PEAK (kW)		\$ 1.80	\$ 1.80	\$ 1.87	
	Winter (Oct-May)				
PART-PEAK		\$ 0.07416	\$ 0.10629	\$ 0.11072	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04546	\$ 0.07759	\$ 0.08082	All other hours
SUPER OFF-PEAK		\$ 0.00462	\$ 0.03675	\$ 0.03828	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
PEAK (kW)		\$ 1.26	\$ 1.26	\$ 1.31	

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Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
B-19-T	Summer (Jun-Sep)				
	PEAK	\$ 0.07333	\$ 0.10546	\$ 0.10985	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	PART-PEAK	\$ 0.06446	\$ 0.09659	\$ 0.10061	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04557	\$ 0.07770	\$ 0.08094	All other hours
	PEAK (kW)	\$ 9.37	\$ 9.37	\$ 9.76	
	PART-PEAK (kW)	\$ 2.34	\$ 2.34	\$ 2.44	
	Winter (Oct-May)				
	PART-PEAK	\$ 0.07451	\$ 0.10664	\$ 0.11108	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04582	\$ 0.07795	\$ 0.08120	All other hours
	SUPER OFF-PEAK	\$ 0.00363	\$ 0.03576	\$ 0.03725	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
PEAK (kW)	\$ 0.90	\$ 0.90	\$ 0.94		
B-19-R-S	Summer (Jun-Sep)				
	PEAK	\$ 0.22347	\$ 0.25560	\$ 0.26625	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	PART-PEAK	\$ 0.09332	\$ 0.12545	\$ 0.13068	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.05635	\$ 0.08848	\$ 0.09217	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.09691	\$ 0.12904	\$ 0.13442	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.05629	\$ 0.08842	\$ 0.09210	All other hours
	SUPER OFF-PEAK	\$ 0.02190	\$ 0.05403	\$ 0.05628	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only



Silicon Valley Clean Energy

Large Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
B-19-R-P	Summer (Jun-Sep)				
	PEAK	\$ 0.20076	\$ 0.23289	\$ 0.24259	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	PART-PEAK	\$ 0.08216	\$ 0.11429	\$ 0.11905	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04818	\$ 0.08031	\$ 0.08366	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.08443	\$ 0.11656	\$ 0.12142	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK	\$ 0.04829	\$ 0.08042	\$ 0.08377	All other hours	
SUPER OFF-PEAK	\$ 0.01390	\$ 0.04603	\$ 0.04795	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only	
B-19-R-T	Summer (Jun-Sep)				
	PEAK	\$ 0.16661	\$ 0.19874	\$ 0.20702	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	PART-PEAK	\$ 0.08837	\$ 0.12050	\$ 0.12552	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04791	\$ 0.08004	\$ 0.08337	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.08044	\$ 0.11257	\$ 0.11726	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK	\$ 0.04811	\$ 0.08024	\$ 0.08358	All other hours	
SUPER OFF-PEAK	\$ 0.01372	\$ 0.04585	\$ 0.04776	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only	



Silicon Valley Clean Energy

Large Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
E-20-S	Summer (May-Oct)				
	PEAK	\$ 0.10101	\$ 0.13190	\$ 0.13740	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
	PART-PEAK	\$ 0.05936	\$ 0.09025	\$ 0.09401	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
	OFF-PEAK	\$ 0.03076	\$ 0.06165	\$ 0.06422	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
	PEAK (kW)	\$ 13.83	\$ 13.83	\$ 14.41	
	PART-PEAK (kW)	\$ 3.42	\$ 3.42	\$ 3.56	
	Winter (Nov-Apr)				
	PART-PEAK	\$ 0.05331	\$ 0.08420	\$ 0.08771	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
	OFF-PEAK	\$ 0.03782	\$ 0.06871	\$ 0.07157	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays
	E-20-P	Summer (May-Oct)			
PEAK		\$ 0.10481	\$ 0.13452	\$ 0.14012	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.05902	\$ 0.08873	\$ 0.09243	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03086	\$ 0.06057	\$ 0.06309	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
PEAK (kW)		\$ 15.15	\$ 15.15	\$ 15.78	
PART-PEAK (kW)		\$ 3.58	\$ 3.58	\$ 3.73	
Winter (Nov-Apr)					
PART-PEAK		\$ 0.05298	\$ 0.08269	\$ 0.08614	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03778	\$ 0.06749	\$ 0.07030	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays



Silicon Valley Clean Energy

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Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
E-20-T	Summer (May-Oct)				
PEAK		\$ 0.06100	\$ 0.08856	\$ 0.09225	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.04711	\$ 0.07467	\$ 0.07778	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.02872	\$ 0.05628	\$ 0.05862	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
PEAK (kW)		\$ 18.05	\$ 18.05	\$ 18.80	
PART-PEAK (kW)		\$ 4.30	\$ 4.30	\$ 4.48	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.04929	\$ 0.07685	\$ 0.08005	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03517	\$ 0.06273	\$ 0.06534	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays
E-20-R-S	Summer (May-Oct)				
PEAK		\$ 0.23808	\$ 0.26897	\$ 0.28018	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.09416	\$ 0.12505	\$ 0.13026	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03348	\$ 0.06437	\$ 0.06705	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.05524	\$ 0.08613	\$ 0.08972	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.04028	\$ 0.07117	\$ 0.07414	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays



Silicon Valley Clean Energy

Large Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
E-20-R-P	Summer (May-Oct)				
PEAK		\$ 0.25588	\$ 0.28559	\$ 0.29749	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.09406	\$ 0.12377	\$ 0.12893	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03371	\$ 0.06342	\$ 0.06606	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.05510	\$ 0.08481	\$ 0.08834	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.04040	\$ 0.07011	\$ 0.07303	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays
E-20-R-T	Summer (May-Oct)				
PEAK		\$ 0.25065	\$ 0.27821	\$ 0.28980	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.08876	\$ 0.11632	\$ 0.12117	8:30 a.m. to 12:00 noon Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03110	\$ 0.05866	\$ 0.06110	9:30 p.m. to 8:30 a.m. Monday through Friday, and All day Saturday, Sunday, and holidays
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.05098	\$ 0.07854	\$ 0.08181	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03733	\$ 0.06489	\$ 0.06759	9:30 p.m. to 8:30 a.m. Monday through Friday, All day Saturday, Sunday, and holidays

Silicon Valley Clean Energy

Large Commercial



Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
B-20-S Summer (Jun-Sep)					
PEAK		\$ 0.09615	\$ 0.12704	\$ 0.13233	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.07031	\$ 0.10120	\$ 0.10542	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04991	\$ 0.08080	\$ 0.08417	All other hours
PEAK (kW)		\$ 14.03	\$ 14.03	\$ 14.61	
PART-PEAK (kW)		\$ 2.04	\$ 2.04	\$ 2.12	
Winter (Oct-May)					
PEAK		\$ 0.08076	\$ 0.11165	\$ 0.11630	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04975	\$ 0.08064	\$ 0.08400	All other hours
SUPER OFF-PEAK		\$ 0.00821	\$ 0.03910	\$ 0.04073	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
PEAK (kW)		\$ 1.79	\$ 1.79	\$ 1.86	
B-20-P Summer (Jun-Sep)					
PEAK		\$ 0.09327	\$ 0.12298	\$ 0.12810	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.06601	\$ 0.09572	\$ 0.09971	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04700	\$ 0.07671	\$ 0.07991	All other hours
PEAK (kW)		\$ 15.35	\$ 15.35	\$ 15.99	
PART-PEAK (kW)		\$ 2.11	\$ 2.11	\$ 2.20	
Winter (Oct-May)					
PEAK		\$ 0.07592	\$ 0.10563	\$ 0.11003	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04705	\$ 0.07676	\$ 0.07996	All other hours
SUPER OFF-PEAK		\$ 0.00610	\$ 0.03581	\$ 0.03730	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
PEAK (kW)		\$ 1.77	\$ 1.77	\$ 1.84	

Silicon Valley Clean Energy

Large Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
B-20-T	Summer (Jun-Sep)				
PEAK		\$ 0.07594	\$ 0.10350	\$ 0.10781	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.05937	\$ 0.08693	\$ 0.09055	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04088	\$ 0.06844	\$ 0.07129	All other hours
PEAK (kW)		\$ 17.12	\$ 17.12	\$ 17.83	
PART-PEAK (kW)		\$ 4.08	\$ 4.08	\$ 4.25	
	Winter (Oct-May)				
PEAK		\$ 0.07514	\$ 0.10270	\$ 0.10698	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.03753	\$ 0.06509	\$ 0.06780	All other hours
SUPER OFF-PEAK		\$ 0.00000	\$ 0.02752	\$ 0.02867	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
PEAK (kW)		\$ 2.28	\$ 2.28	\$ 2.38	
B-20-R-S	Summer (Jun-Sep)				
PEAK		\$ 0.21720	\$ 0.24809	\$ 0.25843	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.08976	\$ 0.12065	\$ 0.12568	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05380	\$ 0.08469	\$ 0.08822	All other hours
	Winter (Oct-May)				
PEAK		\$ 0.09566	\$ 0.12655	\$ 0.13182	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05368	\$ 0.08457	\$ 0.08809	All other hours
SUPER OFF-PEAK		\$ 0.01936	\$ 0.05025	\$ 0.05234	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only

Silicon Valley Clean Energy

Large Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
B-20-R-P	Summer (Jun-Sep)				
	PEAK	\$ 0.20794	\$ 0.23765	\$ 0.24755	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	PART-PEAK	\$ 0.08419	\$ 0.11390	\$ 0.11865	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.05088	\$ 0.08059	\$ 0.08395	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.08940	\$ 0.11911	\$ 0.12407	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK	\$ 0.05093	\$ 0.08064	\$ 0.08400	All other hours	
SUPER OFF-PEAK	\$ 0.01661	\$ 0.04632	\$ 0.04825	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only	
B-20-R-T	Summer (Jun-Sep)				
	PEAK	\$ 0.20716	\$ 0.23472	\$ 0.24450	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
	PART-PEAK	\$ 0.09328	\$ 0.12084	\$ 0.12588	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04504	\$ 0.07260	\$ 0.07563	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.09313	\$ 0.12069	\$ 0.12572	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK	\$ 0.04224	\$ 0.06980	\$ 0.07271	All other hours	
SUPER OFF-PEAK	\$ 0.01075	\$ 0.03831	\$ 0.03991	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only	



Silicon Valley Clean Energy

Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
AG-1-A	Summer (May-Oct)	\$ 0.07807	\$ 0.10846	\$ 0.11298	Rates applicable to all usage throughout the season
	SUMMER MAX	\$ 1.49	\$ 1.49	\$ 1.55	
	Winter (Nov-Apr)	\$ 0.05751	\$ 0.08790	\$ 0.09156	Rates applicable to all usage throughout the season
AG-1-B	Summer (May-Oct)	\$ 0.08167	\$ 0.11206	\$ 0.11673	Rates applicable to all usage throughout the season
	SUMMER MAX	\$ 2.25	\$ 2.25	\$ 2.34	
	Winter (Nov-Apr)	\$ 0.05800	\$ 0.08839	\$ 0.09207	Rates applicable to all usage throughout the season
AG-A1	Summer (Jun-Sep)				
	PEAK	\$ 0.18472	\$ 0.21511	\$ 0.22407	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.06982	\$ 0.10021	\$ 0.10439	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.06664	\$ 0.09703	\$ 0.10107	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04125	\$ 0.07164	\$ 0.07462	All other hours
AG-A2	Summer (Jun-Sep)				
	PEAK	\$ 0.18472	\$ 0.21511	\$ 0.22407	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.06982	\$ 0.10021	\$ 0.10439	All other hours
	Winter (Oct-May)				
	PEAK	\$ 0.06664	\$ 0.09703	\$ 0.10107	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04125	\$ 0.07164	\$ 0.07462	All other hours



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Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
AG-RA	Summer (May-Oct)				
PEAK		\$ 0.26011	\$ 0.29050	\$ 0.30260	Group I 12:00 noon to 6:00 p.m. Monday, Tuesday, Wednesday Group II 12:00 noon to 6:00 p.m. Wednesday, Thursday, Friday
OFF-PEAK		\$ 0.04568	\$ 0.07607	\$ 0.07924	All other hours Monday through Friday All day Saturday, Sunday, holidays
SUMMER		\$ 1.47	\$ 1.47	\$ 1.53	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.05332	\$ 0.08371	\$ 0.08720	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.04145	\$ 0.07184	\$ 0.07483	All other hours Monday through Friday All day Saturday, Sunday, holidays
AG-RB	Summer (May-Oct)				
PEAK		\$ 0.23285	\$ 0.26324	\$ 0.27421	Group I 12:00 noon to 6:00 p.m. Monday, Tuesday, Wednesday Group II 12:00 noon to 6:00 p.m. Wednesday, Thursday, Friday
OFF-PEAK		\$ 0.04505	\$ 0.07544	\$ 0.07858	All other hours Monday through Friday All day Saturday, Sunday, holidays
MAX		\$ 2.19	\$ 2.19	\$ 2.28	
PEAK		\$ 2.46	\$ 2.46	\$ 2.56	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.03911	\$ 0.06950	\$ 0.07240	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.02933	\$ 0.05972	\$ 0.06221	All other hours Monday through Friday All day Saturday, Sunday, holidays



Silicon Valley Clean Energy

Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
AG-FB	Summer (Jun-Sep)				
PEAK		\$ 0.17314	\$ 0.20353	\$ 0.21201	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays, except for the special off-peak days by Group as indicated below
OFF-PEAK		\$ 0.09508	\$ 0.12547	\$ 0.13070	All other hours and all day for the days indicated by these options: Option 1) Wednesday and Thursday; Option 2) Saturday and Sunday; Option 3) Monday and Friday
	Winter (Oct-May)				
PEAK		\$ 0.08350	\$ 0.11389	\$ 0.11864	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays, except for the special off-peak days by Group as indicated below
OFF-PEAK		\$ 0.05811	\$ 0.08850	\$ 0.09219	All other hours and all day for the days indicated by these options: Option 1) Wednesday and Thursday; Option 2) Saturday and Sunday; Option 3) Monday and Friday
AG-FA	Summer (Jun-Sep)				
PEAK		\$ 0.15172	\$ 0.18211	\$ 0.18970	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays, except for the special off-peak days by Group as indicated below
OFF-PEAK		\$ 0.07767	\$ 0.10806	\$ 0.11256	All other hours and all day for the days indicated by these options: Option 1) Wednesday and Thursday; Option 2) Saturday and Sunday; Option 3) Monday and Friday
	Winter (Oct-May)				
PEAK		\$ 0.06788	\$ 0.09827	\$ 0.10236	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays, except for the special off-peak days by Group as indicated below
OFF-PEAK		\$ 0.04248	\$ 0.07287	\$ 0.07591	All other hours and all day for the days indicated by these options: Option 1) Wednesday and Thursday; Option 2) Saturday and Sunday; Option 3) Monday and Friday
AG-FC	Summer (Jun-Sep)				
PEAK		\$ 0.08821	\$ 0.11860	\$ 0.12354	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays, except for the special off-peak days by Group as indicated below
OFF-PEAK		\$ 0.05940	\$ 0.08979	\$ 0.09353	All other hours and all day for the days indicated by these options: Option 1) Wednesday and Thursday; Option 2) Saturday and Sunday; Option 3) Monday and Friday
MAX		\$ 12.02	\$ 12.02	\$ 12.52	
	Winter (Oct-May)				
PEAK		\$ 0.07437	\$ 0.10476	\$ 0.10912	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays, except for the special off-peak days by Group as indicated below
OFF-PEAK		\$ 0.04897	\$ 0.07936	\$ 0.08267	All other hours and all day for the days indicated by these options: Option 1) Wednesday and Thursday; Option 2) Saturday and Sunday; Option 3) Monday and Friday



Silicon Valley Clean Energy

Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
AG-VA	Summer (May-Oct)				
PEAK		\$ 0.22425	\$ 0.25464	\$ 0.26525	Group I 12:00 noon to 4:00 p.m. Monday through Friday Group II 1:00 p.m. to 5:00 p.m. Monday through Friday Group III 2:00 p.m. to 6:00 p.m. Monday through Friday
OFF-PEAK		\$ 0.04275	\$ 0.07314	\$ 0.07619	All other hours Monday through Friday All day Saturday, Sunday, holidays
SUMMER		\$ 1.54	\$ 1.54	\$ 1.60	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.05168	\$ 0.08207	\$ 0.08549	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.04005	\$ 0.07044	\$ 0.07337	All other hours Monday through Friday All day Saturday, Sunday, holidays
AG-VB	Summer (May-Oct)				
PEAK		\$ 0.20766	\$ 0.23805	\$ 0.24797	Group I 12:00 noon to 4:00 p.m. Monday through Friday Group II 1:00 p.m. to 5:00 p.m. Monday through Friday Group III 2:00 p.m. to 6:00 p.m. Monday through Friday
OFF-PEAK		\$ 0.04358	\$ 0.07397	\$ 0.07705	All other hours Monday through Friday All day Saturday, Sunday, holidays
MAX		\$ 2.03	\$ 2.03	\$ 2.11	
PEAK		\$ 2.61	\$ 2.61	\$ 2.72	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.03980	\$ 0.07019	\$ 0.07311	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.02987	\$ 0.06026	\$ 0.06277	All other hours Monday through Friday All day Saturday, Sunday, holidays



Silicon Valley Clean Energy

Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
AG-4-A	Summer (May-Oct)				
PEAK		\$ 0.14351	\$ 0.17390	\$ 0.18115	12:00 noon to 6:00 p.m. Monday through Friday
OFF-PEAK		\$ 0.04708	\$ 0.07747	\$ 0.08070	All other hours Monday through Friday All day Saturday, Sunday, holidays
SUMMER		\$ 1.51	\$ 1.51	\$ 1.57	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.05146	\$ 0.08185	\$ 0.08526	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.03997	\$ 0.07036	\$ 0.07329	All other hours Monday through Friday All day Saturday, Sunday, holidays
AG-4-B	Summer (May-Oct)				
PEAK		\$ 0.10268	\$ 0.13307	\$ 0.13861	12:00 noon to 6:00 p.m. Monday through Friday
OFF-PEAK		\$ 0.04838	\$ 0.07877	\$ 0.08205	All other hours Monday through Friday All day Saturday, Sunday, holidays
MAX		\$ 2.66	\$ 2.66	\$ 2.77	
PEAK		\$ 2.83	\$ 2.83	\$ 2.95	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.04652	\$ 0.07691	\$ 0.08011	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.03559	\$ 0.06598	\$ 0.06873	All other hours Monday through Friday All day Saturday, Sunday, holidays



Silicon Valley Clean Energy

Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
AG-4-C	Summer (May-Oct)				
PEAK		\$ 0.12266	\$ 0.15305	\$ 0.15943	12:00 noon to 6:00 p.m. Monday through Friday
PART-PEAK		\$ 0.05773	\$ 0.08812	\$ 0.09179	8:30 a.m. to 12:00 p.m. Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.03413	\$ 0.06452	\$ 0.06721	9:30 p.m. to 8:30 a.m. Monday through Friday All day Saturday, Sunday, holidays
PEAK		\$ 6.59	\$ 6.59	\$ 6.86	
PART-PEAK		\$ 1.12	\$ 1.12	\$ 1.17	
	Winter (Nov-Apr)				
PART-PEAK		\$ 0.04083	\$ 0.07122	\$ 0.07419	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.03069	\$ 0.06108	\$ 0.06363	All other hours Monday through Friday All day Saturday, Sunday, holidays
AG-B	Summer (Jun-Sep)				
PEAK		\$ 0.20423	\$ 0.23462	\$ 0.24440	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.08609	\$ 0.11648	\$ 0.12133	All other hours
	Winter (Oct-May)				
PEAK		\$ 0.08096	\$ 0.11135	\$ 0.11599	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05581	\$ 0.08620	\$ 0.08979	All other hours



Silicon Valley Clean Energy

Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
AG-5-A					
Summer (May-Oct)					
PEAK		\$ 0.13116	\$ 0.16155	\$ 0.16828	12:00 noon to 6:00 p.m. Monday through Friday
OFF-PEAK		\$ 0.05156	\$ 0.08195	\$ 0.08536	All other hours Monday through Friday All day Saturday, Sunday, holidays
SUMMER		\$ 4.10	\$ 4.10	\$ 4.27	
Winter (Nov-Apr)					
PART-PEAK		\$ 0.05523	\$ 0.08562	\$ 0.08919	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.04324	\$ 0.07363	\$ 0.07670	All other hours Monday through Friday All day Saturday, Sunday, holidays
AG-5-B					
Summer (May-Oct)					
PEAK		\$ 0.12845	\$ 0.15884	\$ 0.16546	12:00 noon to 6:00 p.m. Monday through Friday
OFF-PEAK		\$ 0.02510	\$ 0.05549	\$ 0.05780	All other hours Monday through Friday All day Saturday, Sunday, holidays
MAX		\$ 4.99	\$ 4.99	\$ 5.20	
PEAK		\$ 6.25	\$ 6.25	\$ 6.51	
Winter (Nov-Apr)					
PART-PEAK		\$ 0.04664	\$ 0.07703	\$ 0.08024	8:30 a.m. to 9:30 p.m. Monday through Friday
OFF-PEAK		\$ 0.01619	\$ 0.04658	\$ 0.04852	All other hours Monday through Friday All day Saturday, Sunday, holidays



Silicon Valley Clean Energy

Agriculture

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
AG-5-C	Summer (May-Oct)				
	PEAK	\$ 0.10201	\$ 0.13240	\$ 0.13792	12:00 noon to 6:00 p.m. Monday through Friday
	PART-PEAK	\$ 0.04749	\$ 0.07788	\$ 0.08113	8:30 a.m. to 12:00 p.m. Monday through Friday AND 6:00 p.m. to 9:30 p.m. Monday through Friday
	OFF-PEAK	\$ 0.02720	\$ 0.05759	\$ 0.05999	9:30 p.m. to 8:30 a.m. Monday through Friday All day Saturday, Sunday, holidays
	PEAK	\$ 11.64	\$ 11.64	\$ 12.12	
	PART-PEAK	\$ 2.19	\$ 2.19	\$ 2.28	
	Winter (Nov-Apr)				
	PART-PEAK	\$ 0.03329	\$ 0.06368	\$ 0.06633	8:30 a.m. to 9:30 p.m. Monday through Friday
	OFF-PEAK	\$ 0.02406	\$ 0.05445	\$ 0.05672	All other hours Monday through Friday All day Saturday, Sunday, holidays
AG-C	Summer (Jun-Sep)				
	PEAK	\$ 0.08101	\$ 0.11140	\$ 0.11604	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.05271	\$ 0.08310	\$ 0.08656	All other hours
	MAX	\$ 12.02	\$ 12.02	\$ 12.52	
	Winter (Oct-May)				
	PEAK	\$ 0.06695	\$ 0.09734	\$ 0.10140	5:00 p.m. to 8:00 p.m.; Every day, including weekends and holidays
	OFF-PEAK	\$ 0.04245	\$ 0.07284	\$ 0.07588	All other hours



Silicon Valley Clean Energy

Standby

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
STOUS					
Summer (May-Oct)					
PEAK		\$ 0.09411	\$ 0.11867	\$ 0.12361	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.07528	\$ 0.09984	\$ 0.10400	8:30 a.m. to 12:00 noon AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.05064	\$ 0.07520	\$ 0.07833	9:30 p.m. to 8:30 a.m. Monday through Friday All Day Saturday, Sunday, and holidays
Reservation (kW)		\$ 0.46	\$ 0.46	\$ 0.48	
Winter (Nov-Apr)					
PART-PEAK		\$ 0.07828	\$ 0.10284	\$ 0.10713	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.05919	\$ 0.08375	\$ 0.08724	9:30 p.m. to 8:30 a.m. Monday through Friday All Day Saturday, Sunday and holidays
Reservation (kW)		\$ 0.46	\$ 0.46	\$ 0.48	
STOUP					
Summer (May-Oct)					
PEAK		\$ 0.09411	\$ 0.11867	\$ 0.12361	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.07528	\$ 0.09984	\$ 0.10400	8:30 a.m. to 12:00 noon AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.05064	\$ 0.07520	\$ 0.07833	9:30 p.m. to 8:30 a.m. Monday through Friday All Day Saturday, Sunday, and holidays
Reservation (kW)		\$ 0.46	\$ 0.46	\$ 0.48	
Winter (Nov-Apr)					
PART-PEAK		\$ 0.07828	\$ 0.10284	\$ 0.10713	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.05919	\$ 0.08375	\$ 0.08724	9:30 p.m. to 8:30 a.m. Monday through Friday All Day Saturday, Sunday and holidays
Reservation (kW)		\$ 0.46	\$ 0.46	\$ 0.48	



Silicon Valley Clean Energy

Standby

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
STOUT					
Summer (May-Oct)					
PEAK		\$ 0.07163	\$ 0.09619	\$ 0.10020	12:00 noon to 6:00 p.m. Monday through Friday (except holidays)
PART-PEAK		\$ 0.05654	\$ 0.08110	\$ 0.08448	8:30 a.m. to 12:00 noon AND 6:00 p.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.03657	\$ 0.06113	\$ 0.06368	9:30 p.m. to 8:30 a.m. Monday through Friday All Day Saturday, Sunday, and holidays
Reservation (kW)		\$ 0.37	\$ 0.37	\$ 0.39	
Winter (Nov-Apr)					
PART-PEAK		\$ 0.05891	\$ 0.08347	\$ 0.08695	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays)
OFF-PEAK		\$ 0.04357	\$ 0.06813	\$ 0.07097	9:30 p.m. to 8:30 a.m. Monday through Friday All Day Saturday, Sunday and holidays
Reservation (kW)		\$ 0.37	\$ 0.37	\$ 0.39	
S-B-S					
Summer (Jun-Sep)					
PEAK		\$ 0.08807	\$ 0.11263	\$ 0.11732	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.07627	\$ 0.10083	\$ 0.10503	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.06315	\$ 0.08771	\$ 0.09136	All other hours
Reservation (kW)		\$ 0.30	\$ 0.30	\$ 0.31	
Winter (Oct-May)					
PEAK		\$ 0.08334	\$ 0.10790	\$ 0.11240	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.06426	\$ 0.08882	\$ 0.09252	All other hours
SUPER OFF-PEAK		\$ 0.02188	\$ 0.04644	\$ 0.04837	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
Reservation (kW)		\$ 0.30	\$ 0.30	\$ 0.31	



Silicon Valley Clean Energy

Standby

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
S-B-P					
Summer (Jun-Sep)					
PEAK		\$ 0.08807	\$ 0.11263	\$ 0.11732	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.07627	\$ 0.10083	\$ 0.10503	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.06315	\$ 0.08771	\$ 0.09136	All other hours
Reservation (kW)		\$ 0.30	\$ 0.30	\$ 0.31	
Winter (Oct-May)					
PEAK		\$ 0.08334	\$ 0.10790	\$ 0.11240	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.06426	\$ 0.08882	\$ 0.09252	All other hours
SUPER OFF-PEAK		\$ 0.02188	\$ 0.04644	\$ 0.04837	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
Reservation (kW)		\$ 0.30	\$ 0.30	\$ 0.31	
S-B-T					
Summer (Jun-Sep)					
PEAK		\$ 0.07585	\$ 0.10041	\$ 0.10459	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
PART-PEAK		\$ 0.06436	\$ 0.08892	\$ 0.09262	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 11:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05157	\$ 0.07613	\$ 0.07930	All other hours
Reservation (kW)		\$ 0.17	\$ 0.17	\$ 0.18	
Winter (Oct-May)					
PEAK		\$ 0.07133	\$ 0.09589	\$ 0.09989	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.05276	\$ 0.07732	\$ 0.08054	All other hours
SUPER OFF-PEAK		\$ 0.01031	\$ 0.03487	\$ 0.03632	9:00 a.m. to 2:00 p.m.; Every day in March, April, and May only
Reservation (kW)		\$ 0.17	\$ 0.17	\$ 0.18	



Silicon Valley Clean Energy

Lighting

Non-Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
LS-1, LS-2, LS-3, OL-1	Year-round	\$ 0.06280	\$ 0.08988	\$ 0.09363	Rates applicable to all usage throughout the year
TC-1	Year-round	\$ 0.06775	\$ 0.10030	\$ 0.10448	Rates applicable to all usage throughout the year
GreenPrime			+ \$ 0.00800		Same as applicable rate, with \$0.008/kWh adder for 100% Renewable energy

DAYLIGHT SAVING TIME ADJUSTMENT: The time periods shown above will begin and end one hour later for the period between the second Sunday in March and the first Sunday in April, and for the period between the last Sunday in October and the first Sunday in November.

HOLIDAYS: Holidays, for the purpose of this rate schedule, are New Year’s Day, President’s Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day. The dates will be those on which holidays are legally observed.

¹ SVCE Generation Rates, without added PG&E fees, effective 5/1/2020

² SVCE Generation Service reflects our price for Generation, with added PG&E fees (PCIA and Franchise Fees), effective 5/1/2020

³ PG&E Generation service rate effective 5/1/2020



Staff Report – Item 1e

Item 1e: Approve Establishment of New SVCE Business Electric Vehicle Generation Rates for Commercial Customers to Correspond with New PG&E Rates

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Don Bray, Director of Account Services and Community Relations
 Peyton Parks, Energy Consultant

Date: 5/13/2020

RECOMMENDATION

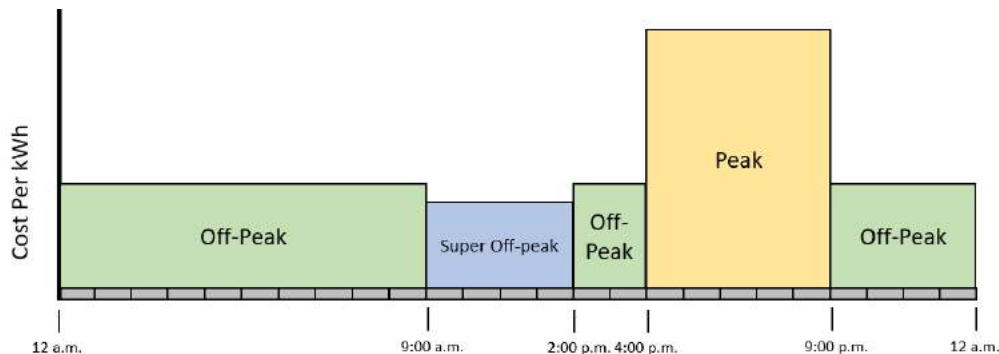
Approve establishment of new SVCE BEV-1 and BEV-2 generation rates for commercial customers to be priced at the current Board-approved discount level of 4% relative to PG&E’s equivalent generation rate, retroactively effective May 1, 2020 to correspond with new PG&E rates for commercial EV charging.

BACKGROUND

Traditionally, commercial customers have had few options for how their electric vehicle service equipment (EVSE) is metered and billed. Electric rates at EVSE installation sites have been restricted to whichever legacy PG&E commercial rate class (e.g. A1, A10, E19, E20) best met the site’s overall electric usage and demand patterns, including potential electrical demand from associated EV charging infrastructure. Because EVSE typically share a rate class with the site’s primary electrical service point, EVSE are most often metered and billed as part of a larger overall electric account. In some cases, EVSE have been metered and billed separately, but the same limited number of PG&E commercial rate classes apply.

These limitations have meant that the intermittent and ‘peaky’ nature of electric vehicle charging often results in exceptionally high demand charges, especially for DC fast charging sites or larger installations with many electric vehicles charging simultaneously. In addition, PG&E’s legacy commercial rates have time-of-use periods that are misaligned to the current state of the California grid, charging peak rates from noon to 6 p.m. in the summer rather than at the actual peak times of 4 p.m. to 9 p.m..

On May 1, 2020, PG&E introduced its Business Electric Vehicle (BEV) rates to address these issues. BEV rates have no seasonal variation and better align to current California grid conditions with a 4 p.m. to 9 p.m. peak, 2 p.m. to 4 p.m. and 9 p.m. to 9 a.m. off-peak, and a super off-peak period of 9 a.m. to 2 p.m. every day including weekends and holidays.



BEV rates are specifically for commercial sites that have the ability to meter their EVSE separately and are available to customers in two tiers based on the customer's total EVSE demand. BEV-1 is designed for EVSE with a total demand of less than 100 kW and BEV-2 is designed for larger installations with a total demand greater than 100 kW. BEV-1 and BEV-2 both contain a unique design element in which the daily customer charge and the demand charge have been eliminated in favor of a monthly subscription charge. Customers pay a flat fee per subscription 'block' of kW demand and face overage penalties in months that the subscription is surpassed by actual kW of demand.

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

ANALYSIS & DISCUSSION

Subscription Model

BEV-1 is available to all customers up to 100 kW of demand with Secondary (standard transformed) voltage service. BEV-2 is available to customers over 100 kW and is available in Secondary voltage service, and also in Primary and Transmission (untransformed) voltage services. PG&E has created a unique set of time of use component rates for each of the three BEV options, BEV-1, BEV-2 Secondary, and BEV-2 Primary/Transmission service.

The BEV rates follow the same time of use schedule as other 'B' class rates introduced by PG&E for commercial customers in November 2019. However, BEV rates are unique in that they forego a demand charge and daily customer charge for a subscription charge, illustrated in the table below. Customers on BEV-1 can elect to subscribe to any level of demand in 10 kW increments up to 100 kW. Customers on BEV-2 that have installations expected to demand greater than 100 kW can subscribe to any level above 100 kW in 50 kW increments. Customers that exceed their subscription level in kW demand will be assessed an overage fee on a per kW basis.

	BEV-1	BEV-2	BEV-2 (P/T)
Block Size	10 kW	50 kW	50 kW
Subscription Charge (Per Block)	\$12.41	\$95.56	\$85.98
Subscription Charge (Per kW)	\$1.24	\$1.91	\$1.72
Overage Fee (Per kW)	\$2.48	\$3.82	\$3.44

Customers that are new to the BEV rate will provide PG&E with their own best estimate of their demand needs to determine their subscription level. Customers are free to change their level of subscription at any time. New customers will be given a 'grace period' of three complete billing cycles before any overage fees are assessed. If a customer has exceeded their subscription in the third month of the grace period and has not adjusted their own subscription level, PG&E will automatically increase the subscription level to reflect the customer's actual usage, rounded up to the nearest incremental block. A grace period is also triggered when a customer moves between BEV-1 and BEV-2 and when they add additional EVSE to an account enrolled in one of the above rates.

The subscription charge for demand is devoid of generation charges. SVCE will have no rate component added to its rate sheet to reflect a subscription charge, nor will it collect any revenue for demand associated with BEV customer accounts. This is offset by higher peak pricing than on traditional commercial customer rates, which will incentivize charging during the off-peak and super off-peak hours.

Rate Design Methodology

Agenda Item: 1e**Agenda Date: 05/13/2020**

The SVCE generation rates for BEV-1 and BEV-2 will utilize the same methodology used to calculate all other SVCE rates. Each SVCE BEV generation rate component (e.g. peak period price, off-peak price) will be discounted by 4% from the corresponding PG&E rate, inclusive of PCIA and franchise fee surcharges. This is the currently effective discount for SVCE's generation rates relative to PG&E, approved by the SVCE Board on April 8, 2020.

Timing and Approach for May 1, 2020 EV-2A Rate Creation

If approved by the Board, the newly created BEV-1 and BEV-2 rates will be added to the full list of currently approved SVCE rates. SVCE BEV generation rates have been drafted using the methodology described above. Calpine is currently coding new billing processes needed for the BEV rates (for use by SVCE and other CCAs). Once approved by SVCE, Calpine will load SVCE BEV rates and execute testing. Calpine will then be able to bill customers retroactively for usage accrued under this rate as of May 1, 2020.

STRATEGIC PLAN

Rate setting is directly supported by SVCE Strategic Plan Goal 2 – Maintain competitive rates to acquire and retain customers.

If no corresponding SVCE BEV rate is established, SVCE will not be able to effectively serve commercial customers wishing to take service under the new BEV rate.

FISCAL IMPACT

PG&E pricing for the BEV-1 and BEV-2 rates do not allocate any portion of the subscription charge to generation charges. As such, SVCE will not be able to collect money formerly related to demand charges under the new BEV rates. However, peak time pricing for generation under the BEV tariff is among the highest of any rate class. It is anticipated that reduced revenue from elimination of demand charges will be substantially recovered through higher peak energy prices. Staff will be able to perform this analysis once the scope and usage patterns of customers subscribed under this rate are better known.

ATTACHMENT

1. SVCE BEV Commercial Customer Rates

Silicon Valley Clean Energy

Medium Commercial

Non-Residential Generation Rates and Generation Service Cost Comparison



SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates¹	SVCE Generation Service²	PG&E Generation Service³	Notes
BEV1	Summer/Winter				
PEAK		\$ 0.22496	\$ 0.25247	\$ 0.26299	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04970	\$ 0.07721	\$ 0.08043	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 9:00 a.m.; Every day, including weekends and holidays
SUPER OFF-PEAK		\$ 0.02533	\$ 0.05284	\$ 0.05504	All other hours; Every day, including weekends and holidays
BEV2S	Summer/Winter				
PEAK		\$ 0.23820	\$ 0.27097	\$ 0.28226	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04297	\$ 0.07574	\$ 0.07890	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 9:00 a.m.; Every day, including weekends and holidays
SUPER OFF-PEAK		\$ 0.01859	\$ 0.05136	\$ 0.05350	All other hours; Every day, including weekends and holidays
BEV2P	Summer/Winter				
PEAK		\$ 0.22823	\$ 0.26100	\$ 0.27188	4:00 p.m. to 9:00 p.m.; Every day, including weekends and holidays
OFF-PEAK		\$ 0.04009	\$ 0.07286	\$ 0.07590	2:00 p.m. to 4:00 p.m. and 9:00 p.m. to 9:00 a.m.; Every day, including weekends and holidays
SUPER OFF-PEAK		\$ 0.01686	\$ 0.04963	\$ 0.05170	All other hours; Every day, including weekends and holidays



Staff Report – Item 1f

Item 1f: Receive Decarbonization Programs Update

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Aimee Bailey, Director of Decarbonization and Grid Innovation Programs

Date: 5/13/2020

RECOMMENDATION

Staff recommends the Board accept the Q1 2020 Update of the Decarbonization Strategy & Programs Roadmap.

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 adopted Strategy 5.2 of the Strategic Plan, to establish an SVCE decarbonization strategy and programs roadmap (abbrev. "Roadmap"). In December 2018, the Board approved the Roadmap, and since that time, staff have been working on implementation.

ANALYSIS & DISCUSSION

Attachment 1 is the most recent quarterly update, covering January through March of 2020. The quarterly update includes bulleted highlights and a table with a summary of updates and next steps for each initiative.

STRATEGIC PLAN

SVCE's Strategic Plan Goal 5 is to work with the community to achieve energy and transportation GHG emissions reductions of 30% emissions reduction from the 2015 baseline by 2021, 40% by 2025 and 50% by 2030. This work is being carried out to support Strategy 5.2, which is to execute and maintain the Roadmap to achieve community-wide emissions reduction targets.

FISCAL IMPACT

Accepting the Q1 2020 Update of the Decarbonization Strategy & Programs Roadmap has no fiscal impact.

ATTACHMENTS

1. Decarbonization Strategy & Programs Roadmap – Q1 2020 Update

Decarbonization Strategy & Programs Roadmap

Q1 2020 Update

May 13, 2020 BOD Meeting

Highlights:

- **Regional Reach Code Effort:** With nine member agencies having passed reach codes, SVCE & PCE, along with our consulting partners TRC and DNVGL, are finalizing implementation support activities for them and continuing to work with several member agencies to pass reach codes. The technical support and training components are in development as well, culminating with the ability for developers writ large in the area to speak with a design expert about detailed project level questions. While the lawsuits opposing gas bans made early news, there has not been an upswell in this type of legal opposition since.
- **GridShift Hackathon:** SVCE partnered with Powerhouse to launch a hackathon on Jan 31-Feb 1, held at the Google Developers Launchpad. There, a hundred hackers competed to pitch ideas to accelerate the transformation to a smart, clean and equitable electrical grid of the future. The hackathon sought to capitalize on local ingenuity and expertise in solving three key challenges: help customers better understand the cost and environmental impact of their energy usage; support customers in understanding their resiliency and how to enhance it; and accelerate the equitable adoption of electric vehicles. \$16,000 in prizes were awarded to top teams. The top prize went to Grove whose app enabled smart, automated scheduling of flexible electrical loads. Second prize went to Green Routes whose app helped EV drivers find local electric vehicle charging stations to optimize for carbon, cost and/or convenience. People's choice award went to WattsDown for a color-changing, smart light in residents' homes to notify them when electricity prices are high and when there is a planned power shut-off in their neighborhood. The full list of participants and submissions can be found at the event website: gridshift.devpost.com.
- **SVCE Data Hive Launch:** On March 16, SVCE launched the Data Hive, a flagship pilot project with UtilityAPI to enable instant, authorized, and secure access to standardized energy data between customers and solution providers. Up to now, even if a customer authorizes a solution provider to access their utility billing and usage data, the data may not be available for several days, and often does not arrive in a usable form. Solution providers have had to rely on old energy bills or make large investments in software or staff to decipher unclear customer data. This can be particularly difficult for small businesses that may not have the resources for this extra effort. The SVCE Data Hive will streamline this process by providing instant, authorized, and secure access to standardized energy data. It expands the ability of service providers to participate in the market – especially important at this difficult time, and when businesses ultimately begin recovering from the effects of COVID-19. Within a month of launching, over fifty solution providers registered with the platform, which is more registered third parties than all non-California green button connect platforms combined.

Sector	Program	Q1 Activities	Q2 2020 Outlook
Power Supply	<p>PS1: C&I Clean Power Offerings Develop, market and sell additional SVCE power offerings to address large C&I customers seeking to buy clean power at competitive rates</p>	<ul style="list-style-type: none"> • Define and implement detailed pricing policy • With key customers, continue to define/refine alternative offers, including GreenPrime Direct (PPA Sleeve), and Electrification Co-investment Program • Conduct meetings with additional eligible C&I customers to further define needs, alternative products of interest • Develop detailed cost models to assess economics of current and alternative customer offerings • Delivery annual reports to key C&I accounts, and outline of alternative offerings • Begin drafting of contract agreement templates for Eco-Investment and GreenPrime Direct 	<ul style="list-style-type: none"> • Develop financial proposal(s) and underlying analysis for presentation of financial offer(s) to customers • Further develop and finalize contract templates for Eco-Investment, and GreenPrime Direct offerings • Model ideal SVCE supply portfolio(s) for minimizing carbon emissions on a 24x7x365 basis • With key customers, continue to define/refine alternative offers, including GreenPrime Direct (PPA Sleeve), and Electrification Co-investment Program • Finalize pilot agreement(s)
Built Environment	<p>BE1: Reach Codes Provide model energy code supportive of all-electric design and EV infrastructure to member agencies along with consultant support</p>	<ul style="list-style-type: none"> • 9 cities have passed Reach Codes • 2 member agencies still actively engaged • Posted all tools, presentations, etc., at SiliconValleyReachCodes.org • Finalized contract for technical support platform 	<ul style="list-style-type: none"> • Continue to support stakeholder engagement meetings held by the cities and to participate in City Council sessions • Support post-implementation tool/training development for city staff • Finalize components of and launch technical support platform
	<p>BE2: All-Electric Showcase Grants Provide incentives for all-electric buildings and share case studies about them and the professionals involved in their design</p>	<ul style="list-style-type: none"> • All residential project profiles are complete and available on the SVCE website: https://www.svcleanenergy.org/all-electric-award/ • Continuing to promote profiles on social media 	<ul style="list-style-type: none"> • Phase two of program design contingent on priorities identified and defined through the Building Decarb Joint Action Plan

<p>BE3: FutureFit Heat Pump Water Heaters Provide incentives for electric heat pump water heaters and service panel upgrades to residents using natural gas currently</p>	<ul style="list-style-type: none"> • 78 systems installed and operational • 5 CARE/FERA reservations available, all others on a waiting list • SMUD managing customer inquiries and reservations • Worked with consultant ADM to completed evaluation, measurement and verification plan that will be carried out upon completion of the program 	<ul style="list-style-type: none"> • Monitor participation and adjust outreach efforts accordingly • Receive data from data partner on HPWH usage (kWh & time of day) • Evaluate next steps (e.g. expand SVCE program, join regional effort, etc.) • Programmatic adjustments introduced in response to COVID • Customer surveys go out in June.
<p>BE4: Workforce Development Help build an industry-leading workforce that can accelerate decarbonization by advising on, installing, maintaining, and repairing low-carbon technologies</p>	<ul style="list-style-type: none"> • Continued informational interviews and site visits with key stakeholders in the workforce development space, including organized labor, community workforce development centers, and nonprofits. 	<ul style="list-style-type: none"> • Incorporated workforce development program design and prioritization in the stakeholder engagement process for the Building Decarbonization Joint Action Plan
<p>BE5: Streamlining Community-Wide Electrification Benchmark and streamline member agency permitting and inspection processes to accelerate decarbonization</p>	<ul style="list-style-type: none"> • Solicited feedback from member agencies and other stakeholders on program design & objectives • Began drafting scope of work 	<ul style="list-style-type: none"> • Finalize SOW for RFP • Carry out competitive solicitation process to select consultant • Begin the work
<p>BE6: Building Decarb Joint Action Plan Develop a joint action plan with member agencies to prioritize strategies and programs to advance building decarbonization</p>	<ul style="list-style-type: none"> • Selected and contracted with Integral Group to lead the development of the Building Decarb Joint Action Plan 	<ul style="list-style-type: none"> • Execute planning process, including stakeholder engagement to inform the first draft of the plan, solicit feedback on the first draft of the plan and disseminate the key strategies and priorities identified
<p>BE7: Resilience at Community Facilities Support regional energy resilience planning across the service territory</p>	<ul style="list-style-type: none"> • Developed program scope, received input from MAWG, and met with potential data services partner Camus • Received Board approval for \$150K program budget 	<ul style="list-style-type: none"> • Execute planning portion of program in alignment with Community Resilience funds approved as COVID response efforts

Mobility	<p>MO1: EV Infrastructure Strategy & Plan Develop a near- to mid-term strategy for EV infrastructure and a set of program implementation plans</p>	<ul style="list-style-type: none"> • (COMPLETED) 	<ul style="list-style-type: none"> • (COMPLETED)
	<p>MO2: California Electric Vehicle Infrastructure Project (CALeVIP) Work with California Energy Commission to launch a regional CALeVIP project</p>	<ul style="list-style-type: none"> • Engaged with administrator periodically while waiting for other local load serving entities to complete their contracting for CALeVIP 	<ul style="list-style-type: none"> • Final program design review • Develop online materials and documentation (application forms, etc.) • Prepare marketing materials
	<p>MO3: Priority Zone DCFC Competitive application to receive an additional incentive (on top of CALeVIP) for DCFC in “priority zones” that support nearby SVCE-designated multifamily housing clusters</p>	<ul style="list-style-type: none"> • Engaged member agencies for input on Priority Zones; selected Priority Zones • Created webpage and launched program for application submittal 	<ul style="list-style-type: none"> • Keep application cycle open; close window before CALeVIP launch • Finalize Priority Zone evaluation criteria and process for making selections
	<p>MO4: MUD Technical Assistance Technical assistance and help applying for pertinent CALeVIP rebates for charging at multifamily housing properties</p>	<ul style="list-style-type: none"> • Finalized general program design elements • Worked on contract with CLEAResult for multi-unit development (MUD) support 	<ul style="list-style-type: none"> • Bring contract to Board • Finalize detailed program strategy and prepare supporting documents • Launch program offering
	<p>MO5: S/M Workplace Charging Rebates Technical assistance and help applying for pertinent CALeVIP rebates for charging at small and medium workplace properties</p>	<ul style="list-style-type: none"> • Due to synergies in program efforts, decided to merge with MO4: MUD Technical Assistance 	<ul style="list-style-type: none"> • Merged with MO4, above
	<p>MO6: Fleet Electrification Grants Competitive application for SVCE’s fleet electrification planning support and funding for site upgrades. Targeting a broad set of fleet types, to create widely applicable fleet electrification planning templates</p>	<ul style="list-style-type: none"> • No further development work 	<ul style="list-style-type: none"> • Finalize general program design • Develop solicitation for third-party support

	<p>MO7: Silicon Valley Transportation Electrification Clearinghouse (SVTEC) Regional group of key stakeholders focused on information sharing, solving critical issues and attracting external funding to the SVCE community in support of EV infrastructure deployment.</p>	<ul style="list-style-type: none"> • Held the second quarterly meeting, with presentation from Rocky Mountain Institute on key EV infrastructure soft costs • Solicited stakeholder input on issues for SVTEC to prioritize • Developed webpage explaining SVTEC and providing overview of external funding availability 	<ul style="list-style-type: none"> • Hold third meeting • Plan and launch regional initiatives aimed at reducing soft costs of EVI deployment • Develop detailed fundraising strategy
	<p>MO8: Regional Recognition Recurring recognition for best practices in EV infrastructure deployment, and support for local organizations in taking next steps.</p>	<ul style="list-style-type: none"> • Finalized detailed program design 	<ul style="list-style-type: none"> • Open application window for those wishing to be recognized • Select “best practices” to highlight • Prepare for annual recognition event
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Energy Efficiency & Grid Integration</p>	<p>GI1: Virtual Power Plant Support “virtual power plants” made up of cloud-based aggregations of customer-sited resources to support grid integration and monetize value from connected, controllable loads</p>	<ul style="list-style-type: none"> • Joined EBCE, PCE and Silicon Valley Power in the joint issuance of an RFP for over 30MW of resource adequacy from behind-the-meter solar and storage systems (aka “Resilience RFP”) – deadline for applications was Dec 23, 2019 • Completed evaluation of proposals received in response to the Resilience RFP • Entered into negotiations with two vendors: one focused on residential customer segment, and the other focused on commercial & industrial 	<ul style="list-style-type: none"> • Complete negotiations with vendors • Finalize details of program design • Board review and approval in spring 2020 – planned program launch in spring/summer 2020
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Education & Outreach</p>	<p>EO1: Customer Resource Center Develop customer resource center to enable engagement and awareness-building, education and action related to understanding energy usage, vehicle and building electrification</p>	<ul style="list-style-type: none"> • Finalized negotiations and contracting for EV comparison tool and solar + storage concierge service. • Began work on strategic messaging for marketing materials, revamped SVCE website and buildout for the CRC • Began work on the customer experience (UX, UI) and overall design of the CRC and website 	<ul style="list-style-type: none"> • Finalize negotiations and contracting for appliance marketplace. • Integrate solution provider tools into SVCE website. • Develop marketing plan for CRC. • Complete CRC website design and updates to SVCE website; target launch late June 2020.

	<p>EO2: Community Engagement Grants Partner with local organizations in under-reached customer segments to promote SVCE accomplishments and programs</p>	<ul style="list-style-type: none"> • Program evaluation is ongoing • Initiated design for 2020 grant cycle 	<ul style="list-style-type: none"> • Future launch date TBD, likely to be in fall 2020
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Innovation</p>	<p>IN1: Innovation Partners Engage with key strategic partners to participate in the local innovation ecosystem and provide a voice for SVCE customers and the decarb mission</p>	<ul style="list-style-type: none"> • Finish preparations & held SVCE’s GridShift hackathon on Jan 31-Feb 1, 2020, the first SVCE organized hackathon • Support and mentor Stanford ME170 students (Stanford’s mechanical engineering undergraduate capstone course) for SVCE-sponsored projects for 2019/2020 academic year 	<ul style="list-style-type: none"> • Sponsor Powerhouse SunCode 2020 • Seek external stakeholder input on initial draft “innovation strategy” developed to supplement the Decarb Roadmap in guiding SVCE’s innovation activities
	<p>IN2: Innovation Onramp Provide small grants to support innovation through pilot projects with external partners</p>	<ul style="list-style-type: none"> • Negotiated, finalized and executed partnership agreements for second cohort of pilots from Fall 2019 application cycle • Prepared for third call for applications for Spring 2020 • Launch the Data Hive, SVCE’s flagship pilot with UtilityAPI • Ongoing management of pilots 	<ul style="list-style-type: none"> • Issue third call for applications for Spring 2020 with a focus on resilience • Evaluate responses & select third cohort of pilots • Ongoing management of pilots



Staff Report – Item 1g

Item 1g: Authorize the Chief Executive Officer to Execute Amendment to Engagement Letter Amending Not-to-Exceed Amount with Keyes and Fox, LLP

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Monica Padilla, Director of Power Resources
Poonum Agrawal, Senior Regulatory Analyst

Date: 5/13/2020

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy Authority Board (“Board”) approve the amendment to add \$67,000 to the agreement dated February 25, 2020 with Keyes and Fox, LLP (“K&F”) for counsel services for a total amount not to exceed (“NTE”) \$155,000.

BACKGROUND

On February 25, 2020, SVCE management approved the agreement for regulatory and legislative counsel services with Keyes and Fox for \$88,000. This agreement was under the \$100,000 limit for CEO authorizations and was therefore executed by the CEO. The agreement is a joint effort with other PG&E area CCAs to participate jointly in three proceedings:

1. PG&E’s 2020 Energy Resource Recovery Account (ERRA) Forecast proceeding (A.18-06-001),
2. PG&E’s 2020-22 General Rate Case (GRC) Phase 1 proceeding (A. 19-11-019) and
3. PG&E’s Bankruptcy Investigation proceeding (I. 19-09-016).

The group needed legal counsel for joint representation, and after considering a variety of options settled on K&F. K&F is an Oakland-based legal firm specializing in energy law that was already providing regulatory and legislative counsel services to a number of CCAs in the Bay Area. SVCE entered into an initial contract with K&F for a NTE amount of \$88,000.

Additions to the scope of work with K&F requires an increase of the total budget above the \$100,000 limit for CEO authorizations.

The first is Phase 2 of PG&E’s 2020-22 GRC Phase 2 which began in November 2019. The second is PG&E’s 2019 ERRA compliance proceeding, which opened in February 2020. The third is a budget line for general regulatory support. SVCE intends to utilize the K&F team for advisory services as regulatory matters arise that do not fall within the existing proceedings.

The NTE amounts of the individual proceedings are below and detailed in the attached amendment, for a total contract budget of \$155,000.

Proceeding Name	Proceeding Number	Total NTE Amount
PG&E 2020-22 GRC Phase 1	A. 18-12-019	\$ 37,000
PG&E 2020 ERRA Forecast	A. 19-06-001	\$ 26,000
PG&E Bankruptcy Investigation	I. 19-09-016	\$ 15,000
PG&E 2020-22 GRC Phase 2	A. 19-11-019	\$ 25,000
PG&E 2019 ERRA Compliance	A. 20-02-009	\$ 22,000
General Regulatory Support	NA	\$ 30,000
		\$ 155,000 Total NTE

ANALYSIS & DISCUSSION

SVCE frequently collaborates with other CCAs on joint regulatory efforts to make efficient use of resources, pool CCA staff expertise, and provide a consistent public message where policy priorities are shared by all CCAs in the group. Collaboration is particularly effective on rate-setting proceedings, which typically involve extensive materials requiring review and questions of cost shift and customer indifference that are relevant to all CCAs. Moreover, through the expansion of consulting support to the policy team, SVCE has developed bandwidth to be directly involved in important new proceedings whereas previously SVCE had relied on the efforts of other CCAs and hope their priorities aligned with SVCE's. Increasing SVCE's regulatory portfolio has given its customers a voice in proceedings where hundreds of millions of dollars are at stake.

Staff is requesting an increase to the budget for two of the existing tasks and add four additional tasks to the scope of work under the Keyes and Fox contract. These tasks will increase the budget over the \$100,000 limit for CEO authorizations. The NTE amounts of the individual tasks are in the table above and detailed in the attached contract, for a total incremental contract budget request of \$67,000. When added to the original NTE, the amended budget is \$155,000.

STRATEGIC PLAN

Approving this contract will directly support Goal 8 of SVCE's Strategic Plan, "Engage regulators and legislators in developing policy that protects CCA rights and facilitates CCA contributions to decarbonization, grid reliability, affordability, and social equity."

ALTERNATIVE

If the Board does not approve this contract, SVCE will no longer be able to participate in the Joint CCA efforts on the critical rate-setting proceedings. Leaving SVCE with two options: 1) Stop participating in rate proceedings entirely, which involves significant loss of visibility into future rates as well as opportunities to identify and prevent potential cost shifts onto SVCE customers; or 2) participate separately from the Joint CCAs. The latter option is likely to be significantly more expensive than joint participation.

FISCAL IMPACT


Approval of the amendments to the Keyes and Fox, LLC contract will increase fiscal year 2020's budget by \$67,000 making the total Keyes and Fox budget \$155,000 for these tasks.

ATTACHMENTS

1. Amendment to Engagement Letter between SVCE and Keyes & Fox LLP
2. Engagement Letter, 2/25/20

**AMENDMENT “A” TO ENGAGEMENT LETTER BETWEEN
SILICON VALLEY CLEAN ENERGY AND KEYES & FOX LLP**

This Amendment applies to that specific “Engagement Letter Between Keyes & Fox LLP and Silicon Valley Clean Energy” (“SVCE”) dated February 25, 2020 (“Agreement”) to provide legislative support to SVCE and to provide legal representation before the California Public Utilities Commission (“Commission”) in Application 19-06-001, Application 18-12-009, Investigation 19-09-016, Application 19-11-019, and any other matters Keyes & Fox LLP and SVCE both mutually agree to undertake through September 30, 2020. This Amendment is made to (i) add Application 20-02-009 to the scope of the Agreement and revise the not-to-exceed amount in Section 3.a. of that Agreement of eighty-eight thousand dollars (\$88,000) to one hundred fifty five thousand dollars (\$155,000) and (ii) add the attached Attachment C to the Agreement.

By: 

Tim Lindl
Partner
Keyes & Fox LLP

Date: 4/27/2020

By: _____

Girish Balachandran
Chief Executive Officer
Silicon Valley Clean Energy

Date: _____

Attachment C

Do-Not-Exceed Amounts

Proceeding or Legal Matter	Do-Not-Exceed Amount
Application 18-12-019	Thirty-Seven Thousand Dollars (\$37,000.00)
Application 19-06-001	Twenty-Six Thousand Dollars (\$26,000.00)
Investigation 19-09-016	Fifteen Thousand Dollars (\$15,000.00)
Application 19-11-019	Six Thousand Dollars (\$25,000.00)
Application 20-02-009	Twenty-Two Thousand Dollars (\$22,000.00)
General Regulatory Support	Five Thousand Dollars (\$30,000.00)



February 25, 2020

Silicon Valley Clean Energy
Girish Balachandran
Chief Executive Officer
333 W. El Camino Real, Suite 290
Sunnyvale, California 94087

RE: Engagement Letter Between Keyes & Fox LLP and Silicon Valley Clean Energy

Keyes & Fox LLP (“K&F”) is delighted that Silicon Valley Clean Energy (“SVCE”), has decided to engage K&F to provide legislative support and legal representation before the California Public Utilities Commission (“Commission”) in Application 19-06-001, Application 18-12-009, Investigation 19-09-016, Application 19-11-019, and any other matters K&F and SVCE both mutually agree to undertake through September 30, 2020 (the “Legal Services”). This letter describes the basis of the attorney-client relationship between K&F and SVCE with respect to the Legal Services, along with an explanation of how K&F will bill for those services. The attached Joint Representation Agreements, Attachment B, set forth the manner in which K&F will provide the Legal Services to SVCE in relation to the other parties to those agreements (collectively, SVCE and the other parties are the “Joint Clients”) and is hereby incorporated herein.

1. Scope of Engagement

Pursuant to this Engagement Letter, K&F shall provide SVCE with the Legal Services identified above. K&F will do its utmost to represent SVCE effectively, provide Legal Services in an efficient manner, and respond promptly to SVCE’s inquiries.

We have run a conflicts check as it relates to the proposed Legal Services, and we have not found any direct conflicts with undertaking them. If a conflict arises that may impact our ability to provide SVCE with effective representation, we will promptly bring that conflict to SVCE’s attention. If you are concerned about any relationship we might have with particular companies, organizations or individuals, please bring those concerns to our attention.

2. Confidentiality of Communications and Work Product

Generally, it is in SVCE’s interest to preserve confidentiality of all communications with K&F. If SVCE discloses any of our communications, it jeopardizes the privileged nature of the communications, so we believe it is advisable that SVCE take care not to disclose privileged information to third parties.

Through this Engagement Letter, SVCE authorizes K&F to engage in confidential communications with EQ Research LLC to obtain litigation support with respect to the Legal Services. K&F understands it is the intent of SVCE that all communications and work product

that are developed by, or shared with, EQ Research LLC related to the Legal Services shall be confidential and subject to attorney-client privilege.

3. Fees, Costs, and Invoicing

By signing this Joint Representation Agreement, SVCE agrees to pay K&F for time and out-of-pocket expenses according to the terms set forth below.

a. Professional Fees

K&F will keep an hourly total of time spent on the Legal Services matters. Work will be performed at hourly rates according to the rates set forth in Attachment A to this Engagement Letter, which is incorporated by reference herein. Fees for time spent on a matter to which a Joint Representation Agreement in Attachment B applies will be divided on an equal *pro rata* basis among the Joint Clients at the end of the month. It is K&F's policy to adjust hourly rates for all attorneys and staff at the beginning of the calendar year. Historically, rate increases have been between 5-8% per year. Rates quoted in Attachment A are 2020 rates. Our firm's practice is to charge for travel time, as discussed in Attachment A.

Tim Lindl will be the lead K&F attorney providing the Legal Services to SVCE. Mr. Lindl may utilize services of other K&F attorneys and support staff in connection with this matter. By executing this Engagement Letter, you consent to Mr. Lindl serving as lead attorney in providing Legal Services and to his assignment, as necessary, of work on this matter to the attorneys or support staff listed in Attachment A.

This letter authorizes payment of fees up to eighty-eight thousand dollars (\$88,000) to provide the Legal Services. Unless otherwise agreed to in writing, SVCE will not be obligated for fees in excess of that amount. SVCE and K&F will review that do-not-exceed amount upon the occurrence of (a) a material change in the scope of issues to be addressed over the course of the Legal Services, regardless of whether such change results in an updated or revised Scoping Ruling, or (b) a request from either SVCE or K&F for such a review. Any such review may occur via electronic mail.

b. Expenses

Expenses may be incurred in performing the Legal Services. K&F will bill for all costs, disbursements, and expenses in addition to our hourly fees. Costs and expenses include costs for travel including mileage and parking, and similar expenses. Expenses shall be billed at actual cost.

c. Invoices and payments

K&F will invoice SVCE at the beginning of each month for Legal Services provided during the prior calendar month, including for SVCE's *pro rata* portion of any fees for Legal Services in a matter to which a Joint Representation Agreement in Attachment B applies. Fees for Legal Services will be earned as of the time of invoicing. Invoices shall list the matter worked on and provide information on the dates of service, time involved, attorney responsible, and activity undertaken. SVCE shall be responsible for payment of the total amount of its

invoice. Invoices are due and payable within thirty (30) calendar days. Any unpaid amounts after thirty days will accrue interest at a rate of nine percent (9%) per annum.

4. Termination of K&F's Representation

Either K&F or SVCE may terminate K&F's representation of SVCE at any time and for any reason. At the time K&F's representation of SVCE concludes, all unpaid fees and costs for K&F's Legal Services become due and payable. If at that time SVCE does not request the return of files related to the Legal Services, K&F will retain such files for a period of three years, after which K&F may have the files destroyed.

5. Miscellaneous

This letter is the entire agreement between SVCE and K&F concerning the provision of Legal Services. It supersedes and replaces in its entirety those specific Engagement Letters between SVCE and K&F dated August 27, 2018, January 18, 2019, and February 8, 2019 (as amended on May 3, 2019, July 14, 2019 and December 20, 2019). This Engagement Letter and the scope of Legal Services provided under it may be amended from time to time by mutual agreement. California law will govern this agreement and any subsequent amendments.

6. Conclusion

If the terms of K&F's representation as explained in this Engagement Letter are satisfactory, please execute a copy of this letter as indicated and return it to me. Please feel free to contact me if you have any questions.

We look forward to our representation of SVCE.

Sincerely,

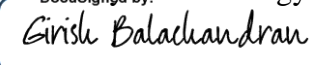


Tim Lindl, Partner
Keyes & Fox LLP

SVCE hereby authorizes K&F to represent its interests with respect to the Legal Services. SVCE acknowledges, by signing this letter, that it has had the opportunity to consult with other counsel about the consequences of this engagement and that K&F recommends that you do so. By signing this letter, the signatory affirms that he or she understands and agrees to bind his or her company to the terms set forth in this Engagement Letter. This Engagement Letter shall not take effect, and K&F shall have no obligation to provide the Legal Service described herein, until SVCE has returned a signed copy of this letter.

SILICON VALLEY CLEAN ENERGY

I have read the foregoing Joint Representation Agreement, understand it and agree to it on behalf of Silicon Valley Clean Energy.

By: 
5CA04B9AC4C24C3...

Name: Girish Balachandran

Title: Chief Executive Officer

Date: 3/2/2020

Attachment A**Rates and Other Terms****ATTORNEYS**

Kevin Fox	360
Jason Keyes	320
Jacob Schlesinger	275
Tim Lindl	295
Sheridan Pauker	350
Scott Dunbar	245
Beren Argetsinger	210
Julia Kantor	225
Melissa Birchard	220

NON-ATTORNEYS

Justin Barnes	180
Miriam Makhyoun	185
Ben Inskeep	145
Blake Elder	120
Vanessa Luthringer	95
Alicia Zaloga	90

Travel Policy: Travel time is billed at the full hourly rate. Every effort will be made to work productively on the Joint Clients' matters during travel. If work is performed for another client during travel, the Joint Clients will not be billed for that time. All reasonable travel expenses are billable – hotel, airfare, car rental, meals, taxi, public transit, etc.

Administrative Work Policy: Reasonable time for filing and service is billed at regular billable rates.

Miscellaneous Expenses Policy: Expenses for postage, photocopying, printing, faxing and other minor expenses directly related to a matter are billable at cost.

Attachment B
Joint Representation Agreements



Staff Report – Item 1h

Item 1h: Authorize the Chief Executive Officer to Execute Amendment to Agreement with Pisenti & Brinker, LLP for Financial Audit Services

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Don Eckert, Director of Finance and Administration

Date: 5/13/2020

RECOMMENDATION

Staff recommends that the Board authorize the CEO to execute an amendment to the current agreement with Pisenti & Brinker, LLP to extend the term through November 29, 2022 and increase compensation not to exceed limit to \$130,100.

AUDIT COMMITTEE RECOMMENDATION

The Audit Committee at the February 5, 2020 meeting supported amending the agreement with the Independent Auditor and extend the engagement to include audit services through financial statements ending September 30, 2021.

BACKGROUND

Financial Policy #1 ("FP1") states that an independent certified public accountant shall perform an annual audit of basic financial statements that are accompanied by required supplemental information. To comply with FP1, the Board of Directors approved the current agreement with Pisenti & Brinker, LLP at the November 29, 2017 Board meeting.

Pisenti & Brinker, LLP has performed SVCE's initial audit for Fiscal Years 2016/2017 and subsequent audits for Fiscal Years 2018 and 2019.

ANALYSIS & DISCUSSION

Staff supports the recommendation from the Audit Committee. The institutional knowledge the Independent Auditor has gained of SVCE combined with the familiarity of the Community Choice Aggregator ("CCA") model by performing audit services for other CCA's results in an efficient audit process.

FP1 also states the audit services shall be competitively bid at least every five years. The recommendation to extend the term of the agreement complies with Board Policy.

STRATEGIC PLAN

The recommendation supports the financial goals of the strategic plan.

ALTERNATIVE

Staff is open to alternatives from the Board.

FISCAL IMPACT

The recommendation results in a fiscal impact to Fiscal Year 2020-21 of \$26,300 and \$26,800 for Fiscal Year 2021-22. The current contract with Piseni & Brinker, LLP is for a total of \$77,000 and it expires on June 30, 2020. This amendment will extend the term of the contract to November 29, 2022, and increase the contract amount by \$53,100, to a new contract total of \$130,100.

ATTACHMENTS

1. Amendment to the current agreement with Piseni & Brinker, LLP
2. Redlined version of existing agreement with Piseni & Brinker, LLP

FIRST AMENDMENT TO AGREEMENT WITH PISENTI & BRINKER, LLP

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

WHEREAS, Authority and PISENTI & BRINKER, LLP have determined it is in their mutual interest to amend certain terms of the Original Agreement.

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

1. Term Section of Original Agreement shall be amended to read as follows:

The term of this Agreement shall commence on November 29, 2017 and shall terminate on November 29, 2022, unless terminated earlier as set forth herein.

2. Compensation to Consultant Section of Original Agreement shall be amended to read as follows:

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed one hundred thirty thousand and one hundred dollars (\$130,100.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

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

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of one hundred thirty thousand and one hundred dollars (\$130,100.00) as set forth below. Any work performed, or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

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

Amended Values

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

4. This Amendment shall be effective on May 14, 2020.
5. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
6. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

RECOMMENDED FOR APPROVAL

Don Eckert, Director of Finance and Administration

CONSULTANT NAME
PISENTI & BRINKER, LLP

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

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY AND
PISENTI & BRINKER, LLP FOR
FINANCIAL AUDIT SERVICES**

THIS AGREEMENT, is entered this 29th day of November, 2017, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and PISENTI & BRINKER, LLP, a California corporation whose address is 3562 Round Barn Circle, #300 Santa Rosa, CA 95403 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

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 an agreement for consulting services to support the development of the Authority's organization upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on November 29, 2017, and shall terminate on ~~June 30, 2020~~ **November 29, 2022**, 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 ~~seventy-seven thousand hundred one hundred thirty thousand and one hundred~~ **seventy-seven thousand one hundred thirty thousand and one hundred** dollars (\$~~77,000~~**130,100.00**) 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 and agrees

that all services shall be performed by qualified and experienced personnel.

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.

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. Contractor 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.

7.1 **INDEMNIFICATION**

Consultant agrees to accept responsibility for loss or damage to any person or entity, including the Authority, and to defend, indemnify, hold harmless, and release Authority, its officers, agents, employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including Consultant, arising out of or in connection with the negligent performance or willful misconduct of Consultant hereunder, whether or not there is a concurrent negligence on the part of the Authority, but excluding liability arising out of or due to Authority's active negligence or willful misconduct. This indemnification obligation is limited to the total professional fees paid to and/or incurred by Consultant hereunder; provided, however, that such indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers compensation acts, disability benefits acts, or other employee benefit acts. The parties hereto understand and agree that the foregoing is not intended to abrogate, limit or violate any terms and conditions of Consultant's existing general and professional liability insurance coverages, nor reduce or limit the amount otherwise payable from such policies relating to or on account of a claim falling within the scope of this section,

8. **NON-DISCRIMINATION**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law and without limitation of the provisions of

this Agreement related to insurance, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of, pertaining to, or related to the performance of this Agreement by Consultant or Consultant's employees, officers, officials, agents or independent contractors. 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. The acceptance of the Services by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the Services 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 presently has 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 will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

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

certificates of insurance and the required endorsements prior to commencement of any work and will provide proof of compliance to Authority.

14. **REPORTS**

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

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

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

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided. 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 shall be made available to any individual or organization by Consultant without prior approval by Authority.

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 maintained in accordance with generally accepted accounting principles and 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.

If supplemental examination or audit of the records is necessary due to concerns raised by Authority's preliminary examination or audit of records, and the Authority's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Consultant shall reimburse Authority for all reasonable costs and expenses associated with the supplemental examination or audit.

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. PISENTI & BRINKER, LLP shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to Consultant by Authority.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:

333 W. El Camino Real
Suite 290
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO CONSULTANT:

Brett Bradford, CPA, Partner
Pisenti & Brinker, LLP
3562 Round Barn Circle, #300
Santa Rosa, CA 95403

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 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 Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer 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.

Authority shall pay Consultant for services satisfactorily performed up to the effective date of termination. If the termination is for cause, Authority may deduct from such payment the amount of actual damage, if any, sustained by Authority due to Consultant's failure to perform its material obligations under this Agreement. 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.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

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.

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

CONSULTANT
PISENTI & BRINKER, LLP

AUTHORITY
A Joint Powers Authority

By _____

By _____

Name: _____

Name: Don Eckert

Title _____

Title: Interim Chief Executive Officer

Date _____

Date _____

SILICON VALLEY CLEAN ENERGY

RECOMMENDED FOR APPROVAL

Don Eckert, Interim CEO

APPROVED AS TO FORM:

ATTEST:

Counsel for Authority

Authority Clerk

Exhibit A
Scope of Services

Perform audits of the basic financial statements of the Silicon Valley Clean Energy Authority (Authority) as set forth below for the periods March 31, 2016 to June 30, 2016; July 1, 2016 to September 30, 2016; and the year ended September 30, 2017 (one report); and the years ending September 30, 2018, ~~and~~ 2019, 2020, and 2021. Perform audits in accordance with auditing standards generally accepted in the United States of America as set forth by the American Institute of Certified Public Accountants.

Reports to be prepared include:

- Report on the fair presentation of the financial statements of the Authority;
- Management letter of comments;
- Report on significant deficiencies or material weaknesses in internal control, if any are identified;
- Other communications to those charged with governance as required by professional standards.

PISENTI & BRINKER, LLP will retain all working papers and reports for a minimum of seven years. Working papers are available upon request to the government agencies with oversight over the Authority.

During the audits, PISENTI & BRINKER, LLP will observe the adequacy of the system of internal control relevant to the basic financial statements of the Authority. At the conclusion of the audits, PISENTI & BRINKER, LLP will make a presentation to the board or other representatives of the Authority if requested and present the audit report, findings, and make other communications as required by professional standards.

During the audits, PISENTI & BRINKER, LLP will provide routine progress reports to the CEO and outside accountant on the status of the engagement.

The Management Letter of Comments will address the following:

- Areas where the Authority's internal controls can be enhanced;
- Areas where operational processes can be streamlined and made more efficient;
- Compliance with other laws and regulations applicable to the Authority.

Should any irregularities or illegal acts come to the attention of the audit team during the course of the audits, PISENTI & BRINKER, LLP will make an immediate written report to Management and the Governing Board, unless they are clearly inconsequential.

Exhibit B
Schedule of Performance

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

PISENTI & BRINKER, LLC proposes to perform the services according to the following timeline for the audits of the periods March 31, 2016 to June 30, 2016; July 1, 2016 to September 30, 2016; and the years ended September 30, 2017, which will be performed and reported on as one audit. Subsequent years will be modified as mutually agreed upon.

Late November 2017:

- Execute contract and provide arrangement letter to the Authority.
- Provide Authority staff with a preliminary list of documents for the audits.

Early December 2017-Entrance Conference and Preliminary Planning Phase:

- Planning meetings with Authority management and finance staff.
- Provide the Authority with a preliminary audit plan and discuss questions regarding documents and audit procedures.

Mid-December 2017-Fieldwork-Risk Assessment and Testing:

- Perform “walk-throughs” in order to obtain an understanding of the significant processes and related internal controls of finance and accounting functions.
- Testing of significant year end balances and transaction cycles.
- Perform compliance testing in connection with laws and regulations.

Prior to January 12, 2018-Complete Post Fieldwork & Deliver Draft Reports:

- Meet with Authority finance committee to discuss draft reports.
- Present and report on audit to Authority board of directors (at a time and place to be designated by the Authority.)
- Deliver all final reports and communications.

This timeline is contingent upon the timely receipt of all documents, schedules, and other information necessary to complete the audits. Additionally, PISENTI & BRINKER, LLP will work with Authority staff to fine-tune a mutually agreeable schedule.

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 seventy-seven thousand dollars (\$77,000.00), as set forth below. Any work performed, or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Fiscal periods ending	Financial Statement Audit	Management Letter & Other Communications	Total Proposed Fees
March 31 to June 30, 2016; July 1 to September 30, 2016: September 30, 2017	\$27,500	Included	\$27,500
September 30, 2018	\$24,500	Included	\$24,500
September 30, 2019	\$25,000	Included	\$25,000
September 30, 2020	\$26,300	Included	\$26,300
September 30, 2021	\$26,800	Included	\$26,800

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

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 and shall only be reimbursed to the extent consistent with Authority’s travel policy.

Additional Services

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

advance written authorization from Authority's Chief Executive Officer prior to commencement of any additional services. Consultant shall submit, at the Chief Executive Officer's request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit D
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

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.



Staff Report – Item 1i

Item 1i: Authorize the Chief Executive Officer to Amend Agreement with Maher Accountancy, Execute Agreement with Well Connected Office, and Authorize the Chief Executive Officer to Negotiate an Agreement with Ascend Analytics in Support of SVCE’s Business Continuity Plan

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Don Eckert, Director of Finance and Administration
Kevin Armstrong, Administrative Services Manager

Date: 5/13/2020

RECOMMENDATION

Staff recommends that the Board authorize the CEO to execute an amendment to the current agreement with Maher Accountancy to increase the compensation not to exceed limit to \$247,670; to execute an agreement with Well Connected Office to a not to exceed limit of \$30,500; and to authorize the CEO to negotiate and approve an agreement with Ascend Analytics to a not to exceed limit of \$100,000.

EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee, at the March 27, 2020 meeting, expressed support for funding of business continuity initiatives.

BACKGROUND

The Board of Directors approved Resolution 2020-13 at the April 8, 2020 Board meeting. The Resolution provided authority to the CEO to execute agreements, set rates and award certain contracts when a Board meeting is cancelled or no quorum can be reached due to the public health emergency related to the COVID-19 virus. The Resolution included reference to a business continuity plan and evaluating expansion of professional services as back-up for the extended absence of key personnel.

ANALYSIS & DISCUSSION

Staff have begun internal discussions in identifying key skills and tasks that are critical to the agency’s operations during an emergency situation as part of development of a comprehensive business continuity plan. As an early step, each department identified consultants that can provide operational support in the event key personnel or unable to perform their duties due to an emergency situation and internal bandwidth is not available. As part of this exercise, staff has also received business continuity plans from vendors in the areas of data management, power scheduling and banking services.

The recommendation focuses on the following three areas:

1. Information Technology (“IT”) – System reliability and cybersecurity is a priority but its importance has been elevated with the shelter-in-place order and the resulting remote work environment. The Well Connected Office (“WCO”) was SVCE’s initial IT vendor and even though most IT duties have been internalized, WCO has continued to be a resource. Staff recommends engaging in a new

Agenda Item: 1i**Agenda Date: 5/13/2020**

agreement with WCO that includes a monthly retainer of \$1,500 that guarantees the commitment of WCO. The agreement also includes \$12,500 that is time and materials based to provide up to thirty (30) days of complete IT support for a total not-to-exceed ("NTE") of \$30,500.

2. Finance – Financial reporting and transactional processing are vital to the agency. SVCE has a current agreement with Maher Accountancy that provides accounting and financial services. The relationship with Maher Accountancy began in early 2017. Staff is recommending an amendment to the current agreement to include an additional \$20,000 to perform short-term incremental duties and a total NTE of \$247,670.
3. Power Resources – Providing clean and reliable electricity to our ratepayers is the core function of SVCE. Ascend Analytics provides energy portfolio management and energy risk management services but also cross-departmental support. Currently, Ascend Analytics is funded through Resolution 2018-15 that authorized a Master Services Agreement with a term through September 2021 and included two other consultants. Staff recommends authorizing the CEO to negotiate and approve an agreement focused on business continuity support with Ascend Analytics with an NTE amount of \$100,000.

The recommendation is the early phase of an overall comprehensive business continuity plan. Updates and similar recommendations will be presented throughout the year with a final plan presented to the Board in Fall 2020.

STRATEGIC PLAN

The recommendation supports the power resources, information technology and financial goals of the strategic plan.

ALTERNATIVE

Staff is open to alternatives from the Board.

FISCAL IMPACT

The recommendation results in a maximum fiscal impact of \$150,500 if emergency services are required.

ATTACHMENTS

1. Amendment to the Current agreement with Maher Accountancy
2. Redline of current agreement with Maher Accountancy to reflect requested amendment
3. Agreement with Well Connected Office

FIRST AMENDMENT TO AGREEMENT WITH MAHER ACCOUNTANCY

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and MAHER ACCOUNTANCY, entered into that certain agreement entitled ACCOUNTING SERVICES, effective on October 1, 2019, hereinafter referred to as “Original Agreement”; and

WHEREAS, Authority and MAHER ACCOUNTANCY have determined it is in their mutual interest to amend certain terms of the Original Agreement.

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

1. Compensation to Consultant Section of Original Agreement shall be amended to read as follows:

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed two hundred forty-seven thousand and six hundred seventy dollars (247,670.00) based on rates and terms set forth in Exhibit “B,” which is attached hereto and incorporated herein by this reference.

2. Exhibit B Compensation Section of Original Agreement shall be amended to read as follows:

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of two hundred forty-seven thousand and six hundred seventy dollars (\$247,670.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

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

Task	Not to Exceed Amount
1. Accounting Services (Monthly)	\$16,761.33
2. Prepare annual financial statements and coordinate with external auditor (Annual)	\$14,534
3. Contract Portal Management (Annual)	\$12,000
4. Business Continuity Support	\$20,000
Total	\$247,670

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

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

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

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

RECOMMENDED FOR APPROVAL

Don Eckert, Director of Finance and Administration

CONSULTANT NAME
MAHER ACCOUNTANCY

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

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

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

THIS AGREEMENT, is entered into this 1st day of October, 2019, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and MAHER ACCOUNTANCY, a California Corporation whose address is 1101 Fifth Avenue, Suite 200, San Rafael, CA 94901 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties").

RECITALS:

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

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

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

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on October 1, 2019, and shall terminate on September 30, 2020, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED**

Consultant shall perform each and every service set forth in Exhibit "A" which is attached hereto and incorporated herein by this reference.

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed ~~two hundred twenty seven thousand and six hundred seventytwo~~ ~~hundred forty-seven thousand and six hundred seventy~~ dollars (\$~~227,670.00~~247,670.00.) based on the rates and terms set forth in Exhibit "B," 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 and agrees that all services shall be performed by qualified and experienced personnel.

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.

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. Contractor 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**

Consultant agrees that it shall not harass or discriminate against a job applicant, an Authority employee, or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, sexual orientation, or any other protected class. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND INDEMNIFICATION**

Consultant shall, to the fullest extent allowed by law indemnify, defend, and hold harmless the Authority and its members, officers, officials, agents, employees and volunteers from and against any and all liabilities, claims, actions, causes of action, demands, damages and losses whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, whether physical, emotional, consequential or otherwise, arising out of or related to the negligence or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors in the performance of this Agreement, except where caused by the sole or active negligence or willful misconduct of Authority or its members, officers, officials, agents, employees and volunteers. 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. The acceptance of the services provided by this Agreement by Authority shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the services 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 presently has 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 will not employ any person having such an interest. Consultant agrees to advise Authority immediately if any conflict arises and understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff Authority, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

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

Authority.

14. **REPORTS**

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

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

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

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

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

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 shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Maher Accountancy shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **CONFIDENTIAL INFORMATION**

Consultant shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all proprietary or confidential information held by Authority or provided to Consultant by Authority.

18. **NOTICES**

All notices, demands, requests or approvals to be given under this Agreement shall be given

in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals shall be addressed as follows:

TO AUTHORITY:
333 W. El Camino Real
Suite 290
Sunnyvale CA 94087
Attention: Chief Executive Officer

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

19. **TERMINATION**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If Consultant fails to cure the default within the time specified (which shall be 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 Chief Executive Officer may terminate the Agreement by giving Consultant written notice thereof, which shall be effective immediately. The Chief Executive Officer 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.

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.

20. **COMPLIANCE**

Consultant shall comply with all applicable local, state and federal laws.

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.

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

RECOMMENDED FOR APPROVAL

Don Eckert, Director of Finance & Administration

CONSULTANT NAME
MAHER ACCOUNTANCY

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

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

Exhibit A
Scope of Services

Monthly Financial Operational Assistance:

1. Assist in development of operating budget in collaboration with management and technical consultants.
2. Maintain the general ledger by:
 - a. Posting billings, accrued revenue, cash receipts, accounts payable, cash disbursements, payroll, accrued expenses, etc.
 - b. Prepare or maintain the following monthly analysis regarding general ledger account balances:
 - i. Reconciliation to statements from Authority's financial institution for cash activity and balances;
 - ii. Reconcile customer data manager reports of customer activity and accounts receivable;
 - iii. Estimated user fees earned but not billed as of the end of the reporting period;
 - iv. Schedule of depreciation of capital assets;
 - v. Aged schedule of accounts payable;
 - vi. Schedules of details regarding all remaining balance sheet accounts.
3. Manager accounts payable: Consultant utilizes a cloud-based accounts payable document management system to provide for documentation of management review, proper segregation of duties, and access to source data. Consultant ensures that required authorization is documented, and that account coding is correct. SVCEA staff then authorizes the release of payment by an independent payment service in order to provide an additional safeguard.
4. Manage compliance with fiscal provisions of vendor contracts: Before submitting vendor invoices for management approval, Consultant verifies that a vendor invoice with contract provisions regarding time periods, rates, and financial limits.
5. Monitor expenditure budget compliance. Consultant monitors budget available and will make timely suggestions for any necessary budget amendments.
6. Provide periodic and year-to-date accrual basis financial statements with comparison to projections.
7. Provide modified accrual basis financial statement with comparison to budget.
8. Filing annual information returns such as form 1099/1096's.
9. Present financial information to Board of Directors, as needed.
10. Assist the treasury function.
11. Provide services to meet the requirements of applicable laws and regulations relating to the provisions of accounting services for Authority.
12. File various compliance reports for state and local agencies, such as user taxes, energy surcharges, and state controller reports
13. Provide hosting and portal management for the contracts management portal.

Prepare annual financial statements and coordination with independent auditor.

Exhibit B
Compensation

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of two hundred ~~twenty~~forty-seven thousand and six hundred seventy dollars (\$~~227,670.00~~247,670.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

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

Task	Not to Exceed Amount
1. Accounting Services (Monthly)	\$16,761.33
2. Prepare annual financial statements and coordinate with external auditor (Annual)	\$14,534
3. Contract Portal Management (Annual)	\$12,000
4. Business Continuity Support	\$20,000
Total	\$227,670247,670

Invoices

Monthly Invoicing: In order to request payment, Consultant shall submit monthly invoices to the Authority describing the services performed and the applicable charges (including a summary of the work performed during that period, personnel who performed the services, hours worked, task(s) for which work was performed).

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’s Chief Executive Officer prior to commencement of any additional services. Consultant shall submit, at the Chief Executive Officer’s request, a detailed written proposal including a description of the scope of additional services, schedule, and proposed maximum compensation.

Exhibit C
Insurance Requirements and Proof of Insurance

Proof of insurance coverage described below is attached to this Exhibit, with Authority named as additional insured.

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) **Cyber Coverage**
Cyber Coverage with an aggregate limit of liability of 1 million dollars (\$1,000,000).

**AGREEMENT BETWEEN THE SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
THE WELL CONNECTED OFFICE
FOR
INFORMATION TECHNOLOGY SUPPORT SERVICES**

THIS AGREEMENT ("Agreement"), is entered into this 14th day of May, 2020, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority"), and THE WELL CONNECTED OFFICE, LLC, a California Company whose address is 3410 Glendora Drive, San Mateo, California, 94403 (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 information technology support services upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

The term of this Agreement shall commence on May 14, 2020, and shall terminate on May 14, 2021, 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 thirty thousand, five hundred dollars (\$30,500.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

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

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

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

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

Authority is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated March 31, 2016, and is a public entity separate from its constituent members.

Authority shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Consultant shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Authority's constituent members in connection with this Agreement.

8. **NON-DISCRIMINATION**

In the performance of this Agreement, Consultant 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 or other basis prohibited by law.

9. **HOLD HARMLESS AND INDEMNIFICATION**

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.

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

10. **INSURANCE**

A. General Requirements. On or before the commencement of the term of this Agreement, Consultant shall furnish Authority with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the requirements listed in Exhibit "D," which is attached hereto and incorporated herein by this reference. Such insurance and certificates, which do not limit Consultant's indemnification obligations under this Agreement, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the Authority by certified mail, Attention: Chief Executive Officer." Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to Authority and licensed to do insurance business in the State of California. Endorsements naming the Authority as additional insured shall be submitted with the insurance certificates.

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

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

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

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

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

11. CONFLICT OF INTEREST

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

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in substantial conformity to the insurance carried

by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

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

14. **REPORTS**

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

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

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

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

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

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

15. **RECORDS**

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

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer (“Authority Representative”) shall represent the Authority in all matters pertaining to the services to be performed under this Agreement. Steve Almes (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 Attorney, 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. In the event Authority gives Consultant written notice of a “litigation hold”, then as to all data identified in such notice, Consultant shall, at no additional cost to Authority, isolate and preserve all such data pending receipt of further direction from the Authority.

D. Consultant agrees to comply with the confidentiality provisions set forth in Exhibit “E,” attached hereto and incorporated herein by this reference.

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 290
Sunnyvale CA 94087
Attention: Chief Executive Officer

TO CONSULTANT:
Steve Almes
The Well Connected Office
3410 Glendora Drive
San Mateo CA 94403

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 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. 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

Don Eckert
Director of Finance and Administration

THE WELL CONNECTED OFFICE
A California Company

SILICON VALLEY CLEAN ENERGY
AUTHORITY
A Joint Powers Authority

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

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

APPROVED AS TO FORM:

Counsel for Authority

ATTEST:

Authority Clerk

Exhibit A
Scope of Services

For the retainer amount, Consultant shall guarantee availability to Authority on an as-needed, emergency basis, committing Consultant to provide up to thirty (30) days of complete IT support on a time and materials basis when notified of an emergency need by the Authority. During any month in which Consultant is engaged in non-emergency services, the retainer amount shall count as a credit toward any services engaged, until exhausted, at which point standard time and material billing shall apply.

Exhibit B
Schedule of Performance

Consultant agrees to furnish Authority with consulting services on an emergency basis for up to 30 days as required by Authority. Days and times are by nature unknown and Consultant will be notified by Authority as soon as practically possible in the event of such an emergency. Upon notification, Consultant shall provide primary IT support for the Authority for up to 30 days, with a maximum response time of 30 minutes during primary response hours between 7:30 AM and 6:30 PM Pacific Time Monday, and with a maximum response time of two (2) hours at all other times.

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

Task	Begin	Complete
1. Monthly Retainer - Availability Guarantee	May 14, 2020	May 14, 2021
2. Business Continuity IT Support (up to 30 days)	Upon notification	
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

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 thirty thousand, five hundred dollars (\$30,500), 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. Monthly Retainer – Availability Guarantee (\$1500 / month)	\$18,000
2. Business Continuity IT Support (up to 30 days)	\$12,500
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
Total	

Invoices

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

Reimbursable Expenses

Administrative, overhead, secretarial time or overtime, word processing, photocopying, in house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. Travel expenses must be authorized in advance in writing by Authority. In no event shall reimbursable expenses collectively exceed the total sum of one thousand dollars (\$1,000.00).

Additional Services

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

Exhibit D
Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

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

Exhibit E
Confidentiality Requirements

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

1. The Confidential Information disclosed to Consultant in connection herewith may include, without limitation, the following information about Authority Customers: (a) names; (b) addresses; (c) telephone numbers and email addresses; (d) service agreement numbers and account numbers; (e) meter and other identification numbers; (f) Authority-designated account numbers; (g) electricity and gas usage (including monthly usage, monthly maximum demand, electrical or gas consumption, HP load, and other data detailing electricity or gas needs and patterns of usage); (h) billing information (including rate schedule, baseline zone, CARE participation, end use code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); (i) payment / deposit status; (j) number of units; and (k) other similar information specific to Authority Customers individually or in the aggregate. Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by Consultant or its representatives that are derived from or based on Confidential Information disclosed by Authority, regardless of the form of media in which it is prepared, recorded or retained.
2. Except for electric and gas usage information provided to Consultant pursuant to this Agreement, Confidential Information does not include information that Consultant proves (a) was properly in the possession of Consultant at the time of disclosure; (b) is or becomes publicly known through no fault of Consultant, its employees or representatives; or (c) was independently developed by Consultant, its employees or representatives without access to any Confidential Information.
3. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by Consultant, or used for any purpose other than the purposes set forth in the Agreement.
4. Consultant shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. Consultant shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for purposes not set forth in the Agreement. Specifically, Consultant shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of Consultant who have a “need to know” such Confidential Information in the course of

their duties with respect to the Consultant program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Consultant shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement. Consultant shall not disclose Confidential Information or otherwise make it available, in any form or manner, to any other person or entity that is not Consultant's employee or representative (a "Third Party"), except where that Third Party has separately entered into a nondisclosure agreement with Authority.

5. Notwithstanding the above, Consultant may disclose Confidential Information to the extent required by an order, subpoena, or lawful process requiring the disclosure of such Confidential Information issued by a court or other governmental authority of competent jurisdiction, provided that Consultant notifies Authority immediately upon receipt thereof to allow Authority to seek protective treatment for such Confidential Information.
6. Consultant shall immediately notify Authority if it reasonably believes that there has been unauthorized access to the Confidential Information by a non-authorized person that could reasonably result in the use, disclosure, or theft of the Confidential Information.
7. It shall be considered a material breach of this Agreement if Consultant engages in a pattern or practice of accessing, storing, using, or disclosing the Confidential Information in violation of the contractual obligations described herein. Consultant understands that if Authority finds that Consultant is engaged in a pattern or practice of accessing, storing, using, or disclosing Confidential Information in violation of this Agreement Authority shall promptly cease all disclosures of Confidential Information to Consultant. Consultant further understands that if Authority receives a customer complaint about Consultant's misuse of data or other violation of the Disclosure Provisions, Authority shall promptly cease disclosing that customer's information to Consultant and shall notify the California Public Utilities Commission of the complaint.
8. Consultant shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Authority directly against such employees or representatives for improper disclosure and/or use. In no event shall Consultant or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Consultant shall immediately notify Authority in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Consultant or any of its employees or representatives. However, nothing in this Agreement shall obligate the Authority to monitor or enforce the Consultant's compliance with the terms of this Agreement.
9. Consultant shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to California Public Utilities Commission (CPUC) Decision No. 12-08-045.

10. In addition to any other requirements set forth in the Agreement, within ten (10) business days of receipt of Authority's written request, and at Authority's option, Consultant will either return to Authority all tangible Confidential Information, including but not limited to all electronic files, documentation, notes, plans, drawings, and copies thereof, or will provide Authority with written certification that all such tangible Confidential Information of Authority has been destroyed.
11. Consultant acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Authority and/or Authority Customers, the amount of which may be difficult to assess. Accordingly, Consultant hereby confirms that the Authority shall be entitled to apply to a court of competent jurisdiction or the California Public Utilities Commission for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Consultant or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the Authority, in law or equity.
12. In addition to all other remedies, Consultant shall indemnify and hold harmless Authority, its officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of Consultant and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.
13. When Consultant fully performs the purposes set forth in the Agreement, or if at any time Consultant ceases performance or Authority requires Consultant cease performance of the purposes set forth in the Agreement, Consultant shall promptly return or destroy (with written notice to Authority itemizing the materials destroyed) all Confidential Information then in its possession at the direction of Authority. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.



Staff Report – Item 1j

Item 1j: Executive Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Howard Miller, Chair of the Board

Date: 5/13/2020

The Executive Committee met virtually for a special meeting on April 24, 2020 and received an update on SVCE's Resilience RFP, with contract awards expected to come to the Board in June. The Committee received a preview of the mid-year budget and requested position changes, which are also on the agenda for the May Board meeting. The Executive Committee supported the request for additional positions and provided feedback to staff on additional information to be provided to support the request.

Staff presented proposed outlines for SVCE's Customer Relief and Community Resilience programs, which committee members supported and provided feedback on, and staff has incorporated into the presentation for our Board meeting.

The next meeting of the Executive Committee will be Friday, May 22nd, 8:30 am; meeting information will be listed on the agenda which will be posted 72 hours in advance of the meeting.



Staff Report – Item 1k

Item 1k: Finance and Administration Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 5/13/2020

No report as the Finance and Administration Committee has not met since January 17, 2020.



Staff Report – Item 11

Item 11: **Audit Committee Report**

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 5/13/2020

No report as the Audit Committee has not met since February 5, 2020.



Staff Report – Item 1m

Item 1m: Legislative and Regulatory Responses to Industry Transition Ad Hoc Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 5/13/2020

No report as the Legislative and Regulatory Responses to Industry Transition Ad Hoc Committee has not met since March 4, 2020.



Staff Report – Item 2

Item 2: CEO Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Girish Balachandran, CEO

Date: 5/13/2020

REPORT

COVID-19 Response

A verbal update will be provided at the board of directors meeting.

COVID-19 Communications

At the beginning of May, SVCE published print and digital ads in 11 local publications to help inform customers of resources available to them during these times; ads will run all month long. As programs related to COVID continue to develop, SVCE will share communications and resources with towns, cities and board members to broadcast to the community.

First Bimonthly Board Newsletter

The Board received the first Board of Directors bimonthly newsletter May 1st; this included articles of interest, upcoming events, and SVCE highlights from the last few months. These newsletters will serve as an added communication to the Board on energy related content and SVCE business.

CEO Agreements Executed

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

- 1) Vincent Dicarolis, Amendment: Strategic Marketing Consulting Services, expiration 8/31/2020
- 2) Strategic Energy Innovations, Agreement: Climate Corps Fellow Hosting Services, not to exceed \$61,500
- 3) NewGen Strategies & Solutions, Amendment: Advice and expert testimony in PG&E 2020-22 GRC, not to exceed \$89,720
- 4) Clearview Consulting, Agreement: Electric Vehicle Technical Assistance, not to exceed \$500,000
- 5) NewGen Strategies & Solutions, Task Authorization: Services relating to PG&E Energy Resource Recovery Account (ERRA) Proceedings- 2021 ERRA Forecast, not to exceed \$18,380
- 6) NewGen Strategies & Solutions, Task Authorization: Services relating to PG&E Energy Resource Recovery Account (ERRA) Proceedings – 2019 ERRA Compliance, not to exceed \$18,038
- 7) Claremont Partners, INC, Agreement: HR services, not to exceed \$31,322
- 8) EV Energy, Agreement: Managed EV Charging Pilot, not to exceed \$99,000
- 9) Evmatch, Agreement: Mutli-family EV Charger Sharing Platform, not to exceed \$38,000
- 10) Ascend Analytics, Amendment: Request for 2019 Integrated Resource Planning Activities, not to exceed \$107,350
- 11) Ascend Analytics, Task Order #8: Fiscal Year 2020 Platform & Hosting Costs and Net Revenue & Portfolio Management Reporting & Consultative Services, not to exceed \$79,960
- 12) Ascend Analytics, Amendment: Balance of Fiscal Year 2020 Customer Y and C/I Product Offerings, not to exceed \$77,672
- 13) M. CUBED, Agreement: A20-009 2019 ERRA Compliance, not to exceed \$9,325

Agenda Item: 2**Agenda Date: 5/13/2020**

14) Utility API, Amendment: Energy Data Exchange Platform Pilot, expiring September 30, 2020

CEO Power Supply Agreements Executed

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

Counterparty Name	Execution Date	Transaction Type	Product	Start Date	End Date	Notional Value
3Phases	4/22/2020	Purchase	Resource Adequacy	9/1/2020	9/30/2020	\$125,000.00
Clean Power SF	4/24/2020	Purchase	Import Allocation Rights	9/1/2020	9/30/2020	\$64,750.00
Bonneville Power Authority	4/27/2020	Purchase	Resource Adequacy	9/1/2020	9/30/2020	\$176,850.00
TransAlta	4/3/2020	Sale	Hedge Energy	4/1/2020	4/30/2020	\$492,758.00
Shell	5/4/2020	Purchase	Hedge Energy	1/1/2021	12/31/2021	\$24,054,362.00

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

Presentations & Relevant Meetings Attended by CEO

- Participated in CalCCA Monthly board, dues, executive, and legislative meetings;
- COVID-19 Impact calls with various CCAs, CPUC, etc.

Presentations by SVCE Staff

- May 14, 2020, EPRI Webcast: Aimee Bailey, Dir. of Decarbonization and Grid Innovation Programs

ATTACHMENTS

1. Decarb & Grid Innovation Programs Update, May 2020
2. Account Services & Community Relations Update, May 2020
3. Regulatory and Legislative Update, May 2020
4. Agenda Planning Document, May – August 2020



Decarb & Grid Innovation Programs Update

May 2020

1. Reach Code Initiative (1 of 2)

- **Buildings**

- **Nine cities have adopted Reach Codes** – Morgan Hill, Mountain View, Milpitas, Saratoga, Monte Sereno, Los Gatos, Cupertino, Campbell, and Los Altos Hills.
- Sunnyvale and Los Altos making progress.
- Adding technical support options for existing buildings if new construction slows

- **EVs**

- Amend quantity, speed and/or readiness of EV charging above code
- **Seven member agencies adopted EV reach codes**
- Morgan Hill considering adding EV code



1. Reach Code Initiative (2 of 2)

Member Agency	Status	Next Meeting	Date of Next Meeting	Code Language	Building Reach			EV Reach
					Encourage Gas Reduction (1 + 2 + 2A)	Limit Gas (1 + 2A)	Ban Gas (1 only)	Higher than CalGREEN
Mountain View		Approved		Begins on pg. 23			X	X
Morgan Hill		Approved		Begins on pg. 45			X	
Milpitas		Approved		Begins on pg. 1132	X			X
Monte Sereno		Approved		Begins on pg. 3	X ¹			X
Saratoga		Approved		Begins on pg. 33		X		X
Los Gatos		Approved		Begins on pg. 93			X	X
Cupertino		Approved		Ordinance			X	X
Los Altos Hills		Approved		Ordinance		X		X
Campbell		Approved		Begins on pg. 41		X		
Los Altos		1st Reading					X	
Santa Clara County		Staff Proposal			X			
Sunnyvale		Staff Proposal				X		
Gilroy	-	Declined						

Key

Status

- Approved
- 2nd Reading
- 1st Reading
- Staff Proposal
- Council Briefing

Building Reach

- 1 - All-electric buildings
- 2 - Mixed fuel has higher requirements
- 2A - Mostly electric/electric heating only



2. FutureFit Home Program

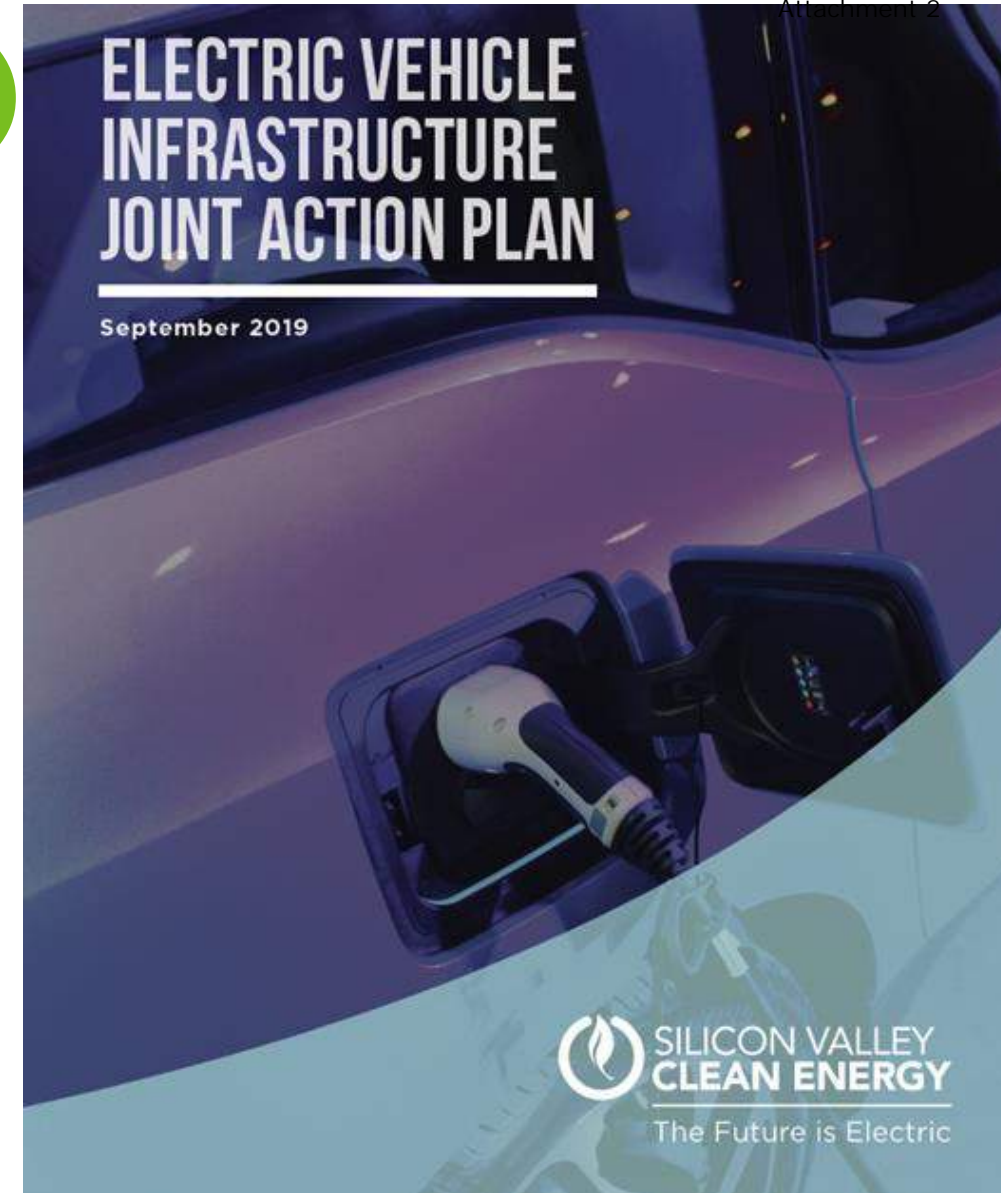
- Program launched in June 2019, providing rebates to replace 100 natural gas water heaters with electric heat pump water heaters
- Progress
 - **78 Completed.** Currently on a waitlist system.
- Phase 1 Co-funded by BAAQMD is closed
- Phase 2 launches May 31, 2020



Program Rebates	
Heat Pump Water Heater Only	\$2,000
Data Monitor	\$300
Optional Additional Rebates	
Smart Performance Package	\$1,500
Service Panel, upgrade to 200A	\$2,500
CARE/FERA eligible customer	\$1,500

3. EV Programs (1 of 2)

- **CALeVIP** scoping is ongoing – launch in Fall 2020
- Third meeting of **Silicon Valley Transportation Electrification Clearinghouse** will be held in June
- Final development of **Regional EV Leadership Recognition**, first stage launch in May
- Contract for **Multifamily and Small/Medium Business Technical Assistance** approved, launch in coming months



Digital version available at:

<https://www.svcleanenergy.org/programs/>

3. EV Programs (2 of 2)

Priority Zone DC Fast Charging Incentives Program Now Live!

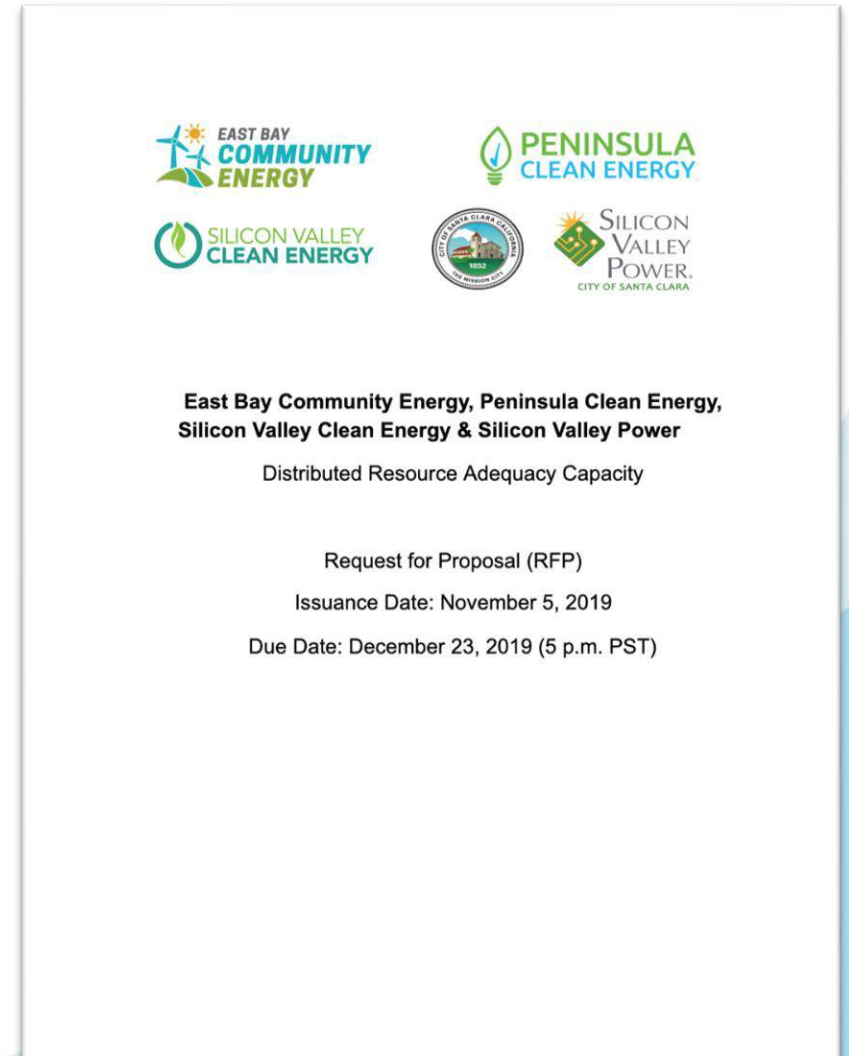
- Providing incentives in addition to CALeVIP for sites located near identified concentrations of multifamily housing
- SVCE will competitively select winning sites after application window closes
- Building relationships with charger developers, multifamily owners and residents
- Part of SVCE's multi-program support for multifamily EV market transformation



Additional information online
at: <https://www.svcleanenergy.org/dcfastchargers/>

4. Resilience RFP & VPP Update

- EBCE, PCE, SVP and SVCE jointly released RFP to support community resilience in Nov 2019
- Solicitation will spur >30MW of batteries at homes and businesses
- Batteries will form a “virtual power plant” to provide grid services to SVCE when not in use for back-up power
- Staff currently reviewing proposals and selecting vendors
- **Contracts expected to be brought to the board in early summer 2020**



5. Customer Resource Center

- CRC provides online tools for community to learn about, see the value of, and take action to transition to electric vehicles and appliances as well as solar with storage.
- Approved with Decarb Roadmap
 - ✓ \$350k approved with Roadmap
 - ✓ \$250K annually for ongoing operation in FY2021, FY2022
- Online tools to educate and encourage electric vehicle, solar plus storage and high-efficiency electric appliance adoption are being integrated into a redesigned website. Phased launch of website redesign and three tools in Q3.



6. Innovation Programs

- SVCE launched the **SVCE Data Hive** on March 30, a flagship pilot with [UtilityAPI](#). **Over 50 solution providers** have since registered with the portal. More info: data.svcleanenergy.org/
- The **application deadline for Innovation Onramp was extended to May 15**. The theme is resilience, and we're asking proposers to address how their pilots can aid local recovery from COVID. More info: www.svcleanenergy.org/innovation/



7. Other Updates

- SVCE submitted two nominations for the **Solar Electric Power Association's Power Players Awards** for the SVCE-PCE reach code effort & the SVCE Data Hive. Award decisions expected by mid-summer.
- In January, SVCE supported a research proposal to the Sloan Foundation led by Missouri University of Science & Technology and National Renewable Energy Laboratory to study the impact of CCAs on renewables deployment. **The proposal was selected for funding. SVCE will participate in the study by sharing anonymized customer data, carrying out a survey, and providing industry perspective**

1. Outreach Events & Sponsorships

SVCE is participating in two upcoming virtual events through speaking engagements. Prior to COVID-19, SVCE had five in-person community events scheduled for the month of May which have now been canceled or postponed.

Upcoming events:

Date	Time	Description	Location
May 14	1:00-3:30 PM	Silicon Valley Green Team Network Spring Forum- <i>sponsor and speaking</i>	Online Event hosted by Acterra
May 19	2:00 – 3:00 PM	CCAs and the COVID-19 Pandemic - <i>presenting</i>	Online Webinar hosted by The Climate Center



2. Customer Participation

	Participation Rate	Overall Participation Rate
Residential	96.23%	96.24%
Commercial	96.4%	



3. Member Agency Working Group Update

The recent MAWG meeting was held virtually on April 23, 2020 and was attended by ten different agencies and organizations with a total of 19 participants.

The following agenda items were presented and discussed:

- Programs
 - Customer Relief and Community Resilience (CRCR)
- Updates
 - Building Decarb Joint Action Plan RFP
 - Resilience RFP
 - Streamlining Community-Wide Electrification RFP
 - EV Funding
 - Reach Codes
 - B-Rate Outreach

4. Media

Latest SVCE News

- [SVCE Eases Burden on Community in Response to COVID-19](#), *Press Release*, 04-03-20
- [SVCE Commits \\$10 Million to COVID Relief and Resiliency Efforts](#), *Press Release*, 04-09-20
- [MBCP and SVCE Sign Contracts for 210 MW of Geothermal and Solar Energy in California](#), *Press Release*, 04-21-20

News Mentions

- [Community Choice Agencies Are Doing More Than Keeping The Lights On](#), *Clean Power Exchange*, 04-29-20
- [First Solar signs PV-plus-storage PPAs with community choice aggregators](#), *PV Magazine*, 04-22-20



4. Media continued

- [SVCE's COVID relief efforts](#), Sunnyvale Community Briefs, The Mercury News, 04-24-20
- [California CCAs sign geothermal, solar plus battery storage contracts](#), American Public Power Association, 04-21-20
- [First Solar Signs Solar, Storage PPAs with California's Monterey Bay Community Power & Silicon Valley Clean Energy](#), Energy Central, 04-21-20
- [Clean Energy Deal Tracker](#), GreenBiz, 04-21-20
- ['Data Hive' Opens for Solar, Battery Vendors in Silicon Valley](#), Greentech Media, 04-13-20
- [California's Silicon Valley, Monterey OK solar, storage and geothermal contracts](#), S&P Global Market, 04-10-20
- [California alliance adds 100-MW battery peaker in storage surge](#), S&P Global, 04-09-20





SVCE Regulatory and Legislative Update

May, 2020

Hilary Staver, Manager of Regulatory and Legislative Affairs

COVID-19 was the major new policy theme for April. With protections for our communities and ratepayers in place, we turned our attention to ensuring that the IOUs would not be able to shift the financial impacts of ratepayers inability to pay utility bills during the pandemic disproportionately onto CCAs. The policy team has also been part of the staff-wide effort to analyze how COVID-19 will be impacting SVCE's operations and policy priorities going forward.

Elsewhere, the release of several major CPUC documents at the end of March, including the Resource Adequacy Proposed Decision, the final Reference System Plan in the Integrated Resource Planning process, and the final 2020 PCIA and PG&E rate numbers, gave us lots of new material to digest, respond to at the Commission, and incorporate into our own internal planning and operations. In addition to parsing these, we've been prioritizing development of SVCE's 2020 IRP and making some upgrades to our internal regulatory compliance tracking system.

Regulatory

Response to COVID-19

Over the past six weeks, Governor Newsom and the CPUC have taken significant steps to protect ratepayers from losing essential services due to inability to pay utility bills during the COVID-19 pandemic. In summer 2019, the CPUC had already created an [Emergency Disaster Relief Program](#) designed to activate extra consumer protections in the event that the governor declared a state of emergency. The Program was created in response to recent wildfires and originally designed for situations where natural disasters could disrupt utility service. However, on 3/17/20 the Executive Director of the CPUC sent letters to the IOUs confirming that the protections in the Program should go into effect and requiring documentation of how the IOUs were implementing them. **The protections are to apply to all residential and small commercial customers for one full year (through 3/4/2021) and fall into three main categories: halting all disconnections for non-payment and waiving security deposits; developing new payment plan options; and offering additional support to low-income and medical baseline customers.** On 3/19/20, PG&E filed [Advice Letter 5784-E](#) documenting its efforts.

SVCE fully supports these additional consumer protections, and as you know we are supplementing them with our own portfolio of aid approved by the Board in April. However, **PG&E's AL 5784-E left several openings with the potential to shift a disproportionate share of the financial impact of COVID-19 from the from PG&E onto CCAs.** The most prominent of these was the idea that the current wording of PG&E's tariffs could allow them to apply partial payments received through payment plans preferentially to PG&E charges rather than splitting them pro rata between PG&E and CCA charges. Referred to as the "waterfall," this order in which revenue is applied to various charges determines which institution bears the financial brunt of customers' inability to pay utility bills during the pandemic.

The conversation progressed when the CPUC issued Resolution M-4842 on 4/16/20. The Resolution required each IOU to file a second Advice Letter with a more detailed description of how each aspect of the emergency consumer protections was to be implemented. Importantly, the Resolution also required the IOUs to meet and confer with the CCAs to agree on each group's respective role in providing these



protections. This conversation took place on 4/28/20, and PG&E's second Advice Letter, [AL 5816-E](#), was filed on 5/1/20. **The meet and confer was successful in confirming that partial payments received over the coming year will be split pro rata between PG&E and SVCE charges, and this is codified in AL 5816-E. SVCE and other CCAs will now share the revenue impacts of COVID-19 proportionately with the IOUs.**

Ratesetting, Short- and Long-Term

The CPUC has wrapped up the final stages of setting the 2020 Power Charge Indifference Adjustment (PCIA) and PG&E implemented the new rates on May 1, 2020.

On 2/27/20, the CPUC approved and issued a Decision with final PCIA and rate numbers for 2020 in PG&E's ERRA forecast proceeding. PG&E's implementation advice letter filed on 3/13/20 results in a forecast uncapped system average PCIA of 4.3 ¢/ kWh (a 62% increase over 2019's PCIA) beginning 5/1/20. However, this large of an increase triggered a "cap" mechanism designed to improve rate stability by limiting the size of year-to-year PCIA spikes. **The capped system average PCIA is 3.2 ¢/kWh, a 20% increase over 2019.**

As discussed in previous updates, implementation of the cap is expected to trigger an existing, older mechanism for countering undercollection by allowing a mid-year PCIA increase. This could result in the PCIA jumping to 4.8 ¢/kWh, a 80% increase over 2019, beginning Q3 2020. SVCE and CalCCA are continuing to work with CPUC staff to reconcile the cap with this undercollection mechanism. In addition, the Joint CCAs will be closely reviewing PG&E's upcoming ERRA Compliance Application to ensure that PG&E implemented rates in accordance with the Decision and made no errors. The CPUC also held a workshop on 5/6 to address transparency in ERRA Proceedings.

On a longer time horizon, SVCE continues to participate jointly with other CCAs in the two phases of PG&E's 2020-2022 **General Rate Case (GRC)**. In Phase 1, the CPUC establishes PG&E's total revenue requirement for the three-year period. Phase 1 of PG&E's current GRC is drawing to a close, but disagreement over several issues led to PG&E presenting a [settlement agreement](#) with several other stakeholders in December 2019. The Joint CCAs filed comments and reply comments on the settlement proposal on 1/21/20 and 2/5/20 respectively, along with an opening brief on remaining disputed Phase 1 issues on 1/6/20. **We expect Phase 1 to conclude with a final Decision on the settlement agreement and other issues in Q2 2020.**

Phase 2 of the GRC is where the revenue requirement approved in Phase 1 is divided among the various classes of customer (residential, commercial, industrial, etc.). Phase 2 of PG&E's current GRC began in November 2019 with PG&E's [opening application](#). The Joint CCAs filed a [Protest](#) on 1/10/20, PG&E [replied](#) on 1/21/20, and **all parties are now awaiting a Scoping Memo to schedule the rest of Phase 2.**

Reliability, aka Resource Adequacy (RA)

[Resource Adequacy](#) is the main program the CPUC uses to ensure that there is enough generating capacity on the system each year to meet peak hourly demand. We currently have two proceedings open.

The older proceeding, [R.17-09-020](#), is wrapping up its consideration of how to create a central buyer for Local RA. The [Proposed Decision](#) on how that buyer would be structured came out on 3/26/20. As detailed in last month's update, several aspects of the PD are very concerning, particularly the lack of a mechanism for load-serving entities to offset their portion of the central buyer's costs with RA resources they procure



themselves. The broad scope and relatively thin oversight of the central buyer's procurement authority and the selection of the IOUs as central buyers in their service territories were also suboptimal. **CalCCA submitted comments and reply comments detailing these and other issues, and there have been extensive ex parte discussions with Commission staff regarding potential improvements to the PD. The PD was originally scheduled to be voted on by the Commission on 5/7/20. However, on 5/5/20 it was pulled from the agenda and the vote delayed until 5/28/20.** We hope this delay is indicative of CPUC plans to revise the PD in a positive way before it goes to a Commission vote.

The newer RA proceeding ([R.19-11-009](#)) focuses more on reviewing how much RA credit different types of resources are eligible for and other updates to the RA program. One of the highest priority issues for SVCE in this proceeding is how RA credit is calculated for hybrid resources such as solar plus storage, which SVCE and many other CCAs are building and which we need much more of to meet our statewide GHG reduction targets. On 2/21/20 about a dozen different stakeholder proposals were submitted to the CPUC with suggested changes to the RA accounting framework. CalCCA submitted [comments](#) on the proposals on 3/23/20, and SVCE submitted [supplementary comments](#) jointly with Monterey Bay Community Power and East Bay Community Energy regarding the treatment of the PG&E Other subareas. **We are currently awaiting a Proposed Decision on these issues.**

Elsewhere in this proceeding, an additional track of discussions is beginning that will tackle the deeper question of how to adapt the RA framework to a grid dominated by low- or no-carbon resources whose capacity is only available at certain times of day (compared to the 24/7 availability of gas). **Proposals for deeper, fundamental reforms to the RA framework are due 7/10/2020, and SVCE is helping to lead the development of CalCCA's proposal in this area.**

GHG Reduction Planning, aka Integrated Resource Planning/Plan (IRP)

IRP is the framework the CPUC uses to ensure the electricity sector is on track to meet its portion of CA's GHG emissions reduction goals by 2030, and we have to submit one every two years. Internal work on SVCE's 2020 IRP has been a major focus this month. Following the publication of the final [Reference System Plan](#) on 3/26/2020, we have been focusing on our internal modeling while waiting for the final batch of compliance materials and guidance that is due from the Commission on 5/11/20.

On 4/30, we also received an Order Instituting Rulemaking that opens a new IRP proceeding. This proceeding will be the successor to the current one, which has been open since 2016. The new proceeding will implement the two remaining major portions of the 2019-2020 IRP cycle. The first is the aggregation of the individual IRPs into the Preferred System Plan. This will take place in fall 2020 after the IRPs are submitted on 9/1/20, and will provide an estimate of where GHG emissions from the electricity sector should be in 2030 if all load-serving entities procure according to their IRPs. The second is a procurement track that will direct procurement of any additional resources needed to bring the Preferred System Plan into alignment with the state's 2030 GHG goals. This procurement track will be analogous to the one following the 2017-2018 IRP cycle, which resulted in a mandate for 3,300 MW of additional capacity between 2021 and 2023. The fact that that mandate was based on a perceived reliability need discovered through the IRP modeling rather than being GHG-related illustrates the extent to which the IRP process, though focused primarily on GHG reduction planning, has become a broader vehicle for statewide electricity sector planning. The mandates coming out of this next procurement track will be a high-priority



policy issue, and CCAs will continue to advocate for our right to self-procure our portion of any identified resource needs.

Direct Access (DA)

[SB 237](#) (Hertzberg, 2018) expanded CA's DA program by 4,000 GWh and required the CPUC to conduct a study on the implications of fully reopening DA to all nonresidential customers in the state. SVCE has been leading CalCCA's involvement in SB 237's [implementation proceeding](#) at the CPUC, where Commission staff must finish the study and submit it to the legislature by 6/1/20. **The draft study, originally set to be released on 3/9/20, has been indefinitely delayed by the CPUC. The CPUC has also indicated plans to request an extension of the deadline to submit the report to the legislature.** Depending on the recommendations of the study, SVCE may need to engage with DA-related legislation introduced in response to the study later in the 2020 legislative session or in 2021.

Power Charge Indifference Adjustment (PCIA) Reform

Apart from the annual PCIA-setting that happens in the ERRA proceedings, the PCIA reform proceeding is dedicated to improving the methodology the ERRA uses to calculate the PCIA. This proceeding is also examining some deeper reforms such as allocation of excess IOU resources directly to the CCAs (rather than CCAs paying for them all through the PCIA). The proceeding has three working groups, each tackling a different set of issues. Working Group 1 got a [Decision](#) on the first half of its issues in October 2019, and a Decision on the second half of issues on 3/26/20. The Decision notably requires the investor owned utilities to show the PCIA as a separate line item on all customer bills by 1/1/21 to accommodate their IT workflow. Working Group 2, which is examining options for CCAs to prepay the PCIA if they wish, is waiting for a Decision after issuing its [final report](#) on 12/9/19.

Working Group 3, addressing the aforementioned resource allocations, submitted its final report to the CPUC on 2/21/20. The report includes proposals for allocating GHG-free resources, RPS resources, and system/flex/local RA from the IOUs' portfolios to CCAs on a voluntary or involuntary basis (depending on the resource type). **Discussions around these issues are ongoing, and CalCCA along with Working Group 3 co-lead Southern California Edison continue to meet with CPUC staff to explain the positions in the report. A final Decision from the Commission on these allocation proposals is expected in Q2 2020, and may be influenced by the provisions of the aforementioned Proposed Decision in the RA proceeding.**

Legislative

After almost two months of emergency recess, the California legislature is easing back into active session mode. The Assembly resumed activity on 5/4/20 and the Senate will reopen on 5/11/20, both with updated safety and distancing guidelines in place. Both houses will pick up where they left off, with hearings in policy committees in the first house.

The 2020 legislative session must still end on August 31st, so the schedule for the rest of the session has necessarily been compressed. The deadline for bills to pass the house in which they were introduced has been pushed back from May 29th to June 26th, and now abuts the beginning of the summer recess. That recess been cut from four weeks to two, with the legislature reconvening early to begin consideration of bills in the second house.



In order to accommodate the compressed schedule, the scope of bills being considered this year has been severely pared down. The focus is now almost entirely on Covid-19-related issues and passage of the budget. Bills on all other topics, including the two sponsored by CalCCA, have been tabled for the year. Though this is disappointing, in light of the circumstances we have few options for changing this outcome in 2020. SVCE and CalCCA will continue to work on transparency and RA central buyer issues on the regulatory side while we wait for an opportunity to pick them up again at the legislature in 2021. For the remainder of the 2020 legislative session we will also continue to monitor the bills moving forward for threats as well as opportunities to support positive proposals.

MAY 2020

JUNE 2020

JULY 2020

AUGUST 2020

MILESTONES

<p>Board of Directors, May 13:</p>	<p>Board of Directors, June 10: <u>Consent:</u> Minutes March 2020 Treasurer Report Resilience RFP Awards <u>Regular Calendar</u> IRP Discussion Solar plus storage PPA (Tentative) Strategic Plan Update</p>	<p>Board of Directors, July 8:</p>	<p>Board of Directors, August 12: <u>Consent:</u> Minutes April 2020 Treasurer Report <u>Regular Calendar</u> SVCE Continuity Plan</p>
<p>Executive Committee, May 22: Strategic Plan Update Board Succession Planning Update</p>	<p>Executive Committee, June 26:</p>	<p>Executive Committee:</p>	<p>Executive Committee, TBD:</p>
	<p>Finance and Administration Committee, TBD: Power Prepay Agreement</p>		



Staff Report – Item 3

Item 3: Approve FY 2019-20 Mid-Year Operating Budget and Resolution Amending the Positions Chart, Job Classifications, and Salary Schedule

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Don Eckert, Director of Finance and Administration
Kevin Armstrong, Administrative Services Manager

Date: 5/13/2020

RECOMMENDATION

Staff recommends that the Board approve the FY 2019-20 Mid-Year Operating Budget and Resolution 2020-15 amending the positions chart, job classifications, and salary schedule.

EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee, at the April 24, 2020 meeting, expressed approval of two (2) new positions in support of power resource planning and data engineering functions.

BACKGROUND

The 2019-20 Mid-Year Budget provides support for both agency and community resiliency. The budget provides infusion into cash reserves that will strengthen the agency to handle uncertainty in the Power Cost Indifference Charge (PCIA) and the economy while funding immediate and long-term support for our ratepayers. The table below is a high-level summary of the budget:

\$ in Thousands

	<u>Adopted Budget</u>	<u>Mid-Year Budget</u>	<u>Variance</u>
Energy Revenues	318,220	290,140	(28,080)
Power Supply	245,340	239,070	(6,270)
Operating Margin	<u>\$72,880</u>	<u>\$51,070</u>	<u>\$21,810</u>
Operating Expenses	16,950	15,320	(1,630)
Non-Operating Income/(Expense)	1,450	1,870	420
Transfers, Debt Service and Other Expenses	6,807	17,500	10,693
Balance Available for Reserves	<u>\$50,573</u>	<u>\$20,120</u>	<u>\$30,453</u>

ANALYSIS & DISCUSSION

The FY 2019-20 Mid-Year Operating Budget is balanced and presents SVCE in stable financial condition. The projected balance available for reserves of \$20.1 million is \$30.5 million or 60.4% decrease compared to the FY 2019-20 Adopted Budget.

Energy revenues and non-operating income are projected at \$292.3 million which is \$27.6 million or 8.6% decrease. The primary drivers are the 21% increase in the PCIA effective May 1st and the reduction in load resulting from the economic impact from the COVID-19 virus.

Energy supply, operating and non-operating expenses, and interfund transfers are projected at \$272.2 million which is a \$4.5 million or 1.7% increase. The primary driver is the funding of the customer relief and community resiliency ("CRCR") fund which was partially offset by decreases in energy supply and other operating expenses.

Energy Revenues

The FY 2019-20 Mid-Year operating budget shows a decrease of \$28.1 million or 8.8% compared to the Adopted Budget.

- Energy sales projects to decrease by \$28.4 million. The Adopted Budget did not include any rate changes from Pacific Gas & Electric ("PG&E") rates or changes to the PCIA. The rate changes effective May 1st resulted in minimal changes in PG&E rates but a 21% increase in the PCIA decreasing revenues by \$8.2 million. The Adopted Budget also assumed flat load growth. The public health crisis created by the COVID-19 virus has immediate and significant impact to the economy. Staff is assuming an annualized 10% reduction in load to serve with commercial and industrial accounts affected disproportionately through the remainder of the fiscal year. The decrease to revenues from the load reduction is \$19.9 million. The 4% discount to PG&E's customer generation rates will be maintained through the fiscal year.
- GreenPrime revenues are projected to increase by \$0.2 million based on year-to-date performance. The 3% participating rate assumed in the Adopted Budget is maintained.
- Other revenues are projected to increase by \$0.2 million based on year-to-date performance.

Operating Expenses

The FY 2019-20 Mid-Year Budget shows a decrease of \$7.9 million or 3.0% compared to the Adopted Budget.

- Power Supply expenses projects to decrease by \$6.3 million primarily due to less load to serve. The favorable variance of procuring power supply for a reduced load is partially offset by SVCE being full hedged through the rest of the fiscal year. The Mid-Year Budget assumes the over-hedged positions will be sold back to the California Independent System Operator (CAISO) at a loss. The inputs into the budget includes modelling those projected losses through Ascend Analytics.
- Data Management expenses projects to decrease by \$0.4 million. The favorable adjustment reflects the pricing of the current agreement with Calpine approved by the Board in December 2019.
- PG&E Billing expenses projects to decrease by \$0.1 million based on year-to-date performance and updates to the number of customer meters.
- Employment expenses projects to decrease by \$0.4 million. The favorable year-to-date variance due to vacancies is partially offset with the addition of two (2) new positions:
 - Principal Power Analyst – This senior level position will strengthen the Power Resources Department and provide more bandwidth to manage new challenges in the short-term horizon such as:
 - Optimization of resources from the long-term power purchase agreements ("PPA") that will be online in 2021;
 - Partially mitigate operational risk from current staff having more responsibilities assigned to them - as SVCE has added on contracts and regulatory risk has increased – leading to potential burnout and expensive errors
 - Support the agency's long-term goals of attaining a 24x7 renewable energy portfolio;

Agenda Item: 3**Agenda Date: 5/13/2020**

- Support in creating and managing customized contracts with large customers to remain competitive with the uncertainties of Direct Access expansion; and
- Support in managing the energy portfolio in lieu of changing rules at the regulatory level.
- Estimated annual cost including benefits of \$215,000.
- Senior Data Engineer – This senior level position will reside in the Decarbonization and Grid Innovations Department but will focus on enterprise wide data architecture and engineering. Over the years the amount of customer account, customer usage, power portfolio contracts, pricing data, modeling data and results that SVCE needs to handle has increased to a point where operational risk increases if the data is not managed effectively. The primary focus will be to provide cross-departmental data governance, ground-truthing data, and manage the multitude of various data inputs and outputs that will influence decision making. Estimated annual cost including benefits of \$200,000.
- Professional Services expenses projects to decrease by \$0.3 million due to departments re-prioritizing and internalizing projects when possible.
- Marketing & Promotions expenses projects to decrease by \$0.2 million mostly due to the cancellation of events and similar impacts from the shelter-in-place order.
- Notifications expenses projects to remain flat.
- Building Lease expenses projects to decrease by \$0.1 million due to the delay in the facility upgrade.
- General and Administrative expenses projects to decrease by \$0.2 million due to departments recalibrating their needs.

Non-Operating Revenues and Expenses

The Mid-Year Operating Budget shows an increase of \$0.4 million compared to the FY 2019-20 Adopted Budget.

- Interest Income projects to increase by \$0.5 million due to year-to-date performance and estimated cash balances and interest rates.
- Grant income related to the Heat Pump Water Heater Grant with the Bay Area Air Quality Management District is projected to remain flat.
- Financing expenses include the funding for the renewal of the line of credit and includes letters of credit outstanding with PG&E and CAISO. Expenses are projected to increase by \$0.1 million due to the timing of the renewal of the line of credit.

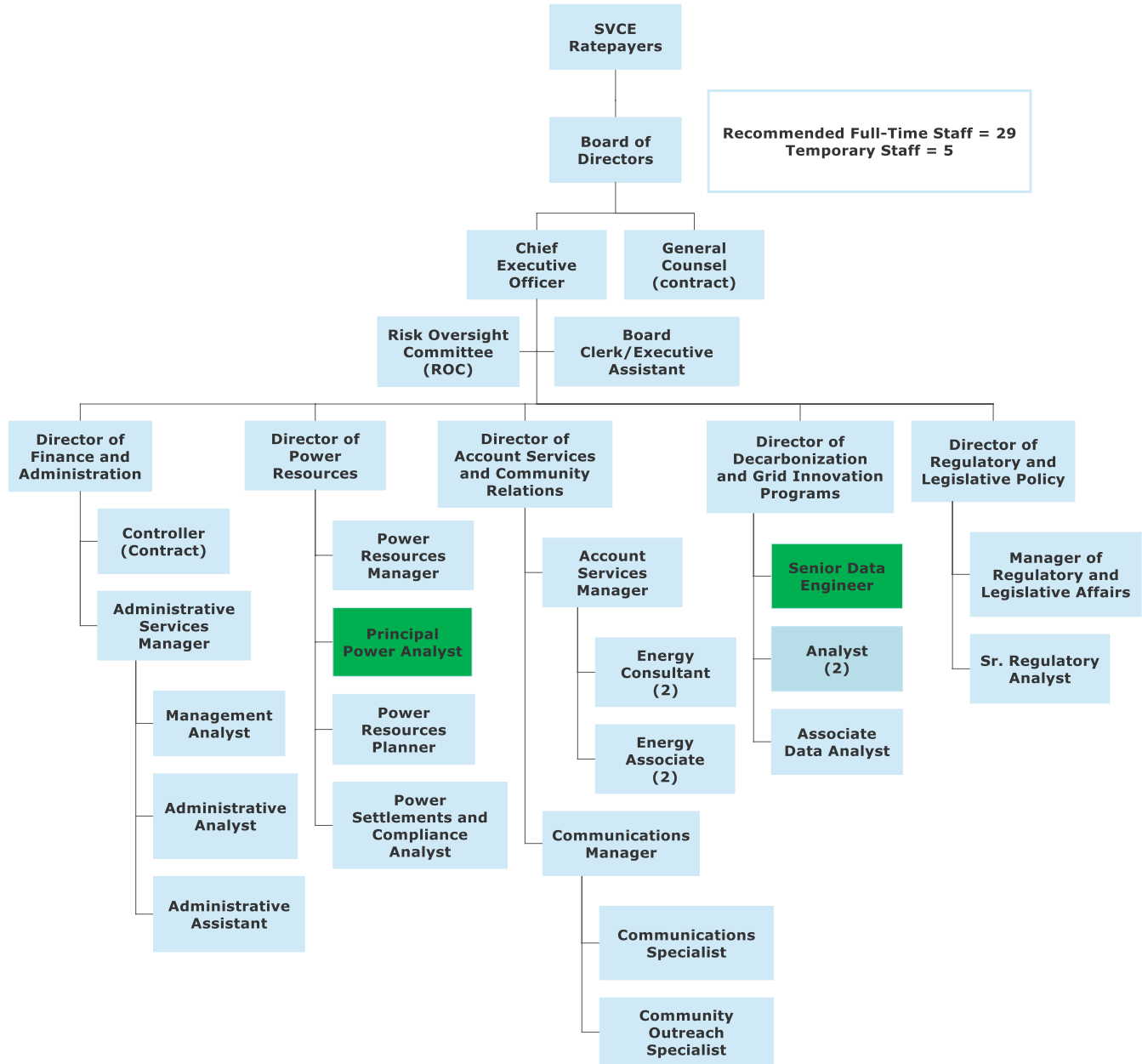
Capital Expenditures, Interfund Transfers and Other

The Mid-Year Operating Budget shows an increase of \$10.7 million compared to the Adopted Budget.

- In response to the economic shock created by the shelter-in-place orders as an attempt to contain the COVID-19 virus, SVCE has created a CRCR. The fund's purpose is to provide immediate to short-term relief to customers and programs with longer-term effects. The allocation of program funding within this fund will be decided by the Board.
- Transfer to the Programs Fund is projected to decrease by \$1.3 million. The primary drivers include the formulaic adjustment associated with the reduction in energy revenues and a transfer of available budget (\$12 million) to the CRCR Fund.
- Capital expenses are projected to remain flat as the facility upgrade project has slowed but still progressing.
- Other Cash Inflows/Outflows are projected to remain flat.

Table of Organization

The Mid-Year Operating Budget funds twenty-nine (29) full-time equivalent positions and five (5) part-time positions. Details of the new positions are explained in the Operating Expenses section of this report. The table of organization chart on the following page references new positions in green.



STRATEGIC PLAN

The recommendation supports all goals of the strategic plan.

ALTERNATIVE

Staff is open to suggestions from the Board.

FISCAL IMPACT

The FY 2019-20 Mid-Year Operating Budget includes total revenues of \$292.3 million and total expenses of \$272.2 million resulting in an operating surplus of \$20.1 million.

ATTACHMENTS

1. FY 2019-20 Mid-Year Operating Budget
2. Job Descriptions: Principal Power Analyst, Senior Data Engineer
3. Resolution 2020-15, Amending the Approved Positions Chart, Job Classifications and Salary Schedule to Add the Positions of Principal Power Analyst and Senior Data Engineer, and Amend the Salary Range of the Director of Decarbonization and Grid Innovation Programs

**SILICON VALLEY CLEAN ENERGY
FY 2019-20 MID-YEAR OPERATING BUDGET
(\$ in thousands)**

Line	DESCRIPTION	FY 2019-20 ADOPTED BUDGET	FY 2019-20 MID-YEAR BUDGET	VARIANCE	
				\$	%
	ENERGY REVENUES				
1	Energy Sales	317,230	288,840	28,390	-8.9%
2	Green Prime Premium	940	1,100	160	17.0%
3	Other	50	200	150	300.0%
4	TOTAL ENERGY REVENUES	\$318,220	\$290,140	\$28,080	-8.8%
	ENERGY EXPENSES				
5	Power Supply	245,340	239,070	6,270	-2.6%
6	OPERATING MARGIN	\$72,880	\$51,070	\$21,810	-29.9%
	OPERATING EXPENSES				
7	Data Management	3,530	3,160	370	-10.5%
8	PG&E Fees	1,350	1,260	90	-6.7%
9	Employment Expenses	5,490	5,120	370	-6.7%
10	Professional Services	3,710	3,420	290	-7.8%
11	Marketing & Promotions	960	740	220	-22.9%
12	Notifications	160	160	0	0.0%
13	Building Lease	600	500	100	-16.7%
14	General & Administrative	1,150	960	190	-16.5%
15	TOTAL OPERATING EXPENSES	\$16,950	\$15,320	\$1,630	-9.6%
16	OPERATING INCOME (LOSS)	\$55,930	\$35,750	\$20,180	-36.1%
		\$262,290	\$254,390	\$7,900	3.0%
	NON-OPERATING REVENUES				
17	Interest Income	1,470	2,000	530	36.1%
18	Grant Income	160	160	-	0.0%
19	TOTAL NON-OPERATING REVENUES	\$1,630	\$2,160	\$530	32.5%
	NON-OPERATING EXPENSES				
20	Financing	180	290	110	61.1%
21	Interest	0	0	0	
22	TOTAL NON-OPERATING EXPENSES	\$180	\$290	\$110	61.1%
23	TOTAL NON-OPERATING INCOME (EXPENSES)	\$1,450	\$1,870	\$420	29.0%
24	CHANGE IN NET POSITION	\$57,380	\$37,620	\$19,760	-34.4%
	CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER				
25	Capital Outlay	400	400	0	0.0%
26	Refund of Bond (Cash Inflow)	100	100	0	0.0%
27	Financial Services Requirement	147	150	3	2.0%
28	Transfer to Programs Fund	6,360	5,050	1,310	-20.6%
29	Transfer to CRCR Fund	0	12,000	12,000	
30	TOTAL CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER	\$6,807	\$17,500	\$10,693	157.1%
31	BALANCE AVAILABLE FOR RESERVES	\$50,573	\$20,120	\$30,453	-60.2%



PRINCIPAL POWER ANALYST

SALARY RANGE: \$120,952-\$189,067

SUMMARY DESCRIPTION

Under general direction of the Director of Power Resources, the Principal Power Analyst ("Analyst"), supports efforts related to power portfolio planning, energy risk management, rate development, custom product offerings for large customers, and load analytics and forecasting. The Power Resources department ("Front Office") is responsible for supplier and resource origination, meeting all wholesale energy needs, portfolio risk management, asset and portfolio optimization, settlements and compliance. The Analyst shall work with other members of the Front Office and independently on a range of complex strategic, administrative and analytical projects and tasks. The ideal candidate must possess experience with energy data analytics, energy trading and risk management and should have experience with industry standard modeling and simulation software packages.

SUPERVISION RECEIVED AND EXERCISED

This position reports directly to the Director of Power Resources. Management of consultants and contractors is expected. This position has no direct reports however may supervise temporary and/or internship positions.

ESSENTIAL FUNCTIONS

The ideal candidate should have strong analytical skills, knowledge of energy fundamentals and wholesale energy markets, risk management and accounting concepts (cost to serve load), forecasting, and ability to manage large sets of data. The Analyst will provide lead analytical support to the Front Office, with the following responsibilities:

- Design, program, modify, and operate systems for measuring, monitoring, and reporting financial risk from power supply positions.
- Calculating Value at Risk, Mark to Market, Gross Margin at Risk, PPA valuation, and other risk metrics.
- Evaluate, recommend and support procurement of deal trade capture and/or enterprise systems to manage supply contracts from origination to settlements.
- Support/lead efforts to develop systems/processes to implement new renewable resources and ensure optimization of resources in wholesale energy markets.
- Support/lead integrated resource planning, modeling and implementation efforts.
- Create and maintain various supply and demand-side models to support key forecasting, procurement and programmatic initiatives and/or compliance requirements including energy hedges, resource adequacy, carbon-free and RPS.
- Lead and support internal analysis and modeling of innovative rate design for new SVCE offerings or new program offerings.
- Provide internal technical analyses to assess impact of programs and policies on SVCE's operations.
- Write staff reports and presentations for Board and Committee meetings.

- Performs related duties and responsibilities as required.

KNOWLEDGE, SKILLS, AND ABILITIES

Knowledge of:

- Principles of electricity generation, transmission and distribution.
- Knowledge of California energy markets and energy products, energy trading and trade capture processes, and standard risk management policies and strategies.
- Statistics, machine learning, and optimization algorithms and principles, and their application.
- California regulatory bodies and agencies (i.e., CPUC, CEC, CARB, BAAQMD and CAISO) policies and requirements applicable to load serving entities.

Technical analytic skills/models:

- General understanding of basic data science methods & approaches
- Expert proficiency in Excel modeling and Access Data Base
- SQL/programming proficiency
- Basic programming skills desired
- Proficiency in Microsoft Office Suite
- Proficiency in Tableau
- Proficiency or working understanding of energy deal trade management systems and electric supply modeling/dispatch software such as Ascend Analytics PowerSimm and BatterySimm; Plexos, Aurora, Sevrin.

Ability to:

- Configure and maintain various database systems
- Extract data, perform various analyses, and translate findings into meaningful business recommendations;
- Develop, perform and maintain queries and reports;
- Manage projects and teams
- Be self-directed and comfortable operating in a dynamic, fast-paced start-up environment.
- Demonstrate excellent written and oral communication skills.

REQUIRED QUALIFICATIONS

Experience and Training Guidelines: Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

EDUCATION: A Bachelor's Degree from an accredited university or college in science, technology, engineering, mathematics, environmental science, or a related, quantitative field. A Master's Degree in the aforementioned fields can substitute for up to one year of the required experience. A Doctoral Degree in the aforementioned fields can substitute for up to three years of the required experience.

EXPERIENCE: Minimum of eight (8) years, depending on level, of progressively responsible experience as an analyst at an electric utility, regulatory agency, cleantech

company, or similar organization.

LICENSE: Possession of a valid Class C California driver's license and a satisfactory driving record at the time of hire.

PHYSICAL AND WORKING CONDITIONS

The physical and mental demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

ENVIRONMENT: Work is performed in a typical office setting with exposure to computer screens and will require some evening and weekend work. The noise level in the work environment is usually typical of an office environment and public events. Remote/telework may be included.

PHYSICAL: While performing the duties of this class, employees are regularly required to sit, walk, and stand; talk or hear, in person and by telephone; reach with hands and arms. Employees are occasionally required to walk, and stand for prolonged periods; stoop, bend, kneel and twist; and may lift up to 20 pounds. Employees must be able to communicate in person, in writing, and by telephone with Board members, management, co-workers, vendors, consultants, and with the public in face-to-face, one-on-one, and group settings.

VISION: See in the normal visual range with or without correction; vision sufficient to read computer screens and printed documents; and, operate assigned equipment.

HEARING: Hear in the normal audio range with or without correction.

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SENIOR DATA ENGINEER

SALARY RANGE: \$122,597 - \$170,446

SUMMARY DESCRIPTION

The Senior Data Engineer works under the direction of the Director for Decarbonization & Grid Innovation to lead an organization-wide data strategy, and the design, implementation and management of an optimized and reliable overarching data architecture for SVCE's business functions to support achieving our decarbonization mission. This position works closely with the Directors and Managers of other teams (Power Supply, Account Services & Community Relations, Legislative & Regulatory Effectiveness).

SUPERVISION RECEIVED AND EXERCISED

This position reports directly to the Director of Decarbonization and Grid Innovation. Significant management of projects, consultants and contractors is required.

ESSENTIAL FUNCTIONS

- Design, implement and manage an optimized and reliable overarching data architecture to support SVCE's business and mission.
- Develop and maintain the infrastructure required for extraction, transformation, and loading of data from a wide variety of data sources (ETL).
- Identify, design, and implement internal process improvements, including automating manual processes, optimizing data delivery, and re-designing infrastructure for greater scalability.
- Design and implement best practices for data storage, versioning, querying, as well as managing relevant documentation.
- Build processes supporting data transformation, data structures, metadata, dependency and workload management.
- Collaborate across the organization and with external partners to aggregate additional relevant data sets to support business functions.
- Design and develop data analytics dashboards and visualization tools.
- Collaborate with internal and external stakeholders to understand business and policy challenges, goals and objectives and translate them into data analytics use cases.
- Support data requests with key Silicon Valley stakeholders such as research institutions, start-ups, high-tech, students and the community.

KNOWLEDGE, SKILLS, AND ABILITIES

- Experience building and optimizing 'big data' data pipelines, architectures, and data sets.
- Excellent programming and statistical programming skills, including Python and R, respectively.

- Working knowledge of message queuing, stream processing, and highly scalable 'big data' data stores.
- Advanced working SQL knowledge and experience working with relational databases, query (SQL) as well as working familiarity with a variety of databases.
- Strong understanding of statistics, machine learning, and optimization algorithms and principles, and their application (regression analysis, time series, probabilistic models, supervised classification and unsupervised learning).
- A successful history of manipulating, processing and extracting value from large disconnected datasets.
- Subject matter expertise in one or more of the following topics: wholesale electricity markets, retail electricity markets, retail rate design, deep decarbonization, electrification, building energy usage, electric vehicles, energy efficiency, energy resources and procurement.
- Superior project management skills, including managing multiple priorities.
- Self-directed and comfortable operating in a dynamic, fast-paced start-up environment.
- Experience supporting and working with cross-functional teams in a dynamic environment.
- Ability to work independently and in a team.
- Excellent communication skills, including distilling complex information in a simple and understandable manner.

REQUIRED QUALIFICATIONS

Experience and Training Guidelines: *Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:*

EDUCATION: A Bachelor's Degree from an accredited university or college in science, technology, engineering, mathematics, or a related, quantitative field. A Master's Degree in the aforementioned fields can substitute for up to one year of the required experience. A Doctoral Degree in the aforementioned fields can substitute for up to three years of the required experience.

EXPERIENCE: **Six** (6) years of progressively responsible experience as a data engineer at an electric utility, cleantech company, software company, or similar organization.

LICENSE: Possession of a valid Class C California driver's license and a satisfactory driving record at the time of hire.

PHYSICAL AND WORKING CONDITIONS

The physical and mental demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

ENVIRONMENT: Work is performed in a typical office setting with exposure to computer screens and at public events (fairs, meeting rooms, farmers' markets, etc.) with moderate noise and will require some evening and weekend work. The noise level in the work environment is usually typical of an office environment and public events.

PHYSICAL: While performing the duties of this class, employees are regularly required to sit, walk, and stand; talk or hear, in person and by telephone; reach with hands and arms. Employees are occasionally required to walk, and stand for prolonged periods; stoop, bend, kneel and twist; and may lift up to 20 pounds. Employees must be able to communicate in person, in writing, and by telephone with Board members, management, co-workers, vendors, consultants, and with the public in face-to-face, one-on-one, and group settings.

VISION: See in the normal visual range with or without correction; vision sufficient to read computer screens and printed documents; and, operate assigned equipment.

HEARING: Hear in the normal audio range with or without correction.

-----SVCE IS AN EQUAL OPPORTUNITY EMPLOYER-----

RESOLUTION NO. 2020-15

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE APPROVED POSITIONS CHART, JOB CLASSIFICATIONS AND SALARY SCHEDULE TO ADD THE POSITIONS OF PRINCIPAL POWER ANALYST AND SENIOR DATA ENGINEER, AND AMEND THE SALARY RANGE OF THE DIRECTOR OF DECARBONIZATION AND GRID INNOVATION PROGRAMS

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, under Section 2.5.2 of the Joint Powers Agreement creating the Authority, the Authority has the power to employ agents and employees; and

WHEREAS, the Board of Directors adopted Resolution No. 2016-06 on August 10, 2016 establishing an Organization Chart for the Authority and salary ranges for the established positions; and

WHEREAS, the Board of Directors has amended the Organization Chart and Salary Schedule to add and delete positions and update salaries with the adoption of Resolution Nos. 2017-07, 2017-10, 2018-06, 2018-10, 2019-04, 2019-15, and 2020-09; and

WHEREAS, Resolution No. 2019-04 also renamed the Organization Chart as the Positions Chart; and WHEREAS, to meet the needs of the Authority , the Chief Executive Officer recommends that the Board amend the existing schedule of job classification titles and salary ranges to add the positions of Principal Power Analyst and Senior Data Engineer, and amend the salary range of the Director of Decarbonization and Grid Innovation Programs.

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’s schedule of job classification titles and salary ranges is amended to add the positions of Principal Power Analyst and Senior Data Engineer, and amend the salary range of the Director of Decarbonization and Grid Innovation Programs. The following schedule of job classification titles and salary ranges shall replace and supersede the schedule shown in Resolution 2020-09:

Title	Minimum Salary (Annual \$)	Maximum Salary (Annual \$)
Account Services Manager	111,648	175,447
Administrative Services Manager	120,952	190,067
Administrative Analyst	83,737	143,428

Title	Minimum Salary (Annual \$)	Maximum Salary (Annual \$)
Administrative Assistant	55,824	88,601
Analyst	83,737	131,585
Associate Analyst	69,780	109,654
Associate Data Analyst	82,684	122,559
Associate Energy Consultant	69,780	109,654
Associate Legislative Analyst	72,106	113,310
Board Clerk / Executive Assistant	102,344	165,651
Communications Manager	111,648	175,447
Communications Specialist	60,476	98,835
Community Outreach Specialist	60,476	98,835
Data Analyst	96,641	144,489
Director of Account Services and Community Relations	148,865	233,929
Director of Decarbonization and Grid Innovation Programs	132,056	233,929 203,831
Director of Finance & Administration	148,865	259,662
Director of Power Resources	176,776	277,791
Director of Regulatory and Legislative Policy	148,865	233,929
Energy Consultant	83,737	131,585
Management Analyst	102,344	160,827
Manager of Decarbonization and Grid Innovation Programs	120,952	190,067
Manager of Regulatory & Legislative Affairs	124,552	188,351
Power Resources Manager	139,561	219,309
Power Resources Planner	120,952	190,067
Power Settlements & Compliance Analyst	102,344	160,827
Principal Power Analyst	120,952	190,067
Rates Manager	120,952	190,067
Senior Analyst	97,692	145,542
Senior Communications Specialist	72,956	110,835
Senior Community Outreach Specialist	72,956	110,835
Senior Data Analyst	110,597	158,446
Senior Data Engineer	122,597	170,446
Senior Energy Consultant	97,692	145,542
Senior Rates Analyst	110,172	165,996
Senior Regulatory Analyst	97,692	153,516

Section 2. The organization of positions shall be as shown in Attachment 1: SVCE Approved Positions Chart. This new Approved Positions Chart shall replace and supersede the Approved Positions Chart adopted by Resolution 2020-09.

Section 3. The Chief Executive Officer shall create and maintain as needed job descriptions for each classification.

Section 4. The Chief Executive Officer is authorized to initiate recruitments and hire for all listed positions.

ADOPTED AND APPROVED this 13th day of May, 2020 by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Gibbons				
City of Cupertino	Director Sinks				
City of Gilroy	Director Tovar				
City of Los Altos	Director Fligor				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Montano				
City of Monte Sereno	Director Ellahie				
City of Morgan Hill	Director Martinez Beltran				
City of Mountain View	Director Abe-Koga				
County of Santa Clara	Director Ellenberg				
City of Saratoga	Director Miller				
City of Sunnyvale	Director Smith				

Chair

ATTEST:

Clerk

Attachment 1: SVCE Approved Positions Chart

SVCE Positions Chart

Chief Executive Officer
Board Clerk/Executive Assistant
Director of Finance & Administration
Rates Manager
Senior Rates Analyst
Administrative Services Manager
Management Analyst
Administrative Analyst
Administrative Assistant
Director of Account Services & Community Relations
Account Services Manager
Senior Energy Consultant
Energy Consultant
Associate Energy Consultant
Communications Manager
Senior Communications Specialist
Senior Community Outreach Specialist
Community Outreach Specialist
Communications Specialist
Director of Power Resources
Power Resources Manager
Principal Power Analyst
Power Resources Planner
Power Settlements & Compliance Analyst
Director of Decarbonization & Grid Innovation Programs
Manager of Decarbonization & Grid Innovation Programs
Senior Data Engineer
Senior Analyst
Analyst
Associate Analyst
Senior Data Analyst
Data Analyst
Associate Data Analyst
Director of Regulatory & Legislative Policy
Manager of Regulatory & Legislative Affairs
Senior Regulatory Analyst
Associate Regulatory Analyst

*This approved list of Job Titles has more positions than the number of FTEs funded by the Board via the Budget, to provide flexibility to hire at the right level and also provide advancement opportunities



Staff Report – Item 4

Item 4: Approve Program Outlines for COVID Customer Relief and Longer-range Community Resilience

To: Silicon Valley Clean Energy Executive Committee

Prepared by: Don Bray, Director of Account Services and Community Relations

Date: 5/13/2020

RECOMMENDATION

Staff requests that the SVCE Board review and approve the proposed program outlines for COVID customer relief and longer-range community resilience.

EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee met April 24, 2020 and received a summary of draft program outlines. Feedback on the programs was received and have been incorporated into the presentation for the Board of Directors.

BACKGROUND

At the April 8th, 2020 meeting of the SVCE Board of Directors, the Board approved an allocation of \$10M for use in COVID customer relief and community resiliency programs.

Programs as initially discussed would provide assistance to financially vulnerable customers, support for workforce development, and increased community resilience through a grant program to member agencies.

Staff developed draft program outlines for the areas of assistance defined above. Drafts were shared with the Member Agency Working Group (MAWG) on April 23rd, and with the Executive Committee on April 24th. Both groups were broadly supportive of the program outlines and offered some suggested adjustments to program details and allocations, many of which have been incorporated into updated program outlines.

DISCUSSION

At the May 13th SVCE Board meeting, staff will make a presentation on proposed program outlines for review and approval by the Board.

FISCAL IMPACT

Allocation of \$10M for use in COVID customer relief and community resiliency programs was approved by the SVCE Board in April 2020. The program outlines included in the May 13th Board presentation further define the specific relief and resiliency efforts that are being proposed, and how the \$10M in approved funding would be allocated across these programs.



Staff Report – Item 5

Item 5: Authorize the Chief Executive Officer to Execute a 20-Year Power Purchase Agreement with NextEra Energy Yellow Pine Energy Center I, LLC for Renewable Solar PV Supply (PCC1) and Energy Storage in Substantial Form and Including Any Necessary Ancillary Agreements and Documents

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Monica Padilla, Director of Power Resources

Date: 5/13/2020

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy Authority (SVCE) Board authorize the Chief Executive Officer (CEO) to execute the attached Power Purchase Agreement (PPA) with NextEra Energy Yellow Pine Energy Center I, LLC (“Yellow Pine”) in substantial form and any necessary ancillary agreements and documents with the following key terms:

- 50 MW of Solar photovoltaic (PV) supply with 26 MW of energy storage qualifying as Portfolio Category Content One (PCC1) renewable resource;
- 20-Year term power expected delivery from December 1, 2022 to November 30, 2042; and
- Total amount not-to-exceed \$128,218,000.

Execution of the Yellow Pine PPA will help SVCE meet its clean energy goals, Renewable Portfolio Standard and long-term procurement requirements.

BACKGROUND

On April 17, 2019, Silicon Valley Clean Energy (SVCE) and Monterey Bay Community Power (MBCP) issued its second Joint Request for Offers (Joint RFO) for long-term power supply. The goal of the Joint RFO was to secure enough renewable energy through long-term PPAs to meet SVCE’s RPS and carbon-free objectives, while also complying with California’s long-term procurement requirements as established by the Senate Bill 350 (“SB 350”). Qualifying proposals, among other things, had to deliver PCC1 under the California Energy Commission’s (CEC) Renewable Portfolio Standard (RPS) eligibility criteria, have a contract start date of no later than January 1, 2023 and a minimum PPA term of 10 years¹.

The RFO closed on May 17, 2019 with more than one-hundred and eighty-seven (187) offers submitted from fifty-four (54) distinct projects including renewable energy from new and existing solar, solar plus storage, small hydroelectricity, wind and geothermal. Most of these proposed projects are in California, while some were in neighboring states. SVCE and MBCP undertook an extensive screening, evaluation, ranking and economic analysis to develop a short-list of projects for further consideration and negotiations. The Yellow Pine solar plus storage (“hybrid”) resources was offered into the Joint RFO. In total six projects were shortlisted. Two geothermal projects (Ormat and Coso) and one solar plus storage (Rabbitbrush) have been approved by the Board and negotiations continue with two additional solar plus storage new projects. Table 1 is a status summary of the shortlisted projects.

¹ https://www.svcleanenergy.org/wp-content/uploads/2019/05/SVCE-MBCP-2019-Carbon-Free-RFP-Protocol-Updated_05-06-2019.docx

Table 1: 2019 Joint RFO Shortlisted Projects (SVCE's Share)

	Project/ Technology	Status	Approximate % of load served	Term (years)	Lifetime Nominal contract cost (M\$)	Average Annual Cost (M\$)	Nominal cost as % of power supply expenses	Expected Board date
1	Ormat Geothermal	Executed	1.4%	10	\$43	\$4	2%	Jan-20
2	Coso Geothermal	Executed	9.7%	15	\$331	\$22	9%	Mar-20
3	Rabbitbrush Solar + Storage	Executed	3.0%	15	\$64	\$4	2%	Apr-20
5	NextEra Yellow Pine	Pending Approval	4.1%	20	\$128	\$6	3%	May-20
4	Solar+Storage	Under negotiation	6.4%	20	\$180	\$9	4%	Jun-20
6	Solar+Storage	Under negotiation	1.1%	15	\$32	\$2	1%	Jun-20
		Total	26%		\$777	\$48	20%	

On April 16, 2020, SVCE and Pattern Energy mutually terminated the Duran Mesa LLC PPA due to unanticipated delays in development outside the control of the supplier. The Duran Mesa PPA was to provide wind renewable resource (PCC1) meeting approximately nine percent of SVCE's RPS and long-term RPS procurement requirements. Table 2 is SVCE's progress towards meeting the long-term RPS goals and mandates.

Table 2: RPS Under SB100 and SB350 Long-term Contracting Requirement per Compliance Period – Before Execution of Yellow Pine PPA and without the Duran Mesa Wind PPA

	2021-2024	2025-2027	2028-2030
1. State Mandated RPS per Compliance Period - % of Retail Sales	40%	50%	60%
2. State Mandated % of Mandated RPS (Row #1) to be Contracted Under RPS Long-term Contracts	65%	65%	65%
3. State Mandated % of Retail Sales with RPS Long-term Contracts (Row 2* Row 1)	26%	33%	37%
4. SVCE: Current Compliance with Row #3: Existing RPS Achieved with Long-term Contracts (geothermal, wind & solar plus storage) and No Duran Mesa	20.0%	25.0%	23.0%

DISCUSSION/ANALYSIS:

NextEra Energy, Inc. (NYSE: NEE) is a leading clean energy company headquartered in Juno Beach, Florida. NextEra Energy also owns a competitive energy business, NextEra Energy Resources, LLC, which, together with its affiliated entities, is the world's largest generator of renewable energy from the wind and sun and a world leader in battery storage. Yellow Pine Energy Center (I and II) is a 125 MW solar photovoltaic facility with 65MW/260MWh of battery energy storage system, located in Clark County, Nevada. SVCE's share of the project is 40% and under a separate PPA, MBCP will take the other 60% of the PV output and battery capacity.

Project Summary (SVCE's Share)

Counterparty/Project Name	NextEra Energy/Yellow Pine Energy Center I, LLC ("Yellow Pine")
Product	Bucket 1 (PCC1) Renewable Energy with Energy Storage System Resource Adequacy
Delivery Term	20 years December 1, 2022 through November 30, 2042

Location	Clark County, Nevada (within CAISO footprint)
Average Annual Contract Capacity	50 MW Solar PV plus 26MW of Battery (4-hour discharge duration)
Percentage of Annual Retail Load Served	4%
Contract Price Structure	Fixed price (\$/MWh) for PV plus fixed battery capacity payment (\$ per kW-month). No escalator

Project Value and Merits

Yellow Pine is expected to generate enough clean energy to meet approximately four percent (4%) of SVCE's energy needs on an annual basis. Since Yellow Pine is a PCC1 renewable resource, it will count towards SVCE's RPS requirements including long-term procurement mandates. The addition of the energy storage component is intended to increase the energy value of the PV system by enabling the storing of energy in less valuable hours which is then deployed in higher valued hours. The battery will also allow for opportunities to receive ancillary service benefits from the California Independent System Operator (CAISO).

California's regulatory rules related to Resource Adequacy for solar and solar plus storage resources are in flux. The capacity which may be counted from solar only projects towards reliability has been heavily discounted such that a solar-only project is not considered a resource adequate to effectively meet reliability requirements. The inclusion of storage boosts the PV's ability to meet reliability requirements, however the actual amount which may be counted is subject to future regulatory changes.

RPS Compliance

SB350, passed in 2016, requires Load Serving Entities (LSE) such as SVCE to acquire a minimum of 65% of the state mandated RPS requirement through long-term PPAs (10 years or greater) starting with Compliance Period No. 4 "CP4" (2021-2024). The mandated overall RPS for CP4 is 40%, thus the long-term RPS procurement requirement is 26%. SVCE's existing PPAs will achieve a combined 20% RPS in CP4. Yellow Pine is expected to come on-line December 1, 2022, midway through CP4 bringing SVCE's long-term RPS in CP4 to 22% which is 4% below California's mandated long-term RPS requirement of 26%.

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

	2021-2024	2025-2027	2028-2030
1. State Mandated RPS per Compliance Period - % of Retail Sales	40%	50%	57%
2. State Mandated % of Mandated RPS (Row #1) to be Contracted Under RPS Long-term Contracts	65%	65%	65%
3. State Mandated % of Retail Sales with RPS Long-term Contracts (Row 2* Row 1)	26%	33%	37%
4. SVCE: Current Compliance with Row #3: Existing RPS Achieved with Long-term Contracts (2 geothermal & 3 solar plus storage). No Duran Mesa	20.0%	25.0%	23.0%
5. SVCE: RPS Achieved with Proposed Yellow Pine Solar + Storage	22.0%	29.0%	27.0%
6. Open Position relative to State Mandate (Row #3) +Above/ (-) Short	-4%	-4%	-10%

With the inclusion of Yellow Pine, and assuming all other contracted-for projects are developed or developed on time, SVCE is still deficient in meeting its long-term procurement mandates under SB 350. Additional resources are being negotiated to a) achieve mandated procurement targets; b) accommodate variations in

energy deliveries due to delays in construction from one or more projects; c) possibility of termination of one or more PPA's; d) meet SVCE's overall clean energy goals; and e) reduce portfolio cost. Figure 1 illustrates SVCE's progress towards meeting the Board-approved annual target of 50% RPS and mandated RPS under SB100. On April 29, 2020, SVCE and MBCP issued a new joint RFP ("2020 Joint RFP") to acquire additional PCC1, long-term renewable resources.

Figure 1: SVCE Renewable Portfolio with Yellow Pine Project (2021-2030)

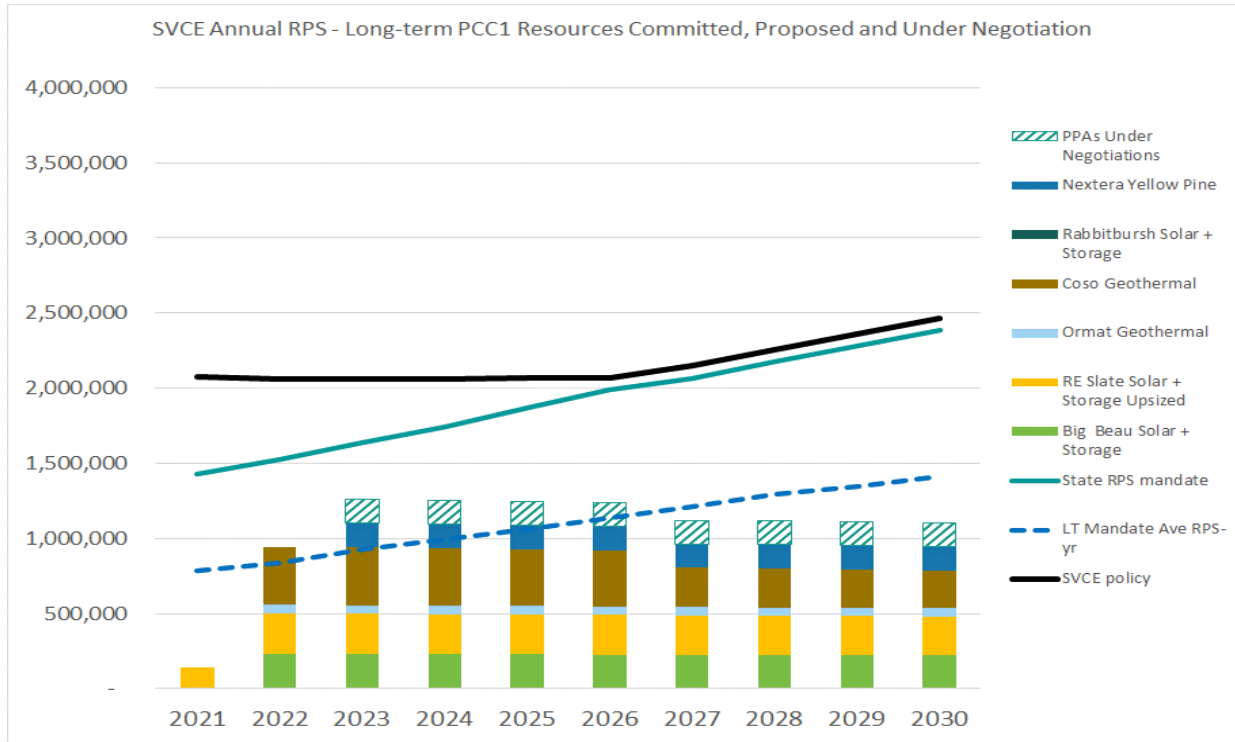
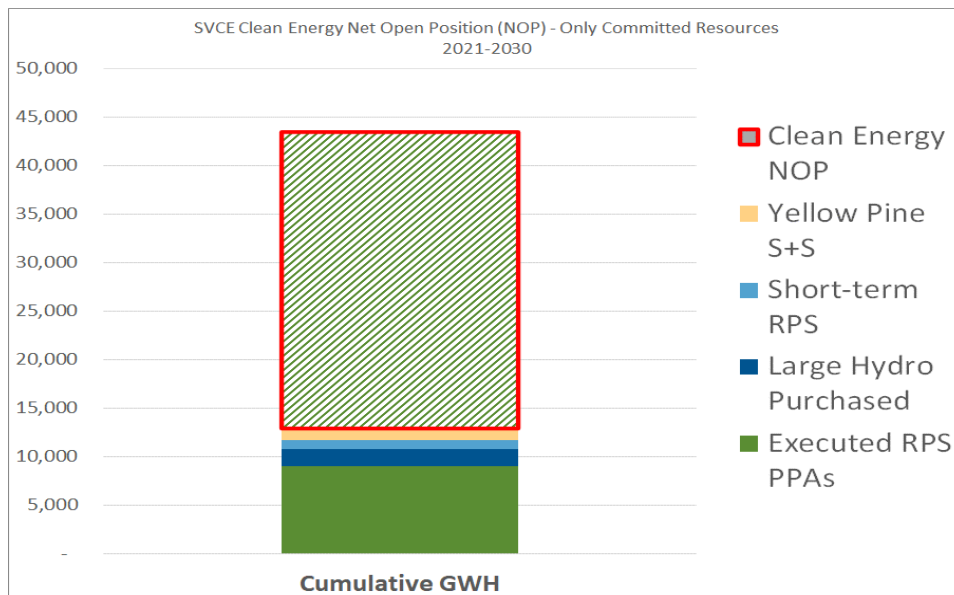


Figure 2 illustrates SVCE's progress towards meeting its 100% clean energy goals through 2030 which is met with RPS-eligible and other carbon-free resources such as large hydroelectricity.

Figure 2: SVCE Clean Net Open Position with Yellow Pine Solar + Storage (2021-2030)



STRATEGIC PLAN

SVCE's Strategic Plan, Goal #10; Strategies 10.1.2 and 10.3.1, directs staff to acquire long-term agreements to meet California's long-term renewable mandate and diversify deployment of renewable technologies. Execution of the Yellow Pine Energy Center I, LLC agreement will help satisfy Goal #10.

ALTERNATIVE

The Joint RFO selection criteria considered all submitted offers against quantitative and qualitative criteria. The Yellow Pine Energy Center I, LLC project was selected as part of this competitive process. MBCP and SVCE have conducted and completed good faith negotiations with this developer over the last four months, all with the intent to execute the attached PPA.

An alternative to the staff recommendation is to direct staff to re-negotiate specific contract terms with the supplier or reject the PPA to pursue other alternatives. Given the amount of lead time necessary to negotiate and execute long-term PPAs, staff is not confident it would have sufficient time to do so and meet the long-term procurement requirements during the 2021-2024 compliance period thus exposing SVCE to significant non-compliance penalties.

FISCAL IMPACT

The fiscal impact of the SVCE/ Yellow Pine Energy Center I, LLC PPA will not exceed \$128,218,000 over the term of the PPA. All costs associated with the project will be included in the budget beginning in fiscal year 2022-2023.

ATTACHMENTS

1. SVCE/ Yellow Pine Energy Center I, LLC Power Purchase Agreement (Redacted version)

EXECUTION VERSION

RENEWABLE POWER PURCHASE AGREEMENT


COVER SHEET

Seller: Yellow Pine Energy Center I, LLC, a Delaware limited liability company

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


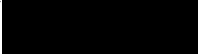
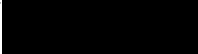
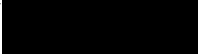
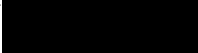
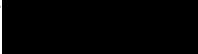
Description of Facility: A 125 MW solar photovoltaic facility plus 65MW/260MWh battery energy storage system, located in Clark County, Nevada.

Milestones:

Milestone	Date for Completion
Evidence of Site Control	Completed
Executed Interconnection Agreement	Completed
CEC Pre-Certification Obtained	12/01/2020
Federal and State Discretionary Permits	10/01/2021
Network Upgrades Completed	11/01/2021
Guaranteed Construction Start Date	03/01/2022
Initial Synchronization	07/01/2022
Guaranteed Commercial Operation Date	12/01/2022
Full Capacity Deliverability Status Obtained	

Delivery Term: The period for Product delivery will be for twenty (20) Contract Years.

Expected Energy: The amount of Expected Energy is set forth below.

Contract Year	Expected Energy (MWh)
1	
2	
3	
4	
5	
6	

7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

Guaranteed Capacity: [REDACTED] MW

Storage Contract Capacity: [REDACTED] MW

Storage Contract Output: [REDACTED] MWh

Storage Facility Loss Factor: [REDACTED]

Maximum storage facility cycles per year: [REDACTED]

Delivery Point: Facility PNode

Contract Price

The Renewable Rate shall be:

Contract Year	Renewable Rate
1 – 20	[REDACTED]

The Storage Rate shall be:

Contract Year	Storage Rate
1 – 20	[REDACTED]

Product:

- PV Energy
- Discharging Energy
- Green Attributes (Portfolio Content Category 1)
- Storage Capacity
- Capacity Attributes (select options below as applicable)
 - Energy Only Status
 - Full Capacity Deliverability Status and Expected FCDS Date: [REDACTED]
- Ancillary Services

Scheduling Coordinator: Seller

Seller Development Security: [REDACTED]
[REDACTED]

Seller Performance Security: [REDACTED]
[REDACTED]

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RENEWABLE POWER PURCHASE AGREEMENT

This Renewable Power Purchase Agreement (“**Agreement**”) is entered into as of _____, 2020 (the “**Effective Date**”), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**.” All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

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

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

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

ARTICLE 1 DEFINITIONS

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

“**AC**” means alternating current.

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

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

“**Adjusted Facility Energy**” means, for the applicable period, the sum of (a) the total Facility Energy for such period, plus (b) the result of subtracting (i) the total Discharging Energy for such period from (ii) the total Discharging Energy for such period divided by the Storage Facility Loss Factor.

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

Person. Notwithstanding the foregoing, with respect to Seller, Affiliate shall include NextEra Energy Operating Partners, LP and NextEra Energy Partners, LP, and their respective direct or indirect subsidiaries.

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

“**Ancillary Services**” means all ancillary services, products and other attributes, if any, associated with the Facility.

“**Approved Forecast Vendor**” means a vendor reasonably acceptable to both Buyer and Seller for the purposes of providing or verifying the forecasts under Section 4.3(d).

“**Availability Adjusted Storage Contract Capacity**” has the meaning set forth in Exhibit P.

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

“**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, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. local time for the Party sending a Notice, or payment, or performing a specified action.

“**Buyer**” means Silicon Valley Clean Energy Authority, a California joint powers authority.

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

“**Buyer’s Share**” means [REDACTED]

“**Buyer’s WREGIS Account**” has the meaning set forth in Section 4.10(a).

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

“**CAISO Approved Meter**” means a CAISO approved revenue quality meter or meters, 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 Facility Energy delivered to the Delivery Point.

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

“**CAISO Operating Order**” means the Operating Instruction or Dispatch Instruction as defined in the CAISO Tariff.

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

“**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 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 to the Delivery Point at a particular moment and that can be purchased and sold under CAISO market rules, including Resource Adequacy Benefits.

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

“**CEC**” means the California Energy Commission, or any successor agency performing similar statutory functions.

“**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 Generating Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Facility Energy delivered to the Delivery Point qualifies as generation from an Eligible Renewable Energy Resource.

“**CEC Precertification**” means that the CEC has issued a precertification for the Facility indicating that the planned operations of the Facility would comply with applicable CEC requirements for CEC Certification and Verification.

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

- (a) any ownership interest in Seller held by Ultimate Parent indirectly through one or

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

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

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

“Charging Energy” means Buyer's Share of the as-available Energy produced by the Generating Facility and delivered to the Storage Facility pursuant to a Charging Notice. All Charging Energy shall be used solely to charge the Storage Facility, and all Charging Energy shall be generated solely by the Generating Facility. For avoidance of doubt, Charging Energy shall be measured at the Storage Facility Meter.

“Charging Notice” means the operating instruction, and any subsequent updates, given by Buyer to Seller, directing the Storage Facility to charge with Charging Energy at a specific MW rate to a specified Stored Energy Level, provided that any such operating instruction shall be in accordance with the Operating Procedures. For the avoidance of doubt, (i) any Buyer request to initiate a Storage Capacity Test consistent with Section 4.9 shall not be considered a Charging Notice, and (ii) any Charging Notice shall not constitute a Buyer Bid Curtailment, Buyer Curtailment Order or Curtailment Order.

“Claim” has the meaning set forth in Section 16.2(a).

“COD Certificate” has the meaning set forth in Exhibit B.

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

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

“Commercial Operation Delay Damages” means an amount equal to [REDACTED]

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

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

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

“Construction Start” has the meaning set forth in Exhibit B.

“Construction Start Date” has the meaning set forth in Exhibit B.

“Contract Price” has the meaning set forth on the Cover Sheet. For clarity, the Contract Price is each of the Renewable Rate and the Storage Rate.

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

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

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

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

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

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

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

“**Credit Notice**” has the meaning set forth in Section 8.11.

“**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, Fitch or Moody’s, or if such entity is rated by each of S&P, Fitch and Moody’s, the two (2) highest ratings will be the applicable standard.

“**Curtailment Order**” means any of the following:

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

(b) a curtailment ordered by the Participating Transmission Owner 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 Participating Transmission Owner’s electric system integrity or the integrity of other systems to which the Participating Transmission Owner is connected;

(c) a curtailment ordered by CAISO or the Participating Transmission Owner due to scheduled or unscheduled maintenance on the Participating Transmission Owner's transmission

(d) facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Facility Energy to the Delivery Point; or

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

"Curtailment Period" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Generating Facility pursuant to a Curtailment Order; provided that the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

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

"Damage Payment" means the dollar amount that equals the amount of the Development Security.

"Day-Ahead Forecast" has the meaning set forth in Section 4.3(c).

"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 Buyer's Share of the amount of Energy expressed in MWh that the Generating Facility would have produced and delivered to the Storage Facility or the Delivery Point, but that is not produced by the Generating Facility during a Market Curtailment Period, which amount shall, for any time period, be equal to [REDACTED]

If the LMP for the Facility's PNode during such Settlement Interval was less than zero, Deemed Delivered Energy shall be reduced in any Settlement Interval by the amount of any Charging Energy that was not able to be delivered to the Storage Facility during such Settlement Interval due to the unavailability of the Storage Facility due to a Forced Facility Outage.

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

“Deficient Month” has the meaning set forth in Section 4.10(e).

“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 (i) cash or (ii) a Letter of Credit in the amount set forth on the Cover Sheet.

“Discharging Energy” means Buyer’s Share of all Energy delivered to the Delivery Point from the Storage Facility, net of the Electrical Losses, as measured at the Storage Facility Metering Points by the Storage Facility Meter. For the avoidance of doubt, all Discharging Energy will have originally been delivered to the Storage Facility as Charging Energy.

“Discharging Notice” means the operating instruction, and any subsequent updates, given by Buyer to Seller, directing the Storage Facility to discharge Discharging Energy at a specific MW rate to a specified Stored Energy Level, provided that any such operating instruction or updates shall be in accordance with the Operating Procedures. For the avoidance of doubt, any Discharging Notice shall not constitute a Market Curtailment Order or Curtailment Order.

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

“EIRP Forecast” means (a) the current CAISO forecast for intermittent resources using relevant Facility availability, weather, historical and other pertinent data for the applicable period of time, or, if the EIRP Forecast is not available for the Facility, (b) an alternative forecast provided by an Approved Forecast Vendor.

“Eligible Intermittent Resource Protocol” or **“EIRP”** has the meaning set forth in the CAISO Tariff or a successor CAISO program for intermittent resources.

“Effective Date” has the meaning set forth on the Preamble.

“Electrical Losses” means all transmission or transformation losses between the Facility and the Delivery Point, including losses associated with (i) delivery of PV Energy to the Delivery Point, (ii) delivery of Charging Energy to the Storage Facility, (iii) conversion of Charging Energy into Discharging Energy, and (iv) delivery of Discharging Energy to the Delivery Point, calculated in accordance with CAISO approved methodologies applicable to revenue metering.

“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 generated by the Generating Facility.

“Energy Supply Bid” has the meaning set forth in the CAISO Tariff.

“Environmental Costs” means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product’s and Facility’s compliance with all applicable environmental Laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product or Facility, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all emission reduction credits, marketable emission trading credits, and any costs related to greenhouse gas emissions, required by any applicable environmental Laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to a Site or the Facility.



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

“Excess MWh” has the meaning set forth in Exhibit C.

“Executed Interconnection Agreement Milestone” means the date for completion of execution of the Interconnection Agreement by Seller and the PTO as set forth on the Cover Sheet.

“Exercise Period” has the meaning set forth in Section 10.5(b).

“Expected Energy” means Buyer’s Share of the total quantity of Energy that Seller expects to be able to deliver from the Generating Facility during each Contract Year or other time period (assuming no Charging Energy or Discharging Energy during such Contract Year or time period) in the quantity specified on the Cover Sheet.

“Expected FCDS Date” means the date set forth in the Cover Sheet which is the date the Facility is expected to achieve Full Capacity Deliverability Status.

“Facility” means the Generating Facility and the Storage Facility.

“Facility Energy” means Buyer’s Share of the sum of PV Energy and Discharging Energy during any Settlement Interval or Settlement Period, net of Electrical Losses and Station Use, as measured by the Facility Meter, which Facility Meter will be adjusted in accordance with CAISO meter requirements and Prudent Operating Practices to account for Electrical Losses and Station Use.

“Facility Meter” means the CAISO Approved Meter that will measure all Facility Energy.

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

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

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

“Forced Facility Outage” means an unexpected failure of one or more components of the Facility that prevents Seller from generating Energy or making Facility Energy available at the Delivery Point and that is not the result of a Force Majeure Event.

“Forward Certificate Transfers” has the meaning set forth in Section 4.10(a).

“Full Capacity Deliverability Status” has the meaning as such term is defined in the CAISO Tariff.

“Full Capacity Deliverability Status Finding” means a written confirmation from the CAISO that the Facility is eligible for Full Capacity Deliverability Status.

“Future Environmental Attributes” shall mean any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by the Facility and its displacement of conventional energy generation. Future Environmental Attributes do not include investment tax credits or production tax credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

“Gains” means, with respect to any 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 (or in the case of Section 3.10(e)(v), Bridge Product Delivery 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 (or in the case of Section 3.10(e)(v), Seller), 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 or Bridge Product Delivery Term, as applicable, and include the value of Green Attributes and Capacity Attributes (or in the case of Section 3.10(e)(v), Green Attributes).

“Generating Facility” means the solar photovoltaic generating facility described on the Cover Sheet and in Exhibit A, located at the Site and including mechanical equipment and associated facilities and equipment required to deliver (i) PV Energy to the Delivery Point, (ii) Charging Energy to the Storage Facility; provided, that the “Generating Facility” does not include the Storage Facility or the Shared Facilities.

“Governmental Authority” means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or

parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided, however*, that “Governmental Authority” shall not in any event include any Party.

“**Green Attributes**” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility and its displacement of conventional energy generation. 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 Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, (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 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 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**” means Buyer’s Share of the total generating capacity of the Generating Facility, as measured in MW at the Delivery Point, set forth on the Cover Sheet, as the same may be adjusted pursuant to Section 5(a) of Exhibit B.

“**Guaranteed Commercial Operation Date**” means the Guaranteed Commercial Operation Date as set forth on the Cover Sheet, as such date may be extended by the Development Cure Period.

“**Guaranteed Construction Start Date**” means the Guaranteed Construction Start Date as set forth on the Cover Sheet, as such date may be extended by the Development Cure Period.

“Guaranteed Energy Production” means an amount of Adjusted Facility Energy, as measured in MWh, equal to [REDACTED].

“Guaranteed Storage Availability” has the meaning set forth in Section 4.8.

“Guarantor” means, with respect to Seller, (a) [REDACTED] (b) an Affiliate of Seller with Investment Grade Credit Rating, or (c) (i) other third party reasonably acceptable to Buyer, (ii) has an Investment Grade Credit Rating, (iii) has a tangible net worth of at least [REDACTED], (iv) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (v) executes and delivers a Guaranty for the benefit of Buyer.

“Guaranty” means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit L.

“Hazardous Substance” means, collectively, (a) any chemical, material or substance that is listed or regulated under applicable Laws as a “hazardous” or “toxic” substance or waste, or as a “contaminant” or “pollutant” or words of similar import, (b) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, and transformers or other equipment that contain polychlorinated biphenyls, and (c) any other chemical or other material or substance, exposure to which is prohibited, limited or regulated by any Laws.

“Imbalance Energy” means the amount of energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

“Indemnifiable Loss(es)” has the meaning set forth in Section 16.1.

“Indemnified Group” has the meaning set forth in Section 16.1.

“Initial Synchronization” means the initial delivery of Facility Energy to the Delivery Point.

“Installed Capacity” means the sum of (x) the Installed PV Capacity and (y) the Installed Battery Capacity.

“Installed Battery Capacity” means Buyer’s Share of the maximum dependable operating capability of the Storage Facility to discharge electric energy, not to exceed the Storage Contract Capacity, as measured in MW(ac) at the Delivery Point, that achieves Commercial Operation, adjusted for ambient conditions on the date of the performance test, and as evidenced by a certificate substantially in the form attached as Exhibit I hereto.

“Installed PV Capacity” means Buyer’s Share of the actual generating capacity of the Generating Facility, not to exceed the Guaranteed Capacity, as measured in MW(ac) at the Delivery Point, that achieves Commercial Operation, adjusted for ambient conditions on the date

of the performance test, and as evidenced by a certificate substantially in the form attached as Exhibit I hereto.

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

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

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

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

“**Inter-SC Trade**” or “**IST**” has the meaning set forth in the CAISO Tariff.

“**Investment Grade Credit Rating**” means a Credit Rating of BBB- or higher by S&P or Fitch or Baa3 or higher by Moody’s.

“**ITC**” means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

“**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, or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any Person providing financing or refinancing for the Facility, and any trustee or agent or similar representative acting on their behalf, (ii) providing Interest Rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

“**Letter(s) of Credit**” means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch, having assets of at least [REDACTED],

and with such bank having a Credit Rating of at least A- from S&P or A3 from Moody's, in a form substantially similar to the letter of credit set forth in Exhibit K.

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

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

"Locational Marginal Price" or **"LMP"** has the meaning set forth in the 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 (or in the case of Section 3.10(e)(v), the Bridge Product) for the remaining Contract Term (or in the case of Section 3.10(e)(v), Bridge Product Delivery 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 (or in the case of Section 3.10(e)(v), Seller), 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 or Bridge Product Delivery Term, as applicable, and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives (or in the case of Section 3.10(e)(v), Green Attributes).

"Lost Output" has the meaning set forth in Section 4.7.

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

"Market Curtailment Period" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Facility during a Settlement Period or Settlement Interval in which there is a Negative LMP that is equal to or below the Negative LMP Strike Price; provided, that the duration of any Market Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

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

"Material Terms" has the meaning set forth in Section 10.5(a).

"Maximum Charging Capacity" has the meaning set forth in in Exhibit A.

"Maximum Contract Quantity of Bridge Product" has the meaning set forth in Section 3.10(b).

"Maximum Discharging Capacity" has the meaning set forth in in Exhibit A.

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

“**Monthly Delivery Forecast**” has the meaning set forth in Section 4.3(b).

“**Monthly Storage Availability**” has the meaning set forth in Exhibit P.

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

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

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

“**NEER**” means NextEra Energy Resources, LLC.

“**Negative LMP**” means, in any Settlement Period or Settlement Interval, the Day-Ahead Market or Real-Time Market at the Facility’s PNode is less than Zero dollars (\$0).

“**Negative LMP Strike Price**” means zero dollars per MWh (\$0/MWh), as such price may be revised by Buyer by providing Notice to Seller in accordance with Exhibit C.

“**NEPA**” means the National Environmental Policy Act.

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

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

“**Network Upgrades**” 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 messaging (e-mail).

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

“**Offer Notice**” has the meaning set forth in Section 10.5(a).

“**On-Peak Hour**” means any hour from hour-ending 0700 to hour-ending 2200 (i.e., 6:00 AM to 9:59 PM) on Monday through Saturday, Pacific Prevailing Time, excluding North American Electric Reliability Council (NERC) holidays.

“**Operating Procedures**” or “**Operating Restrictions**” means those rules, requirements, and procedures set forth on Exhibit Q.

“**Participating Transmission Owner**” or “**PTO**” means an entity that owns, operates and maintains transmission or distribution lines and associated facilities 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.

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

“**Performance Measurement Period**” means each two (2) consecutive Contract Year period during the Delivery Term.

“**Performance Security**” means (i) cash or (ii) a Letter of Credit or (iii) a Guaranty in the amount set forth on the Cover Sheet.

“**Permitted Transfer**” means each of the following transactions:

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

[REDACTED]

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

(a) A tangible net worth of not less than [REDACTED] or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

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

[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.

“PNode” has the meaning set forth in the CAISO Tariff.

“Planned Outage” has the meaning set forth in Section 4.6(a).

“Portfolio Content Category” means PCC1, PCC2 or PCC3, as applicable.

“Portfolio Content Category 1” or **“PCC1”** means any Renewable Energy Credit 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.

“Portfolio Content Category 2” or **“PCC2”** means any Renewable Energy Credit 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)(2), as may be amended from time to time or as further defined or supplemented by Law.

“Portfolio Content Category 3” or **“PCC3”** means any Renewable Energy Credit 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)(3), 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.

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

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period

with respect to grid-interconnected, utility-scale generating facilities with integrated storage in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale generating facilities with integrated storage in the Western United States. Prudent Operating Practice includes compliance with applicable Laws, applicable reliability criteria, and the criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

“**PTC**” means the production tax credit established pursuant to Section 45 of the United States Internal Revenue Code of 1986.

“**PV Energy**” means Buyer’s Share of that portion of Energy that is delivered from the Generating Facility directly to the Delivery Point, net of Electrical Losses, and is not Charging Energy.

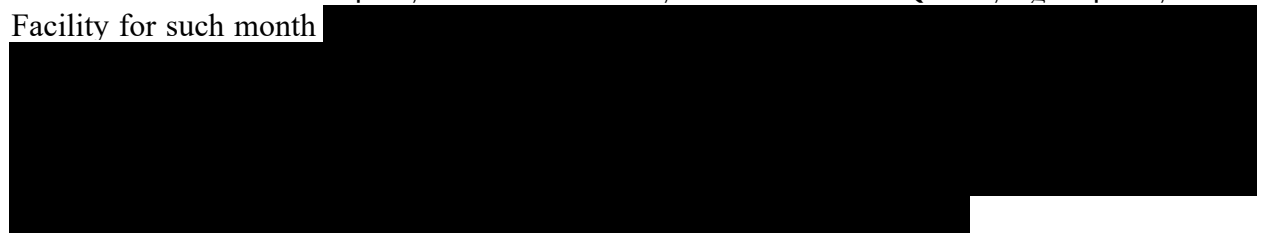
“**Qualified Operator**” means an operator of integrated solar generation and battery storage facilities that has sufficient experience to successfully operate the Facility, including a minimum of three (3) years of experience in the solar photovoltaic energy generation and operation business, and owns, controls or operates a minimum of one hundred (100) MW of solar photovoltaic energy generation capacity.

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

“**RA Deficiency Amount**” means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month as calculated in accordance with Section 3.8(b).

“**RA Guarantee Date**” means the Commercial Operation Date, or as may be extended up to one (1) year due to delays in Full Capacity Deliverability Status caused by the Transmission Provider.

“**RA Shortfall Amount**” means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), the extent, expressed in kW, to which during any month commencing after the RA Guarantee Date, Buyer’s Share of the Net Qualifying Capacity of the Facility for such month able to be shown on Buyer’s monthly or annual RA Plan to the CAISO and CPUC and counted as Resource Adequacy was less than Buyer’s Share of the Qualifying Capacity of the Facility for such month



“RA Shortfall Month” means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any month during the Delivery Term during which there is an RA Shortfall Amount.

“Real-Time Forecast” means any Notice of any change to the Available Generating Capacity, Storage Capacity, or hourly expected Energy delivered by or on behalf of Seller pursuant to Section 4.3(d).

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

“Real-Time Price” means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

“Remedial Action Plan” has the meaning in Section 2.4.

“Renewable Energy Credit” 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; 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.

“Renewable Rate” has the meaning set forth on the Cover Sheet.

“Replacement RA” means Resource Adequacy Benefits, if any, equivalent to those that would have been provided by the Facility with respect to the applicable month in which an RA Deficiency Amount is due to Buyer, and located within SP-15.

“Resource Adequacy Benefits” means the rights and privileges attached to the Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and includes any local, zonal or otherwise locational attributes associated with the Facility, in addition to flex attributes (subject to the Operating Restrictions set forth in Exhibit Q).

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024 and any other existing or subsequent ruling or decision, or any other resource adequacy Law, however described, as such decisions, rulings or Laws may be amended or modified from time-to-time throughout the Delivery Term.

“RETA” has the meaning set forth in Section 13.5.

“RETA Regulations” has the meaning set forth in Section 13.5.

[REDACTED]

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

“**Schedule**” has the meaning set forth in the CAISO Tariff, and “**Scheduled**” has a corollary meaning.

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

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

“**Security Interest**” has the meaning set forth in Section 8.8.

“**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 4.10(a).

“**Settlement Amount**” means the Non-Defaulting Party’s (or in the case of Section 3.10(d)(v), Seller’s) Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party’s (or in the case of Section 3.10(d)(v), Seller’s) Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party (or in the case of Section 3.10(d)(v), Seller). If the Non-Defaulting Party’s (or in the case of Section 3.10(d)(v), Seller’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.

“**Settlement Point**” means Facility PNode.

“**Shared Facilities**” means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of energy from the Facility (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

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

“**Site Control**” means that 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.

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

“**Station Use**” means:

(a) The Energy produced or discharged 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 or discharged by the Facility that is consumed within the Facility’s electric energy distribution system as losses.

“**Storage Capacity**” means Buyer’s Share of (a) the maximum dependable operating capability of the Storage Facility to discharge electric energy that can be sustained for four (4) consecutive hours and (b) any other products that may be developed or evolve from time to time during the Term that the Storage Facility is able to provide as the Facility is configured on the Commercial Operation Date and that relate to the maximum dependable operating capability of the Storage Facility to discharge electric energy.

“**Storage Capacity Test**” means any test or retest of the capacity of the Storage Facility conducted in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

“**Storage Contract Capacity**” means Buyer’s Share of the total capacity (in MW) of the Storage Facility initially equal to the amount set forth on the Cover Sheet, as the same may be adjusted from time to time pursuant to Section 5(b) of Exhibit B or Section 4.9 and Exhibit O to reflect the results of the most recently performed Storage Capacity Test.

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

“**Storage Facility Loss Factor**” is set forth on the Cover Sheet and represents the result of subtracting from the number one (1) the percentage of Electrical Losses associated with converting Charging Energy to Discharging Energy. For example, if the conversion of Charging Energy to Discharging Energy caused a ten percent (10%) loss in Energy, the Storage Facility Loss Factor would be (.90).

“**Storage Facility Meter**” means the bi-directional CAISO Approved Meter(s), along with a compatible data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Charging Energy delivered to the Storage Facility Metering Points and the amount of Discharging Energy discharged from the Storage Facility at the Storage Facility Metering Points to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. For clarity, the Facility will contain multiple measurement devices that will make up the Storage Facility Meter, and, unless otherwise indicated, references to the Storage Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

“**Storage Facility Metering Points**” means the locations of the Storage Facility Meters shown on Exhibit R.

“**Storage Product**” means (a) Discharging Energy, (b) Capacity Attributes, if any, (c) Storage Capacity, and (d) Ancillary Services (as defined in the CAISO Tariff), if any, in each case arising from or relating to the Storage Facility.

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

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

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

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

“**Tax Credits**” means the PTC, ITC and any other state, local or federal production tax credit, depreciation benefit, tax deduction or investment tax credit specific to the production of renewable energy or investments in renewable energy facilities.

“**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 Facility Energy delivered (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Facility Energy 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.

“**Test Energy Rate**” has the meaning set forth in Section 3.6.

“**Third-Party Offer**” has the meaning set forth in Section 10.5(a).

“**Third-Party Transaction**” has the meaning set forth in Section 10.4.

“**Transmission Provider**” means any entity or entities transmitting or transporting the Facility Energy on behalf of Seller or Buyer to or from the Delivery Point.

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

“**UCAP**” has the meaning set forth in CAISO’s RA Enhancement Stakeholder Process.

“**Ultimate Parent**” means NextEra Energy, Inc.

“**Variable Energy Resource**” or “**VER**” has the meaning set forth in the CAISO Tariff.

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

“**WREGIS Certificate Deficit**” has the meaning set forth in Section 4.10(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 May 1, 2018, 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 means such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment,

supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

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

(g) the 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 work 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) 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

(l) 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**"); provided, however, that subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality

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

2.2 **Conditions Precedent.** The Delivery Term shall not commence until Seller completes each of the following conditions:

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

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(c) An Interconnection Agreement between Seller 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 required regulatory authorizations, approvals and permits for the operation of the Facility have been obtained and all required conditions thereof have been satisfied and shall be in full force and effect;

(e) Seller has received CEC Precertification of the Facility (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 that are reasonably capable of being completed prior to the Commercial Operation Date under WREGIS rules, including (as applicable) 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; and

(h) Seller has paid Buyer for all amounts owing under this Agreement, if any, including Daily Delay Damages, and Commercial Operation Delay Damages.

2.3 **Development; Construction; Progress Reports.** Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Construction Start Date, and (ii) each calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such monthly reports and discuss Seller's construction progress. The form of the Progress Report is set

forth in Exhibit E. Seller shall also provide Buyer with any reasonable requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. For the avoidance of doubt, as between Seller and Buyer, Seller is solely responsible for the design and construction of the Facility, including the location of the Site, obtaining all permits and approvals to build the Facility, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

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

ARTICLE 3 PURCHASE AND SALE

3.1 **Purchase and Sale of Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer will purchase all of Buyer’s Share of the Product produced by or associated with the Facility at the Contract Price and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all of Buyer’s Share of the Product produced by or associated with the Facility (net of applicable losses). At its sole discretion, Buyer may during the Delivery Term re-sell or use for another purpose all or a portion of Buyer’s Share of the Product, provided that no such re-sale or use shall relieve Buyer of any obligations hereunder. During the Delivery Term, Buyer will have exclusive rights to offer, bid, or otherwise submit Buyer’s Share of 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 obligation to purchase Product in accordance with this Section 3.1 and Exhibit C, Buyer has no obligation to purchase from Seller any Product for which the associated Facility Energy is not or cannot be delivered to the Delivery Point as a result of 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 Green Attributes attributable to the Facility Energy generated by the Facility.

3.3 **Imbalance Energy**. Buyer and Seller recognize that in any given Settlement Period

there may be Imbalance Energy. To the extent there is any Imbalance Energy, any payments related to such Imbalance Energy shall be for the account of Buyer.

3.4 **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.

3.5 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.5(a), and Section 3.5(b), in such event, Buyer shall bear all costs and risks associated with the transfer, qualification, verification, registration and ongoing compliance for 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 such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to bear any costs, losses or liabilities, or alter the Facility, 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, losses, and liabilities associated with such alteration.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(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 to Buyer, as set forth above (in any event subject to Section 3.12); *provided*, that the Parties acknowledge and agree such terms are not intended to alter the other material terms of this Agreement.

3.6 **Test Energy.** Buyer shall have the exclusive option to purchase all, but not less than all, of the Test Energy that is available from the Facility prior to the Delivery Term. No earlier than the Guaranteed Construction Start Date and no later than fourteen (14) days prior to the first day on which Test Energy will be available from the Facility, Seller shall notify Buyer of the availability of the Test Energy. Seller's notification shall include a non-binding forecast of expected monthly quantities of Test Energy. Buyer shall have fourteen (14) days to determine whether it will exercise the option to purchase Test Energy. Buyer's option to purchase Test Energy shall expire if Buyer fails to exercise and respond by Notice to the option to purchase Test Energy within the above fourteen (14) day period. If Buyer exercises its option to purchase Test Energy, Seller shall deliver, and Buyer shall purchase, all Test Energy available from the Facility for a period not to exceed [REDACTED]

The Parties acknowledge and agree that

following expiration of Buyer's option, Seller has no obligation to sell or deliver Test Energy to Buyer prior to the commencement of the Delivery Term, and Seller may market, sell and deliver all or portions of the Test Energy from the Facility to one or more third parties. If Buyer exercises the option, the payment for such Test Energy shall be

3.7 **Capacity Attributes.** Seller shall request Full Capacity Deliverability Status in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

(a) Throughout the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility associated with the Guaranteed Capacity and the Storage Contract Capacity.

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

(c) For the duration of the Delivery Term, Seller shall take all commercially reasonable administrative actions, including complying with all applicable registration and reporting requirements, and executing all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement.

3.8 **Resource Adequacy Failure.**

(a) **RA Deficiency Determination.** For each RA Shortfall Month, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages or provide Replacement RA, in each case, as the sole remedy for the Capacity Attributes Seller failed to convey to Buyer.

(b) **RA Deficiency Amount Calculation.** Commencing on the RA Guarantee Date, for each RA Shortfall Month, Seller shall pay to Buyer an amount (the "**RA Deficiency**

Amount”) equal to the product of (i) the RA Shortfall Amount, and [REDACTED]; *provided* that Seller may, as an alternative to paying RA Deficiency Amounts, provide Replacement RA in the amount of the RA Shortfall Amount, provided that any Replacement RA capacity is communicated by Seller to Buyer with Replacement RA product information in a written notice substantially in the form of Exhibit M at least seventy-five (75) days before the applicable CPUC operating month for the purpose of monthly RA reporting.

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 shall obtain CEC Precertification by the Commercial Operation Date. Within thirty (30) days after the Commercial Operation Date, Seller shall apply with the CEC for final CEC Certification and Verification. Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall obtain and maintain throughout the remainder of the Delivery Term the final CEC Certification and Verification. 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 **Bridge Product**. In addition to the Parties’ rights and obligations under this Agreement with respect to the Facility, Seller agrees to deliver and Buyer agrees to purchase the following product (the “**Bridge Product**”) in accordance with the following terms and conditions:

(a) The “**Bridge Product Delivery Term**” shall commence [REDACTED] (the “**Delivery Cessation Date**”); provided that the Bridge Product Delivery Term shall be extended solely for the purpose of transferring the WREGIS Certificates associated with the Bridge Product Delivered to Buyer prior to the Delivery Cessation Date.

(b) The “**Maximum Contract Quantity of Bridge Product**” is equal to the amount set forth in the table below for each applicable calendar year.

Maximum Contract Quantity of Bridge Product	2021 (GWh)	2022 (GWh)
	[REDACTED]	[REDACTED]

(c) [REDACTED]

[REDACTED]

(d) [REDACTED]

(e) Other terms and conditions regarding the Bridge Product:

(i) The Bridge Product shall meet the RPS compliance requirements for Portfolio Content Category 1 as set forth in California Public Utilities Code Section 399.16(b)(1)(A) and California Public Utilities Commission (“CPUC”) Decision 11-12-052 and as set forth in Section 3.11 below.

(ii) The Bridge Product shall meet the requirements of California Public Utilities Code 399.13(b) and CPUC Decision D.17-06-026.

(iii) Seller, or its designated scheduling coordinator, will perform all scheduling requirements applicable to the Bridge Product. All scheduling shall be performed consistent with all applicable CAISO and WECC prevailing protocols.

(iv) For each month during the Bridge Product Delivery Term in which Bridge Product is being transferred from Seller to Buyer, (A) Buyer will pay Seller an amount equal to [REDACTED].

(v) This Bridge Product is intended to qualify as a long-term contract pursuant to California Public Utilities Code 399.13(b) and CPUC Decision D.17-06-026, and such eligibility is a material term. If, Buyer receives guidance from a regulatory authority that the Bridge Product does not, or would not, qualify as a long-term contract, Buyer shall have the right to terminate the Bridge Product Delivery Term on thirty (30) days’ prior written notice, subject only to payment to Seller for (A) WREGIS Certificates that have been transferred to Buyer’s WREGIS account and (B) an aggregate of all Settlement Amounts plus any or all other amounts due to Seller with respect to the Bridge Product.

3.11 RPS Standard Terms and Conditions.

(a) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in WREGIS will be taken prior to the first delivery under this Agreement.

(b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Facility qualifies and is certified by the CEC as an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Facility’s electrical energy 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. The term “commercially reasonable efforts” as used in this Section 3.11 means efforts consistent with and subject to Section 3.12.

(c) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Period 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.

3.12 **Compliance Expenditure Cap.** If a change in Laws occurring after the Effective Date has increased Seller’s known or reasonably expected costs to comply with Seller’s obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer’s use of (as applicable) any Product, then the Parties agree that the maximum aggregate amount of out-of-pocket costs and expenses (“**Compliance Costs**”) Seller shall be required to bear during the Delivery Term in order to comply with all such obligations shall be capped at [REDACTED] (“**Compliance Expenditure Cap**”). Seller’s internal administrative costs associated with obtaining, maintaining, conveying or effectuating, Buyer’s use of (as applicable) any Product are excluded from the Compliance Expenditure Cap.

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

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

Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the Compliance Costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the “**Accepted Compliance Costs**”), or (2) waive Seller’s obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller.

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

3.13 **Project Configuration.** In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller will discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities (including enabling the Storage Facility to be charged from the grid); provided that neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties (and Seller's Lenders) as set forth in a written agreement.

3.14 **Equipment Configuration.** [REDACTED]

ARTICLE 4 OBLIGATIONS AND DELIVERIES

4.1 **Delivery.**

(a) **Energy.** Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product at the Delivery Point in accordance with the terms of this Agreement. Seller will be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including without limitation (but without limiting Buyer's obligation to pay amounts associated with the Storage Facility Loss Factor as expressly provided herein), Station Use, Electrical Losses, any costs associated with delivering the Charging Energy from the Generating Facility to the Storage Facility, and any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. The Facility Energy will be scheduled to the CAISO by Seller (or Seller's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) **Green Attributes.** All Green Attributes associated with Buyer's Share of the Facility during the Delivery Term are exclusively dedicated to and vested in Buyer. 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.

(c) **Scheduling Coordination.** The Parties agree to coordinate with respect to the dispatch of Energy from the Facility on a periodic basis. The Parties further agree to update Sections 4.3 to 4.5 or Exhibit D as needed by mutual written agreement.

4.2 **Title and Risk of Loss.**

(a) **Energy.** Title to and risk of loss related to Buyer's Share of the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

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

4.3 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 accurate 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 Practices.

(a) 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) at the beginning of each calendar year for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of each month's average-day Expected Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of Energy and Available Generating Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of the hourly expected Energy, Available Generating Capacity and Storage Capacity for each day of the following month in a form substantially similar to the table found in Exhibit F-2 ("**Monthly Delivery Forecast**").

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, or as otherwise specified by Buyer consistent with Prudent Operating Practice, Seller shall provide Buyer with a non-binding forecast of (i) Available Generating Capacity and (ii) Storage Capacity and (iii) hourly expected Energy, in each case, for each hour of the immediately succeeding day ("**Day-Ahead Forecast**"). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's best estimate of (i) the Available Generating Capacity and (ii) the Storage Capacity and (iii) the hourly expected Energy. These Day-Ahead Forecasts shall be sent to Buyer. If Seller fails to provide Buyer with a Day-Ahead Forecast as required herein for any period, then for such unscheduled delivery period only Buyer shall rely on any Real-Time Forecast provided in accordance with Section 4.3(d) or the Monthly Delivery Forecast or Buyer's best estimate based on information reasonably available to Buyer.

(d) Real-Time Forecasts. During the Delivery Term, Seller shall notify Buyer of any changes from the Day-Ahead Forecast of one (1) MW or more in (i) Available Generating Capacity, (ii) Storage Capacity or (iii) hourly expected Energy, in each case, whether due to Forced Facility Outage, Force Majeure or other cause, as soon as reasonably possible, but no later than one (1) hour 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 Generating Capacity, Storage Capacity, or hourly expected Energy changes by at least one (1) MW 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 of Energy shall be provided by an Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in Available Generating Capacity, Storage Capacity, or hourly expected Energy, 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 commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall inform Buyer 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 in a method reasonably acceptable to Buyer and Seller; provided that Buyer specifies the method no later than twenty (20) Business Days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Forced Facility Outages. Notwithstanding anything to the contrary herein, Seller shall promptly notify Buyer of Forced Facility Outages and Seller shall keep Buyer 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 the outage.

(f) Forecasting Penalties. Unless excused by a Force Majeure Event, in the event Seller does not in a given hour provide the forecast required in Section 4.3(d) and Buyer incurs a loss or penalty resulting from Seller's failure with respect to Facility Energy during such hour, Seller shall be responsible for a Forecasting Penalty for each such hour. Settlement of Forecasting Penalties shall occur as set forth in Article 8 of this Agreement.

(g) CAISO Tariff Requirements. To the extent such obligations are applicable to the Facility, Seller will comply with all applicable obligations for Variable Energy Resources under the CAISO Tariff and the Eligible Intermittent Resource Protocol, including providing appropriate operational data and meteorological data, and will fully cooperate with Buyer and CAISO, in providing all data, information, and authorizations required thereunder.

4.4 Dispatch Down/Curtailment.

(a) General. Seller agrees to reduce the amount of Facility 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 such reduction or any such Curtailment Order is inconsistent with the limitations of the Facility set out in the Operating Restrictions.

(b) Market Curtailment. Seller shall curtail deliveries of Facility Energy pursuant to Market Curtailments, provided that Buyer shall pay Seller for all Deemed Delivered Energy associated with such Market Curtailment at the Renewable Rate.

(c) Failure to Comply. If Seller fails to comply with a Curtailment Order or Market Curtailment, then, for each MWh of Facility Energy that is delivered by the Facility to the Delivery Point in contradiction of the Curtailment Order or Market Curtailment, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the

amount, if any, paid to Seller by Buyer for delivery of such excess MWh and (B) is the sum, for all Settlement Intervals with a Negative LMP during the Market Curtailment, of the absolute value of the product of such excess MWh in each Settlement Interval and the Negative LMP for such Settlement Interval, and (C) is any penalties assessed by the CAISO or other charges assessed by the CAISO resulting from Seller's failure to comply with the Curtailment Order.

(d) Seller Equipment Required for Curtailment Instruction Communications. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary to respond and follow instructions, including an electronic signal conveying real time and intra-day instructions, to operate the Facility as reasonably directed by the Buyer in accordance with this Agreement or a Governmental Authority, including to implement a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order in accordance with the then-current methodology used to transmit such instructions as it may change from time to time. If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies, Seller shall take the steps necessary to become compliant as soon as reasonably possible. Seller shall be liable pursuant to Section 4.4(c) for failure to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies. For the avoidance of doubt, a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

4.5 Charging Energy Management.

(a) Upon receipt of a valid Charging Notice, Seller shall take any and all action necessary to deliver the Charging Energy from the Generating Facility to the Storage Facility in order to deliver the Storage Product in accordance with the terms of this Agreement (including the Operating Restrictions), including maintenance, repair or replacement of equipment in Seller's possession or control used to deliver the Charging Energy from the Generating Facility to the Storage Facility.

(b) Buyer will have the right to charge the Storage Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by providing Charging Notices to Seller electronically, provided, that Buyer's right to issue Charging Notices is subject to Prudent Operating Practice and the requirements and limitations set forth in this Agreement, including the Operating Restrictions and the provisions of Section 4.5(a). Each Charging Notice issued in accordance with this Agreement will be effective unless and until Buyer modifies such Charging Notice by providing Seller with an updated Charging Notice.

(c) Seller shall not charge the Storage Facility during the Term other than pursuant to a valid Charging Notice, or in connection with a Storage Capacity Test, or pursuant to a notice from CAISO, the PTO, Transmission Provider, or any other Governmental Authority. If, during the Contract Term, Seller (a) charges the Storage Facility to a Stored Energy Level greater than the Stored Energy Level provided for in the Charging Notice or (b) charges the Storage Facility in violation of the first sentence of this Section 4.5(c), then (x) Seller shall be responsible

for all energy costs associated with such charging of the Storage Facility, (y) Buyer shall not be required to pay for the charging of such energy (i.e., Charging Energy), and (z) Buyer shall be entitled to discharge such energy and entitled to all of the benefits (including Storage Product) associated with such discharge.

(d) Buyer will have the right to discharge the Storage Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by providing Discharging Notices to Seller electronically, and subject to the requirements and limitations set forth in this Agreement, including the Operating Procedures. Each Discharging Notice issued in accordance with this Agreement will be effective unless and until Buyer modifies such Discharging Notice by providing Seller with an updated Discharging Notice.

(e) Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, CAISO Operating Orders, Curtailment Orders, Buyer Curtailment Orders, and Buyer Bid Curtailments applicable to such Settlement Interval shall have priority over any Charging Notices and Discharging Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Section 4.5 or any Charging Notice or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any CAISO Operating Order, Curtailment Order, Buyer Curtailment Order, Buyer Bid Curtailment or other instruction or direction from a Governmental Authority or the PTO or the Transmission Provider. Buyer shall have the right, but not the obligation, to provide Seller with updated Charging Notices and Discharging Notices during any Buyer Curtailment Order, Buyer Bid Curtailment, CAISO Operating Order, or Curtailment Order consistent with the Operational Procedures.

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

(a) **Facility Maintenance.** Subject to providing Buyer sixty (60) days' prior Notice, Seller shall be permitted to reduce deliveries of Product during any period of scheduled maintenance on the Facility, *provided*, that (i) no notice is required for scheduled maintenance or any changes or extensions thereto which do not result in a shutdown of more than [REDACTED], and (ii) Seller may adjust the dates of any scheduled maintenance with fewer than one hundred and twenty (120) days' prior Notice to Buyer so long as (X) Seller makes its request more than three (3) days prior to the expected start date of such scheduled maintenance and (Y) the requested alternate date is acceptable to Buyer in its reasonable discretion not to be unreasonably withheld, conditioned or delayed. To the extent notice is not already required under the terms hereof, Seller shall notify Buyer as soon as practicable of any extensions to scheduled maintenance and expected end dates thereof. Between June 1st and September 30th, Seller shall not schedule non-emergency maintenance that reduces the Energy generation of the Facility by more than [REDACTED] unless (i) such outage is required to avoid damage to the Facility, (ii) such maintenance is necessary to maintain equipment warranties and cannot be scheduled outside the period of June 1st to September 30th, (iii) such outage is required in accordance with Prudent Operating Practices, or (iv) the Parties agree otherwise in writing (each scheduled maintenance permitted under this clause (a) and each of the foregoing outages described in foregoing clauses (a)(i) – (a)(iv), a "**Planned Outage**").

(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.

(c) System Emergencies and other Interconnection Events. Seller shall be permitted to reduce deliveries of Product during any period of System Emergency, Market Curtailment Period or upon Notice of a Curtailment Order pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff.

(d) Force Majeure Event. Seller shall be permitted to reduce deliveries of Product during any Force Majeure Event.

(e) Health and Safety. Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

4.7 **Guaranteed Energy Production**. Seller shall be required to deliver to Buyer no less than the Guaranteed Energy Production in each Performance Measurement Period. Seller shall be excused from achieving the Guaranteed Energy Production during any Performance Measurement Period only to the extent of any Force Majeure Events, System Emergency, Storage Capacity Tests, Buyer's Default or other failure to perform, and Curtailment Periods or Market Curtailment Periods. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer (1) any Deemed Delivered Energy and (2) Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any Force Majeure Events, System Emergency, Storage Capacity Tests, Buyer's Default or other failure to perform, and Curtailment Periods ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer damages calculated in accordance with Exhibit G.

4.8 **Storage Availability**.

(a) During the Delivery Term, the Storage Facility shall maintain a Monthly Storage Availability of no less than [REDACTED] (the "**Guaranteed Storage Availability**"), which Monthly Storage Availability shall be calculated in accordance with Exhibit P.

(b) If, the Monthly Storage Availability during any year is less than the Guaranteed Storage Availability, then Buyer's payment for the Storage Product shall be calculated by reference to the Availability Adjusted Storage Contract Capacity (as determined in accordance with Exhibit P).

4.9 **Storage Capacity Tests**.

(a) Prior to the Commercial Operation Date, Seller shall schedule and complete a Storage Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Storage Capacity Tests in accordance with Exhibit O.

(b) Buyer shall have the right to send one or more representative(s) to witness all Storage Capacity Tests. Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Storage Capacity Test. Except as otherwise specified in Exhibit O, all other costs or revenues associated with any Storage Capacity Test shall be borne by, or accrue to, Seller, as applicable.

(c) Following each Storage Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity determined pursuant to a Storage Capacity Test is less than the then current Storage Contract Capacity, then the actual capacity determined pursuant to a Storage Capacity Test shall become the new Storage Contract Capacity at the beginning of the day following the completion of the test for all purposes under this Agreement, including compensation under Exhibit C.

4.10 **WREGIS**. Seller shall, at its sole expense, but subject to Section 3.12, 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 Facility 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 be deemed to have satisfied the warranty in Section 4.10(g) **Error! Reference source not found.**, provided that Seller fulfills its obligations under Sections 4.10(a) through (g) below. In addition:

(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 "**Forward Certificate Transfers**" (as described in the WREGIS Operating Rules) 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 Forward 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 Facility 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.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Facility Energy for such calendar month as evidenced by the Facility's metered data.

(d) Due to the ninety (90) 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 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.10. 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 Facility Energy for the same calendar month (“**Deficient Month**”) caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused, or the result of any action or inaction by Seller, then the amount of Adjusted Facility Energy in the Deficient Month shall be reduced by the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer’s payment to Seller under Article 8 and the Guaranteed Energy Production for the applicable Contract Year; provided, however, that such adjustment shall not apply to the extent that Seller either (x) resolves the WREGIS Certificate Deficit within ninety (90) days after the Deficient Month or (y) provides Replacement Green Attributes (as defined in Exhibit G) delivered to CAISO as Scheduled Energy within ninety (90) days after the Deficient Month (i) upon a schedule reasonably acceptable to Buyer and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement. Without limiting Seller’s obligations under this Section 4.10, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If (i) WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.10 after the Effective Date, or (ii) the Parties enable the Storage Facility to be charged from the grid in accordance with Section 3.13, the Parties promptly shall modify this Section 4.10 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 Facility Energy in the same calendar month.

4.11 **Green-E Certification.** Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that the Facility is Green-E eligible.

ARTICLE 5 TAXES

5.1 **Allocation of Taxes and Charges.** Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the 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 Product that are imposed on Product at and after its delivery to Buyer at the Delivery Point (other than withholding or other Taxes imposed on Seller’s income, revenue, receipts or employees), if any. If a Party is required to remit or pay Taxes that are the other Party’s responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation within thirty (30) days after the Effective Date to evidence such exemption or

exclusion. If Buyer does not provide such documentation, then Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes from which Buyer claims it is exempt.

5.2 **Cooperation.** Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided, 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 Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE 6 MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility.** Seller shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product.

6.2 **Maintenance of Health and Safety.** Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Notice to Buyer's emergency contact identified on Exhibit N of such condition. Such action may include, to the extent reasonably necessary, disconnecting and removing all or a portion of the Facility, or suspending the supply of Energy or Discharging Energy to Buyer.

6.3 **Shared Facilities.** The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities or co-tenancy agreements to be entered into among Seller, the Participating Transmission Owner, Seller's Affiliates, or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; *provided* that such agreements (i) shall permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder and (ii) provide for separate metering of the Facility.

ARTICLE 7 METERING

7.1 **Metering.** Seller shall measure the amount of Facility Energy using the Facility Meter, which will be subject to adjustment in accordance with applicable CAISO meter requirements and Prudent Operating Practices, including to account for Electrical Losses and Station Use. Seller shall measure the Charging Energy and the Discharging Energy using the Storage Facility Meters. All meters will be operated pursuant to applicable CAISO-approved calculation methodologies and maintained as Seller's cost. Subject to meeting any applicable CAISO requirements, the meters shall be programmed to adjust for Electrical Losses and Station Use from the Facility to the Delivery Point in a manner subject to Buyer's prior written approval,

not to be unreasonably withheld. Seller intends to obtain and maintain a single CAISO resource ID dedicated exclusively to the Generating Facility and a single CAISO resource ID dedicated exclusively to the Storage Facility. Seller shall not obtain additional CAISO resource IDs for the Generating Facility, the Storage Facility, or the Facility without the prior written consent of Buyer, which shall not be unreasonably withheld. In addition, upon the reasonable request of Buyer, Seller shall obtain one or more additional CAISO resource IDs, provided that any out-of-pocket costs associated with obtaining such additional CAISO resource IDs incurred by Seller shall be reimbursed by Buyer. Metering will be consistent with the Metering Diagram set forth as Exhibit R, a final version of which shall be provided to Buyer at least thirty (30) days before the Commercial Operation Date. Each meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRI-S) (or its successor) or directly from the CAISO meter(s) at the Facility.

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.

ARTICLE 8 INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing.** Seller shall make good faith efforts to deliver an invoice to Buyer for Buyer's Share of Product within fifteen (15) Business Days after the end of the prior monthly billing period. Each invoice shall reflect (a) records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of PV Energy produced by the Generating Facility as read by the Facility Meter, the amount of Charging Energy charged by the Storage Facility and the amount of Discharging Energy delivered from the Storage Facility to the Delivery Point, in each case, as read by the Storage Facility Meter, the amount of Replacement RA and Replacement Product delivered to Buyer (if any), the calculation of Adjusted Facility Energy, Deemed Delivered Energy and Adjusted Energy Production, the LMP prices at the Delivery Point for each Settlement Period, and the Contract Price applicable to such Product in accordance with Exhibit C; (b) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (c) be in a format reasonably specified by Buyer, covering the 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 for Buyer's Share of Product by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts within thirty (30) days after receipt of the invoice or the end of the prior monthly billing period, whichever is later. If such due date falls on a weekend or legal

holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another 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 ten (10) Business Days’ Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller’s performance of this Agreement because the compensation under this Agreement exceeds \$10,000.

8.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO; provided, however, that there shall be no adjustments to prior invoices based upon meter inaccuracies. If the required adjustment is in favor of Buyer, Buyer’s next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer’s next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve

(12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **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 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 P, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver Development Security to Buyer within thirty (30) days of the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (i) Seller's delivery of the Performance Security, or (ii) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating specified in the definition of Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit in the amount of the Development Security and that otherwise meets the requirements set forth in the definition of Development Security.

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. If the Performance Security is not in the form of cash or Letter of Credit, it shall be substantially in the form of Guaranty set forth in Exhibit L. Seller shall maintain the Performance Security in full force and effect, subject to any draws made by Buyer in accordance with this Agreement, until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller then due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. If the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating set forth in the definition of Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Performance Security. Seller may at its option exchange one permitted form of Development Security or Performance Security for another permitted form of Development Security or Performance Security, as applicable.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral**. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby

grants to Buyer a present and continuing first-priority security interest (“**Security Interest**”) in, and lien on (and right to net against), and assignment of the Development Security, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer’s Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence and continuation of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.8):

- (a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and
- (c) Liquidate all Development Security or Performance Security (as applicable) then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller’s obligations under this Agreement (Seller remains liable for any amounts owing to Buyer after such application), subject to Buyer’s obligation to return any surplus proceeds remaining after these obligations are satisfied in full.

8.10 **Financial Statements.** In the event a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor’s ultimate parent (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied, and as posted on the website of the Guarantor’s ultimate parent or the Securities Exchange Commission. In any event, from the Effective Date, Buyer shall provide to Seller unaudited quarterly financial statements within ninety (90) days of end of each quarter and audited financial statements within one hundred twenty (120) days after the end of each fiscal year; provided, however, that this requirement shall be satisfied if such financial statements are publicly available on Buyer’s website. Buyer’s annual financial statements shall have been prepared in accordance with GAAP.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**ARTICLE 9
NOTICES**

9.1 **Addresses for the Delivery of Notices.** Except as provided in Exhibit D, any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth on Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice.** Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled 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 electronic mail or other electronic means) and if concurrently with the transmittal of such electronic communication the sending Party provides a copy of such electronic Notice by hand delivery or express courier, 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.

**ARTICLE 10
FORCE MAJEURE**

10.1 **Definition.**

(a) **“Force Majeure Event”** means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic; landslide; mudslide;

sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; strikes or other labor difficulties caused or suffered by a Party or any third party; any temporary restraint or restriction imposed by applicable Law or any directive from a Governmental Authority; or a one-time failure of the Facility's final step-up transformer so long as it is maintained by Seller in accordance with Prudent Operating Practice.

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

10.2 **No Liability If a Force Majeure Event Occurs.** Neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of a Party to make any payments due hereunder, (b) suspend or excuse the obligation of Seller to achieve the Guaranteed Construction Start Date or the Guaranteed Commercial Operation Date beyond the extensions provided in Exhibit B, or (c) limit Buyer's right to declare an Event of Default pursuant to Section 11.1(b)(ii), subject to Section 4 of Exhibit B, and receive a Damage Payment upon exercise of Buyer's default right 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 in writing of the nature, cause, estimated date of commencement thereof, and the anticipated extent of any delay or interruption in performance, and (b) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in

good faith by the affected Party; *provided, however*, that a Party's failure to give timely Notice shall not affect such Party's ability to assert that a Force Majeure Event has occurred unless the delay in giving Notice materially prejudices the other Party.

10.4 **Termination Following Force Majeure Event.** If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder, for a consecutive twelve (12) month period, then either Party may terminate this Agreement upon written Notice to the other Party;

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default.** An “**Event of Default**” shall mean,

(a) with respect to a Party (the “**Defaulting Party**”) that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) days period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1; and except for, with respect to Seller, (1) failure to achieve Full Capacity Deliverability Status by the RA Guarantee Date, the exclusive remedies for which are set forth in Section 3.8, (2) failures related to the Adjusted Energy Production that do not trigger the provisions of Section 11.1(b)(iv), the exclusive remedies for which are set forth in Section 4.7 and Exhibit G; and (3) failures related to the Monthly Storage Availability that do not trigger the provisions of Section 11.1(b)(v), the exclusive remedies for which are set forth in Section 4.8 and Exhibit P) and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional ninety (90) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) days period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14.2 or **Error! Reference source not found.**, as appropriate; or

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

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

(i) if at any time, Seller delivers or attempts to deliver electric energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for Replacement Product;

(ii) the failure by Seller to achieve Commercial Operation [REDACTED] of the Guaranteed Commercial Operation Date;

(iii) [Intentionally omitted.]

(iv) if, in any consecutive six (6) month period, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the Expected Energy amount for such period, and Seller fails to either (x) demonstrate to Buyer's reasonable satisfaction, within fifteen (15) Business Days after Notice from Buyer, a legitimate reason for the failure to meet the ten percent (10%) minimum; or (y) deliver to Buyer within fifteen (15) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one-hundred eighty (180) days;

[REDACTED]

[REDACTED]

[REDACTED]

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

(ix) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of 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 default is not remedied within thirty (30) days after Notice thereof;

- (B) the failure of the Guarantor to make any payment required;
 - (C) the Guarantor becomes Bankrupt;
 - (D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;
 - (E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or
 - (F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty; or
- (x) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:
- (A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;
 - (B) the issuer of such Letter of Credit becomes Bankrupt;
 - (C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;
 - (D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;
 - (E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;
 - (F) such Letter of Credit fails or ceases to be in full force and effect at any time; or
 - (G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

11.2 **Remedies; Declaration of Early Termination Date.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (“**Non-Defaulting Party**”) shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement (“**Early Termination Date**”) that terminates this Agreement (the “**Terminated Transaction**”) and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment (in the case of an Event of Default by Seller occurring before the Commercial Operation Date, including an Event of Default under Section 11.1(b)(ii) subject to the limitations in Section 11.7), or (ii) the Termination Payment calculated in accordance with Section 11.3 below (in the case of any other Event of Default by either Party);

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

(d) to suspend performance; or

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, 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 supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party’s duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with the Terminated Transaction would be difficult or impossible to predict with certainty, (b) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is the exclusive remedy of the Non-Defaulting Party in connection with the Terminated Transaction but shall not

otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment.** As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment 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 an express and exclusive remedy or measure of liquidated damages is provided, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement. Any Non-Defaulting Party shall be obligated to mitigate its Costs, Losses and damages resulting from or arising out of any Event of Default of the other Party under this Agreement.



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, OR INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR ARISING FROM FRAUD OR INTENTIONAL MISREPRESENTATION, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

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

DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT G, AND EXHIBIT P 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 the state of California and each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and 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 limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

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

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

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 the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court (provided that such court is limited within a venue permitted in law and under the Agreement), (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment; provided, however that nothing in this Agreement shall waive the obligations or rights set forth in the California Tort Claims Act (Government Code Section 810 et seq.)

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

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

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in California and each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

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

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

13.4 **Prevailing Wage.** Seller shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and orders and decrees of any courts or administrative bodies or tribunals, including without limitation employment discrimination laws and prevailing wage laws. In addition, Seller shall use reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or provide services at the Site related to construction of the Facility are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable Nevada law, if any ("**Prevailing Wage Requirement**"). Buyer agrees that Seller's obligations under this

Section 13.4 with respect to the Prevailing Wage Requirement will be satisfied upon the execution by Seller's contractor of a community workforce agreement, work site or project labor agreement, collective bargaining agreement, or other similar agreement related to construction of the Facility.

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

ARTICLE 14 ASSIGNMENT

14.1 **General Prohibition on Assignments**. Neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, except as provided below. Any assignment made without required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Seller shall be responsible for Buyer's reasonable 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 in a form substantially similar to the consent to collateral assignment set forth in Exhibit S ("**Collateral Assignment Agreement**").

[REDACTED]

[REDACTED]

ARTICLE 15 DISPUTE RESOLUTION

15.1 **Governing Law.** This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of laws. To the extent enforceable, at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

15.2 **Venue.** The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement shall be brought in the federal courts of the United States or the courts of the State of California sitting in Santa Clara County, California.

15.3 **Dispute Resolution.** In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a written Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, the Parties shall submit the dispute to mediation prior to seeking any and all remedies available to it at Law in or equity. The Parties will cooperate in selecting a qualified neutral mediator selected from a panel of neutrals and in scheduling the time and place of the mediation as soon as reasonably possible, but in no event later than thirty (30) days after the request for mediation is made. The Parties agree to participate in the mediation in good faith and to share the costs of the mediation, including the mediator's fee, equally, but such shared costs shall not include each Party's own attorneys' fees and costs, which shall be borne solely by such Party. If the mediation is unsuccessful, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

ARTICLE 16 INDEMNIFICATION

16.1 **Mutual Indemnity.**

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

(b) Nothing in this Section shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts, or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligations to pay claims

consistent with the provisions of a valid insurance policy.

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

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

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

16.5 **Subrogation of Rights.** Upon making any indemnity payment, Indemnifying Party

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

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

ARTICLE 17 INSURANCE

17.1 **Insurance.**

(a) **General Liability.** Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance, including products and completed operations and personal injury insurance, With a minimum amount of [REDACTED], endorsed to provide contractual liability in said amount, specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured but only to the extent of the liabilities assumed hereunder by Seller; and (ii) an umbrella insurance policy in a minimum amount of liability of [REDACTED]. Defense costs shall be provided as an additional benefit and not included with the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions. Insurance may be evidenced through primary and excess policies.

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

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

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

(e) **Construction All-Risk Insurance.** Seller shall maintain or cause to be maintained during the construction of the Facility, but only after major electrical generating equipment as arrived at the Facility, prior to the Commercial Operation Date, construction all-risk

form property insurance covering the Facility during such construction periods, and naming the Seller (and Lender if any) as the loss payee.

(f) Pollution Legal Liability. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, Pollution Legal Liability Insurance in the amount of [REDACTED], naming the Seller (and Lender if any) as additional named insured. Insurance may be evidenced through primary and excess policies.

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

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

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) 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. 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 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. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party is not required to defend against such request and shall be permitted to disclose such Confidential Information of the Disclosing Party, with no liability for any damages that arise from such disclosure. Each Party hereto acknowledges and agrees that information and documentation provided in connection with this Agreement may be subject to the California Records Act (Government Code Section 6250 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 would 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 will 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 obtain 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 **Disclosure to Lenders, Etc.** Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by Seller to any actual or potential Lender or any of its Affiliates, and Seller’s actual or potential agents, consultants, contractors, or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Article 18 to the same extent as if it were a Party.

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 Party as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments.** This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, 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 seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement or, to the extent set forth herein, any Lender) or Indemnified Party.

19.5 **Severability.** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra.** Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable law.

19.7 **Counterparts; Electronic Signatures.** This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original. The Parties may rely on electronic or scanned signatures as originals.

19.8 **Electronic Delivery.** Delivery of an executed signature page of this Agreement by electronic format (including portable document format (.pdf)) shall be the same as delivery of an original executed signature page.

19.9 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer.** Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

19.11 **Forward Contract.** The Parties intend that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

19.12 **Further Assurances.** Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

**YELLOW PINE ENERGY CENTER I,
LLC, a Delaware limited liability company**

**SILICON VALLEY CLEAN ENERGY
AUTHORITY, a California joint powers
authority**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
FACILITY DESCRIPTION

Site Name: Yellow Pine Energy Center I

Site includes all or some of the following APNs: [REDACTED]

County: Clark County, NV

NEPA Lead Agency: Bureau of Land Management

Type of Generating Facility: Solar Photovoltaic

Operating Characteristics of Generating Facility: 125 MW AC as-available Solar Photovoltaic

Type of Storage Facility: Electrochemical battery energy storage facility

Operating Characteristics of Storage Facility:

Maximum Stored Energy Level at COD (MWh): 260 MWh

Maximum Charging Capacity at COD: 65 MW

Maximum Discharging Capacity at COD: 65 MW

Operating Restrictions of Storage Facility: See Exhibit Q

Guaranteed Capacity: See definition in Section 1.1

Storage Contract Capacity: See definition in Section 1.1

Maximum Output: 125 MW AC

Delivery Point: Facility PNode

Facility Meter: See Exhibit R

Storage Facility Meter Locations: See Exhibit R

Facility Interconnection Point: GridLiance Trout Canyon 230 kV substation on the Pahump – Sloan Canyon 230 kV line.

Facility PNode: To be established prior to the Commercial Operation Date. Seller shall promptly notify Buyer following establishment of the PNode.

Participating Transmission Owner: GridLiance

EXHIBIT B

MAJOR PROJECT DEVELOPMENT MILESTONES AND COMMERCIAL OPERATION

1. Major Project Development Milestones.

(a) “**Construction Start**” will occur upon Seller’s execution of an engineering, procurement, and construction contract (or similar agreement) and issuance thereunder of a notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction at the Site. The date of Construction Start will be evidenced by and subject to Seller’s delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein by Seller shall be the “**Construction Start Date**.” The Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

(b) If Construction Start is not achieved by the Guaranteed Construction Start Date, Daily Delay Damages to Buyer will be calculated and accrue for each day for which the Guaranteed Construction Start Date has not been achieved. If Seller fails to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, Buyer shall be entitled to collect all accrued Daily Delay Damages on the Guaranteed Commercial Operation Date and Buyer shall invoice Seller for all accrued Daily Delay Damages, and, within ten (10) Business Days following Seller’s receipt of such invoice, Seller shall pay Buyer the full amount of the Daily Delay Damages set forth in such invoice. The Parties agree that Buyer’s receipt of Daily Delay Damages shall be Buyer’s sole and exclusive remedy for Seller’s unexcused delay in achieving the Guaranteed Construction Start Date, but shall (x) not be construed as Buyer’s declaration that an Event of Default has occurred under any provision of Section 11.1 and (y) not limit Buyer’s right to declare an Event of Default pursuant to Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer’s default right pursuant to Section 11.2.

2. Commercial Operation of the Facility. “**Commercial Operation**” means the condition existing when (i) Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and (ii) Seller has confirmed to Buyer in writing that Commercial Operation has been achieved by providing Notice to Buyer substantially in the form of Exhibit H (the “**COD Certificate**”). The “**Commercial Operation Date**” shall be the later of [REDACTED].

(a) Seller shall cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date.

(b) If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, Seller shall pay Commercial Operation Delay Damages to Buyer for each day after the Guaranteed Commercial Operation Date until the Commercial Operation Date. Commercial Operation Delay Damages shall be payable to Buyer by Seller [REDACTED]. On or before the tenth (10th) of each month, Buyer shall invoice Seller for Commercial Operation Daily Delay Damages, if any, accrued during the prior month and, within ten (10) Business Days following Seller’s receipt of such invoice, Seller shall pay Buyer the

amount of the Commercial Operation Daily Delay Damages set forth in such invoice. The Parties agree that Buyer's receipt of Commercial Operation Delay Damages shall be Buyer's sole and exclusive remedy for Seller's unexcused delay in achieving the Commercial Operation Date on or before the Guaranteed Commercial Operation Date, but shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 11.1 and (y) not limit Buyer's right to declare an Event of Default under Section 11.2(b)(ii) and receive a Damage Payment upon exercise of Buyer's default right pursuant to Section 11.2.

3. **Termination for Failure to Achieve Commercial Operation.** If the Facility has not achieved Commercial Operation within [REDACTED], Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.

4. **Extension of the Guaranteed Dates.** The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date both shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances:

- (a) a Force Majeure Event occurs; or
- (b) the Interconnection Facilities or Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date, despite the exercise of commercially reasonable efforts by Seller; or
- (c) Buyer has not made all necessary arrangements to receive the Metered Energy at the Delivery Point by the Guaranteed Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under Section 4(a) and 4(b) above under the Development Cure Period shall not exceed [REDACTED], for any reason, including a Force Majeure Event; provided, however, that Seller shall be allowed additional day-for-day extensions beyond the [REDACTED] not to exceed a total of cumulative extensions granted under Section 4(a) and 4(b) under the Development Cure Period of [REDACTED], solely to the extent due to a Force Majeure Event related to COVID-19. Notwithstanding the foregoing, no extension under the Development Cure Period shall be given if (i) the delay was the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide written notice to Buyer as required in the next sentence. Seller shall provide prompt written notice to Buyer of a delay, but in no case more than thirty (30) days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Expected Commercial Operation Date, or after such date, Seller must provide written notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall promptly provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take reasonable actions.

EXHIBIT C
COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Renewable Rate. [REDACTED]

(b) Deemed Delivered Energy. [REDACTED]

(c) Excess Contract Year Deliveries [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(d) Excess Settlement Interval Deliveries. If during any Settlement Interval, Seller delivers Product amounts, as measured by the amount of Facility Energy, in excess of the product of the Guaranteed Capacity and the duration of the Settlement Interval, expressed in hours (“Excess MWh”), then the price applicable to all such excess MWh in such Settlement Interval shall be zero dollars (\$0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such excess MWh (“Negative LMP Costs”).

(e) Curtailment Payments. [REDACTED]

(f) Negative LMP Strike Price. Buyer may change the Negative LMP Strike Price by providing written notice to Seller at least five (5) Business Days prior to the effective date of such change, which notice must identify the new Negative LMP Strike Price and the effective date for the new Negative LMP Strike Price; provided, however, that the Negative LMP Strike Price identified by Buyer must be less than or equal to zero dollars per MWh (\$0/MWh).

(g) Storage Rate. All Storage Product shall be paid on a monthly basis at the Storage Rate multiplied by current Storage Contract Capacity, as adjusted by the Availability Adjusted Storage Contract Capacity of the Storage Facility, as determined under Exhibit P. Without limiting Buyer's obligation to pay Seller for Discharging Energy included in Adjusted Facility Energy, such payment constitutes the entirety of the amount due to Seller from Buyer for the Storage Product.

(h) Test Energy. Test Energy is compensated in accordance with Section 3.6.

(i) Tax Credits. The Parties agree that the neither the Renewable Rate, the Storage Rate nor the Test Energy Rate are subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D-1

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Seller as Scheduling Coordinator for the Facility. Upon Initial Synchronization of the Facility to the CAISO Grid, Seller shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for the delivery and the receipt of Test Energy and the Product at the Delivery Point and for the purposes of conducting Storage Capacity Tests. As determined by Buyer, Seller (as the Facility's SC) shall submit Schedules to the CAISO in accordance with this Agreement and the applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market or real time basis.

(b) Notices. Seller (as the Facility's SC) shall use a web-based system through which Seller shall submit to CAISO all notices and updates required under the CAISO Tariff regarding the Facility's status, including, but not limited to, all outage requests, forced outages, forced outage reports, clearance requests, or must offer waiver forms. Seller will cooperate with Buyer to provide Buyer access to such notices and updates. If the web-based system is not available, Seller shall promptly submit such information to Buyer and the CAISO (in order of preference) telephonically, by electronic mail, transmission to the personnel designated to receive such information.

(c) CAISO Costs and Revenues. Except during a Storage Capacity Test or as otherwise set forth below, Buyer shall be responsible for CAISO costs (including penalties, Imbalance Energy costs, and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy revenues, and other payments), including revenues associated with CAISO dispatches, bid cost recovery, or other credits in respect of the Product Scheduled or delivered from the Facility. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of the Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, and any such sanctions or penalties are imposed upon the Facility or to Seller as Scheduling Coordinator due to failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be the Seller's responsibility. Subject to the foregoing, Seller shall pass through to Buyer all CAISO costs and revenues associated with the Facility, which shall be reflected as a credit on the monthly invoices provided to Buyer in accordance with the invoicing and payment provisions of Article 8, including the netting provisions of Section 8.6.

(d) CAISO Settlements. Seller (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility.

(e) Dispute Costs. Seller (as the Facility's SC) may be required to dispute CAISO settlements in respect of the Facility. If Buyer has directed Seller to dispute a CAISO

settlement, Buyer agrees to pay Seller's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Buyer with respect to the Facility.

(f) Master Data File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent.

(g) NERC Reliability Standards. Seller (as Scheduling Coordinator) shall comply with NERC reliability standards.

EXHIBIT D-2

BUYER AND SELLER OPERATING COORDINATION

The Parties shall work together after the Effective Date to develop this Exhibit D-2 prior to the Commercial Operation Date.

EXHIBIT E
PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.
2. Facility description.
3. Site plan of the Facility.
4. Description of any material planned changes to the Facility or the site.
5. Gantt chart schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar quarter, including any OSHA labor hour reports.
7. Forecast of activities scheduled for the current calendar quarter or month as applicable.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.
9. List of issues that are likely to potentially affect Seller's Milestones.
10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.
11. If applicable, prevailing wage reports as required by Law and reporting on small business activities pursuant to the Small Business Section of the RFP.
12. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.
14. Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.
15. Any other documentation reasonably requested by Buyer.

EXHIBIT F-1

AVERAGE EXPECTED ENERGY

	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										0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FEB																								
MAR																								
APR																								
MAY																								
JUN																								
JUL																								
AUG																								
SEP																								
OCT																								
NOV																								
DEC																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2
AVAILABLE CAPACITY

The following tables are provided for informational purposes only, and shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

Available Generating Capacity, MW Per Hour – [Insert Month]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The following table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

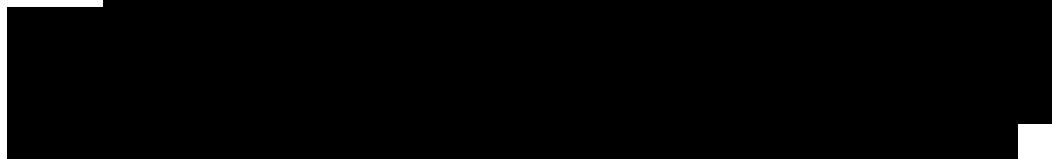
$$[(A - B) * (C - D)]$$

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 =



D = the Renewable Rate for the Contract Year, in \$/MWh

“**Adjusted Energy Production**” shall mean the sum of the following: Adjusted Facility Energy + Deemed Delivered Energy + Lost Output + Replacement Energy.

“**Lost Output**” has the meaning given in Section 4.7 of the Agreement. The Lost Output shall be calculated in the same manner as Deemed Delivered Energy is calculated, in accordance with the definition thereof.

“**Replacement Capacity Attributes**” means Capacity Attributes, if any, equivalent to those that would have been provided by the Generating Facility during the Performance Measurement Period for which the Replacement Product is being provided.

“**Replacement Energy**” means energy produced by a facility other than the Generating Facility that, at the time delivered to Buyer, qualifies under Public Utilities Code 399.16(b)(1), and has Green Attributes that have the same or comparable value, including with respect to the timeframe for retirement of such Green Attributes, if any, as the Green Attributes that would have been generated by the Generating Facility during the Contract Year for which the Replacement Energy is being provided.

“**Replacement Green Attributes**” means Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product and of the same timeframe for retirement as the Renewable Energy Credits that would have been generated by the

Generating Facility during the Performance Measurement Period for which the Replacement Green Attributes are being provided.

“Replacement Product” means (a) Replacement Energy, (b) Replacement Capacity Attributes, and (c) Replacement Green Attributes.

No payment shall be due if the calculation of $(A - B)$ or $(C - D)$ yields a negative number.

Within sixty (60) days after each Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period, provided that the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification (“**Certification**”) of Commercial Operation is delivered by _____ [licensed professional engineer] (“**Engineer**”) to Silicon Valley Clean Energy Authority, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ (“**Agreement**”) by and between [Seller] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [DATE] , Engineer hereby certifies and represents to Buyer the following:

1. The Generating Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Generating Facility with a nameplate capacity of no less than _____ of the Guaranteed Capacity.

3. Seller has installed equipment for the Storage Facility with a nameplate capacity of no less than _____ of the Storage Contract Capacity.

4. The Generating Facility’s testing included a performance test demonstrating peak electrical output of no less than _____ of the Guaranteed Capacity for the Generating Facility at the Delivery Point, as adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was [peak output in MW].

5. The Storage Facility is fully capable of charging, storing and Discharging Energy at no less than _____ of the Storage Contract Capacity and receiving instructions to charge, store and discharge energy, all within the operational constraints and subject to the applicable Operating Restrictions.

6. Authorization to parallel the Facility was obtained by the Participating Transmission Provider, [Name of Participating Transmission Owner as appropriate] on [DATE] .

7. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Participating Transmission Owner as appropriate] on [DATE] .

8. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on [DATE] .

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

EXHIBIT I

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by [licensed professional engineer] ("**Engineer**") to Silicon Valley Clean Energy Authority, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

1. The performance test for the Generating Facility demonstrated peak electrical output of __ MW AC at the Delivery Point, as adjusted for ambient conditions on the date of the performance test ("**Installed PV Capacity**");
2. The Storage Capacity Test demonstrated a maximum dependable operating capability that can be sustained for four (4) consecutive hours to discharge electric energy of __ MW AC to the Delivery Point, in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O (the "**Installed Battery Capacity**"); and
3. The sum of (a) and (b) is __ MW AC and shall be the "**Installed Capacity**".

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date (“**Certification**”) is delivered by [SELLER ENTITY] (“**Seller**”) to Silicon Valley Clean Energy Authority, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ (“**Agreement**”) by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

1. Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto;
2. the Construction Start Date occurred on _____ (the “**Construction Start Date**”); and
3. the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site: _____.

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By: _____

Its: _____

Date: _____

EXHIBIT K
FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXXX]

Date:
Bank Ref.:
Amount: US\$[XXXXXXXXXX]
Expiry Date:

Beneficiary:

Silicon Valley Clean Energy Authority
Attn: Girish Balachandran, CEO
333 W. El Camino Real, Suite 290
Sunnyvale, CA 94087

Ladies and Gentlemen:

By the order of _____ (“Applicant”), we, [insert bank name and address] (“Issuer”) hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXXX] (the “Letter of Credit”) in favor of Silicon Valley Clean Energy Authority, a California joint powers authority (“Beneficiary”), for an amount not to exceed the aggregate sum of U.S. \$[XXXXXXXX] (United States Dollars [XXXXXX] and 00/100), pursuant to that certain Renewable Power Purchase Agreement dated as of _____ and as amended (the “Agreement”) between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall expire on [Insert Date] which is one year after the issue date of this Letter of Credit, or any expiration date extended in accordance with the terms hereof (the “Expiration Date”).

Funds under this Letter of Credit are available to Beneficiary by presentation on or before the Expiration Date of a dated statement purportedly signed by your duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein, referencing our Letter of Credit No. [XXXXXXXX] (“Drawing Certificate”).

The Drawing Certificate may be presented by (a) physical delivery, (b) as a PDF attachment to an e-mail to [bank email address] or (c) facsimile to [bank fax number [XXX-XXX-XXXX]] confirmed by [e-mail to [bank email address]] Transmittal by facsimile or email shall be deemed delivered when received.

The original of this Letter of Credit (and all amendments, if any) is not required to be presented in connection with any presentment of a Drawing Certificate by Beneficiary hereunder in order to

receive payment.

We hereby agree with the Beneficiary that all documents presented under and in compliance with the terms of this Letter of Credit, that such drafts will be duly honored upon presentation to the Issuer on or before the Expiration Date. All payments made under this Letter of Credit shall be made with Issuer's own immediately available funds by means of wire transfer in immediately available United States dollars to Beneficiary's account as indicated by Beneficiary in its Drawing Certificate or in a communication accompanying its Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance.

It is a condition of this Letter of Credit that the Expiration Date shall be deemed automatically extended without an amendment for a one year period beginning on the present Expiration Date hereof and upon each anniversary for such date, unless at least one hundred twenty (120) days prior to any such Expiration Date we have sent to you written notice by overnight courier service that we elect not to extend this Letter of Credit, in which case it will expire on the date specified in such notice. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. In the event of an act of God, riot, civil commotion, insurrection, war or any other cause beyond Issuer's control (as defined in Article 36 of the UCP) that interrupts Issuer's business and causes the place for presentation of the Letter of Credit to be closed for business on the last day for presentation, the Expiration Date of the Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

[Bank Name]

[Insert officer name]
[Insert officer title]

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

The undersigned, a duly authorized representative of Silicon Valley Clean Energy Authority, a California joint powers authority, as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Renewable Power Purchase Agreement dated as of _____, 20__ (the "Agreement").
2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred or other occasion provided for in the Agreement where Beneficiary is authorized to draw on the letter of credit has occurred.

OR

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of Silicon Valley Clean Energy Authority and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to Silicon Valley Clean Energy Authority by wire transfer in immediately available funds to the following account:

[Specify account information]

Silicon Valley Clean Energy Authority

Name and Title of Authorized Representative

Date _____

EXHIBIT L

FORM OF GUARANTY

This Guaranty (this “**Guaranty**”) is entered into as of [_____] (the “**Effective Date**”) by and between [_____] a [_____] (“**Guarantor**”), Silicon Valley Clean Energy Authority, a California joint powers authority (together with its successors and permitted assigns, “**Buyer**”).

Recitals

- A. Buyer and [SELLER ENTITY], a _____ (“**Seller**”), entered into that certain Renewable Power Purchase Agreement (as amended, restated or otherwise modified from time to time, the “**PPA**”) dated as of [____], 20__.
- B. Guarantor is entering into this Guaranty as Performance Security to secure Seller’s obligations under the PPA, as required by Section 8.8 of the PPA.
- C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.
- D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received and subject to the terms and conditions hereof, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the 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 (the “**Guaranteed Amount**”), provided, that Guarantor’s aggregate liability under or arising out of this Guaranty shall not exceed _____ Dollars (\$_____). The Parties understand and agree that any payment by Guarantor or Seller of any portion of the Guaranteed Amount shall thereafter reduce Guarantor’s maximum aggregate liability hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other Person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the 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), (y) [need fixed termination date – term of PPA plus 6 months], or (z) 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.

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) subject to Section 10, any (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other Person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any Person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate corporate powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable Law or any contractual provisions binding on or affecting Guarantor, which would invalidate or materially impair Guarantor's ability to perform its obligations under this Guaranty, (d) except as disclosed in reports filed with the Securities and Exchange

Commission by Guarantor's parent, NextEra Energy, Inc., there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, materially adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four Business Days after mailing if sent by certified, first class mail, return receipt requested. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at
Attn:

If delivered to Guarantor, to it at
Attn:

8. Governing Law and Forum Selection. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of New York, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States or the courts of the State of California sitting in the City and County of Santa Clara, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the 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, which consent shall not be unreasonably withheld. This Guaranty is not assignable by Buyer without the prior written consent of Guarantor, which consent shall not be unreasonably withheld. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force

and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. Waiver of Jury Trial. BUYER (BY ITS ACCEPTANCE OF THIS GUARANTY) AND GUARANTOR EACH HEREBY IRREVOCABLY, INTENTIONALLY AND VOLUNTARILY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON RELATING HERETO OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY.

[Signature on next page]

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By: _____

Printed Name: _____

Title: _____

BUYER:

[_____]

By: _____

Printed Name: _____

Title: _____

By: _____

Printed Name: _____

Title: _____

EXHIBIT M

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this “**Notice**”) is delivered by [SELLER ENTITY] (“**Seller**”) to Silicon Valley Clean Energy Authority, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ (“**Agreement**”) by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.8(b) of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information¹

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid (“substation or transmission line”)	
Path 26 (North or South)	
LCR Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

¹ To be repeated for each unit if more than one.

[SELLER ENTITY]

By: _____

Its: _____

Date: _____

EXHIBIT N

NOTICES

Yellow Pine Energy Center I, LLC ("Seller")	Silicon Valley Clean Energy Authority ("Buyer")
<p>All Notices:</p> <p>Street: 700 Universe Blvd City: Juno Beach, FL 33408 Attn: Yellow Pine Energy Center I, LLC c/o Business Management Phone: [REDACTED] Email: [REDACTED]</p> <p>With a copy to:</p> <p>Street: 700 Universe Blvd City: June Beach, FL 33408 Attn: NextEra Energy Resources, LLC c/o General Counsel</p> <p>Email: [REDACTED]</p>	<p>All Notices:</p> <p>Street: 333 W. El Camino Real, Suite 290 City: Sunnyvale, California Zip: 94087 Attn: Girish Balachandran, CEO Phone: (408) 721-5301 Email: girish@svcleanenergy.org</p>
<p>Reference Numbers:</p> <p>Duns: [REDACTED] Federal Tax ID Number: [REDACTED]</p>	<p>Reference Numbers:</p> <p>Duns: [REDACTED] Federal Tax ID Number: [REDACTED]</p>
<p>Invoices:</p> <p>Attn: Yellow Pine Energy Center I, LLC c/o Business Management Phone: [REDACTED] E-mail: [REDACTED]</p>	<p>Invoices:</p> <p>Attn: Power Supply Group Phone: (408) 721-5301 Email: SVCEpowersettlements@svcleanenergy.org</p>
<p>Scheduling:</p> <p>Attn: NextEra Energy Marketing, LLC c/o Trading Manger Phone: [REDACTED] Facsimile: (561) 625-7604 E-mail: [REDACTED]</p>	<p>Scheduling:</p> <p>Attn: ZGlobal Phone: (916) 221-4327 Email: eric@zglobal.biz</p>
<p>Confirmations:</p> <p>Attn: Phone: Facsimile: E-mail:</p>	<p>Confirmations:</p> <p>Attn: Monica Padilla, Director of Power Resources Phone: (408) 721-5301 x1009 Email: monica.padilla@svcleanenergy.org</p>

<p>Yellow Pine Energy Center I, LLC ("Seller")</p>	<p>Silicon Valley Clean Energy Authority ("Buyer")</p>
<p>Payments: Attn: Yellow Pine Energy Center I, LLC c/o Business Management Phone: [REDACTED] E-mail: [REDACTED]</p>	<p>Payments: Attn: Finance Group Phone: (408) 721-5301 Email: SVCEpowersettlements@svcleanenergy.org</p>
<p>Wire Transfer: [Seller shall provide to Buyer the information below at least 60 days prior to the Commercial Operation Date.] BNK: ABA: ACCT:</p>	<p>Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED]</p>
<p>With additional Notices of an Event of Default to: Attn: General Counsel E-mail: [REDACTED]</p>	<p>With additional Notices of an Event of Default to: Hall Energy Law PC Attn: Stephen Hall Phone: (503) 313-0755 Email: steve@hallenergylaw.com</p>
<p>Emergency Contact: Attn: Phone: Facsimile: E-mail:</p>	<p>Emergency Contact: Attn: Monica Padilla, Director of Power Resources Phone: (408) 721-5301 x1009 Email: monica.padilla@svcleanenergy.org</p>

EXHIBIT O

STORAGE CAPACITY TESTS

Storage Capacity Test Notice and Frequency

A. Commercial Operation Date Storage Capacity Test. Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Storage Capacity Test prior to the Commercial Operation Date. Such initial Storage Capacity Test shall be performed in accordance with this Exhibit O and shall establish the initial Storage Contract Capacity hereunder based on the actual capacity of the Storage Facility determined by such Storage Capacity Test.

B. Subsequent Storage Capacity Tests. Following the Commercial Operation Date, but not more than once per Contract Year within the first quarter of each Contract Year, upon no less than ten (10) Business Days prior Notice to Seller, Buyer shall have the right to require Seller to schedule and complete a Storage Capacity Test. In addition, Buyer shall have the right to require a retest of the most recent Storage Capacity Test at any time upon no less than five (5) Business Days prior written Notice to Seller if Buyer provides data with such Notice reasonably indicating that the Storage Capacity has varied materially from the results of the most recent Storage Capacity Test. Seller shall have the right to perform a Storage Capacity Test or run a retest of any Storage Capacity Test at any time during any Contract Year upon five (5) Business Days' prior written Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice). Notwithstanding anything herein to the contrary, any revenues associated with a Storage Capacity Test that is initiated by Seller shall accrue to Buyer.

C. Test Results and Re-Setting of Storage Capacity. No later than five (5) days following any Storage Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include meter readings and plant log sheets verifying the operating conditions and output of the Storage Facility. In accordance with Section 4.9(c) of the Agreement and Part II(I) below, the actual capacity determined pursuant to a Storage Capacity Test (up to, but not in excess of, the original Storage Contract Capacity set forth on the Cover Sheet, as such original Storage Contract Capacity on the Cover Sheet may have been adjusted (if at all) pursuant to Exhibit B) shall become the new Storage Contract Capacity at the beginning of the day following the completion of the test for calculating the Storage Rate and all other purposes under this Agreement.

Storage Capacity Test Procedures

PART I. GENERAL.

Each Storage Capacity Test (including the initial Storage Capacity Test, each subsequent Storage Capacity Test, and all re-tests thereof permitted under paragraph B above) shall be conducted in accordance with Prudent Operating Practices and the provisions of this Exhibit O. For ease of reference, a Storage Capacity Test is sometimes referred to in this Exhibit O as a "**SCT**". Buyer or its representative may be present for the SCT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

PART II. REQUIREMENTS APPLICABLE TO ALL STORAGE CAPACITY TESTS.

- A. Purpose of Test. Each SCT shall:
- (1) Determine an updated Storage Contract Capacity;
 - (2) Determine the amount of Energy required to fully charge the Storage Facility;
 - (3) Determine the Storage Facility charge ramp rate;
 - (4) Determine the Storage Facility discharge ramp rate.
- B. Parameters. During each SCT, the following parameters shall be measured and recorded simultaneously for the Storage Facility, at a minimum of ten (10) minute intervals:
- (1) time (minutes);
 - (2) charging energy (MWh);
 - (3) discharging energy (MWh);
 - (4) Stored Energy Level (MWh).
- C. Site Conditions. During each SCT, the following conditions at the Site shall be measured and recorded simultaneously at thirty (30) minute intervals:
- (1) Relative humidity (%); and
 - (2) Ambient air Temperature (°F).
- D. Test Elements. Each SCT Shall include the following test elements:
- (1) The discharging of the Storage Facility to 0% Stored Energy Level;
 - (2) The charging of the Storage Facility at a constant power charge rate equal to the Storage Contract Capacity as of the commencement of the Storage Capacity Test;
 - (3) The measurement of the time from when the charge signal is sent until the constant power charge rate is achieved (dividing the constant power charge rate by this measurement will determine the updated charging ramp rate);
 - (4) The measurement of Energy, as measured by the Storage Facility Meter, that is required to charge the Storage Facility until either a 100% Stored Energy Level is achieved or the constant power charge rate starts to de-rate;

- (5) The discharging of the Storage Facility at a constant power discharge rate equal to the Storage Contract Capacity as of the commencement of the Storage Capacity Test;
- (6) The measurement of the time from when the discharge signal is sent until the constant power discharge rate is achieved (dividing the constant power charge rate by this measurement will determine the updated discharging ramp rate);
- (7) The measurement of Energy, as measured by the Storage Facility Meter, that is discharged from the Storage Facility to the Delivery Point until either a 0% Stored Energy Level is achieved or the constant power charge rate starts to de-rate (the Energy discharged divided by four (4) will determine the new Storage Contract Capacity).

E. Test Conditions.

- (1) General. At all times during a SCT, the Storage Facility shall be operated in compliance with Prudent Operating Practices and all operating protocols recommended, required or established by the manufacturer for operation.
- (2) Abnormal Conditions. If abnormal operating conditions that prevent the recordation of any required parameter occur during a SCT (including a level of irradiance that does not permit the Generating Facility to produce sufficient Charging Energy), Seller may postpone or reschedule all or part of such SCT in accordance with Part II.F below.
- (3) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the SCT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice.

F. Incomplete Test. If any SCT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the SCT stopped; (ii) require that the portion of the SCT not completed, be completed within a reasonable specified time period; or (iii) require that the SCT be entirely repeated. Notwithstanding the above, if Seller is unable to complete a SCT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the PTO or the Transmission Provider, Seller shall be permitted to reconduct such SCT on dates and at times reasonably acceptable to the Parties.

G. Final Report. Within fifteen (15) Business Days after the completion of any SCT, Seller shall prepare and submit to Buyer a written report of the results of the SCT, which report shall include:

- (1) a record of the personnel present during the SCT that served in an operating, testing, monitoring or other such participatory role;

- (2) the measured data for each parameter set forth in Part II.A through D, as applicable, including copies of the raw data taken during the test;
- (3) the current level of storage contract capacity, the amount of Energy required to fully charge the battery, the current charge and discharge ramp rate, and the Maximum Stored Energy Level, each determined by the SCT, including supporting calculations; and
- (4) Seller's statement of either Seller's acceptance of the SCT or Seller's rejection of the SCT results and reason(s) therefor.

Within ten (10) Business Days after receipt of such report, Buyer shall notify Seller in writing of either Buyer's acceptance of the SCT results or Buyer's rejection of the SCT and reason(s) therefor.

If either Party reasonably rejects the results of any SCT, such SCT shall be repeated in accordance with Part II.F.

- H. Supplementary Storage Capacity Test Protocol. No later than sixty (60) days prior to commencing Facility construction, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Storage Capacity Tests based on the then current design of the Facility ("**Supplementary Storage Capacity Test Protocol**"). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) any Seller recommended updates to the then current Supplementary Storage Capacity Test Protocol. The initial Supplementary Storage Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed an amendment to this Exhibit O.
- I. Adjustment to Storage Contract Capacity. The total amount of discharged Energy delivered to the Delivery Point (expressed in MWh AC) during each of the first four hours of discharge (up to, but not in excess of, the product of (i) the original Storage Contract Capacity set forth on the Cover Sheet, as such original Storage Contract Capacity on the Cover Sheet may have been adjusted (if at all) under this Agreement, multiplied by (ii) 4 hours) shall be divided by four hours to determine the Storage Contract Capacity, which shall be expressed in MW AC, and shall be the new Storage Contract Capacity in accordance with Section 4.9(c) of the Agreement.

EXHIBIT P

STORAGE FACILITY AVAILABILITY

Monthly Storage Availability

(a) Calculation of Monthly Storage Availability. Seller shall calculate the “Monthly Storage Availability” in a given month using the formula set forth below:

$$\text{Monthly Storage Availability (\%)} = \frac{[\text{MNTHHRS}_m - \text{UNAVAILHRS}_m]}{[\text{MNTHHRS}_m]}$$

where:

m = relevant month “ m ” in which availability is calculated;

MNTHHRS_m is the total number of On-Peak Hours for the month;

UNAVAILHRS_m , is the total number of On-Peak Hours in the month during which the Storage Facility was unavailable to deliver Storage Product for any reason other than the occurrence of any of the following (each, an “Excused Event”): a Force Majeure Event, Market Curtailment Orders, Curtailment Orders, Buyer Default, Storage Capacity Tests, System Emergencies, or Planned Outage [REDACTED] or the Operating Restrictions in Exhibit Q. To be clear, hours of unavailability caused by any Excused Event will not be included in UNAVAILHRS_m for such month. Any other event that results in unavailability of the Storage Facility for less than a full hour will count as an equivalent percentage of the applicable hour(s) for this calculation. Additionally, if during any applicable hour the Storage Facility is available, but for less than the full amount of the then effective Storage Contract Capacity, the UNAVAILHRS_m for such hour shall be calculated as an equivalent percentage of such hour in proportion to the amount of available Storage Contract Capacity.

If the Storage Facility or any component thereof was previously deemed unavailable for an hour or part of an hour, and Seller provides a revised Notice indicating the Storage Facility is available for that hour or part of an hour by 5:00 a.m. of the morning Buyer schedules or bids the Storage Facility in the Day-Ahead Market, the Storage Facility will be deemed to be available to the extent set forth in the revised Notice.

If the Storage Facility or any component thereof was previously deemed unavailable for an hour or part of an hour and Seller provides a revised Notice indicating the Storage Facility is available for that hour or part of an hour at least sixty (60) minutes prior to the time the Buyer is required to schedule or bid the Storage Facility in the Real-Time Market, and the Storage Facility is dispatched in the Real-Time Market, the Storage Facility will be deemed to be available to the extent set forth in the revised Notice.

Availability Adjustment

The applicable “**Availability Adjusted Storage Contract Capacity**” is calculated by multiplying the Storage Contract Capacity by the Availability Adjustment (“**Availability Adjustment**” or “**AA**”), which is calculated as follows:

- (i) If the Monthly Storage Availability is greater than or equal to the Guaranteed Storage Availability, then:

$$AA = 100\%$$

- (ii) If the Monthly Storage Availability is less than the Guaranteed Storage Availability, but greater than or equal to [REDACTED], then:

$$AA = [REDACTED]$$

- (iii) If the Monthly Storage Availability is less than [REDACTED], then:

[REDACTED]

EXHIBIT Q
OPERATING RESTRICTIONS

The Storage Facility shall be subject to the following Operating Restrictions:

No later than ninety (90) days prior to the Commercial Operation Date, the Operating Committee, which shall be comprised of representatives of Buyer and Seller, shall finalize the Operating Restrictions. The final Operating Restrictions shall be no more restrictive than as set forth below without the written consent of Buyer. The Operating Restrictions may be reviewed annually (date and time to be mutually agreed) to optimize operations for both Parties. The Parties shall cooperate to integrate the systems and controls necessary to implement the Operating Restrictions.

I. Operating Restrictions:



II. Data Points to Be Sent from Seller to Buyer Via SCADA

The following data points will be transmitted via SCADA from Seller to Buyer and represent energy storage level data:

Table 1

<u>Energy Storage</u>	
<u>Description</u>	<u>Units</u>
Real Power Set-Point (echo)	MW
Actual Real Power	MW
Actual Reactive Power	MVar
Stored Energy Level	MWh
Remaining Throughput (Contract Year)	MWh

YTD average Stored Energy Level (Contract Year)	MWh/day
Maximum Allowable Stored Energy Level	MWh
Additional Data Points Reserved for Future Use	

The following data points will be transmitted via SCADA from Buyer to Seller and represent energy storage level data:

Table 2

<u>Energy Storage</u>	
<u>Description</u>	<u>Units</u>
Charge Power Set-Point*	MW
Discharge Power Set-Point*	MW
Duration of Charge/Discharge Set-Point*	minutes
Target Stored Energy Level*	%
Ramp Rate	MW/s
Control Mode (target time or target SOC)	Boolean
Additional Data Points Reserved for Future Use	

* Parties will resolve any conflicts in priority of signal in the Operating Procedures.

Data points transmitted via SCADA from Seller to Buyer are subject to Operating Restrictions.

1. Response times of Storage Facility. The Operating Restrictions will include protocols that outline the expectations for responding to Buyer's set points.
2. Backup Communications. In the event of a communications failure, Buyer and Seller shall communicate via telephone in order to correct the failure.

EXHIBIT R
METERING DIAGRAM

EXHIBIT S
FORM OF LENDER CONSENT



Silicon Valley Clean Energy Board of Directors Meeting

May 13, 2020

Appendix A

Power Resource Contracts Executed by CEO

CONFIRMATION

This confirmation agreement (“Confirmation”) confirms the Transaction between **TransAlta Energy Marketing (U.S.) Inc.** (“Purchaser”) and **Silicon Valley Clean Energy Authority** (“Seller”), each individually a “Party” and together the “Parties,” dated as of April 3, 2020 (“Effective Date”) regarding the sale and purchase of electric capacity and/or electric energy under the terms and conditions set forth below.

Transaction Number:	669274 - AMENDMENT												
Purchaser:	TransAlta Energy Marketing (U.S.) Inc.												
Seller:	Silicon Valley Clean Energy Authority												
Trade Date:	April 3, 2020												
Type of Transaction:	Inter-SC Trade												
Term and Delivery Period:	April 6, 2020 through April 30, 2020 for all hours Monday through Sunday, including NERC Holidays, beginning Hour Ending (“HE”) HE0100 through 2400 (24 Hours) Pacific Prevailing Time (PPT)												
Contract Quantity:	<table border="1"> <thead> <tr> <th colspan="3">MW Per Month</th> </tr> <tr> <th>Calendar</th> <th colspan="2">2020</th> </tr> <tr> <th>Month</th> <th>Peak MW</th> <th>Off Peak MW</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	MW Per Month			Calendar	2020		Month	Peak MW	Off Peak MW			
MW Per Month													
Calendar	2020												
Month	Peak MW	Off Peak MW											
Contract Volume:													
Contract Price:													
Delivery Point:	CAISO NP15												

Governing Terms: This Transaction is governed by the terms and conditions of the EEI Master Agreement dated July 24, 2017, along with any schedules and amendments thereto (collectively, the “Master Agreement”), and is subject to all the terms and provisions of such agreement. The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement”. If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement.

Counterparts: This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

Entire Agreement; No Oral Agreements Or Modifications: This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a written agreement executed by both

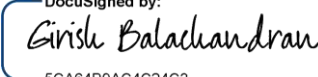
Parties, and no amendment or modification to this Confirmation shall be enforceable except through a written agreement executed by both Parties.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

**TRANSALTA ENERGY MARKETING
(U.S.) Inc.**

**SILICON VALLEY CLEAN ENERGY
AUTHORITY**

By: Shauna Britton

By: 
5CA64B9AC4C24C3...

Name: Shauna Britton

Name: Girish Balachandran

Title: Confirmation Coordinator

Title: CEO

Date: 04/06/2020

Date: 4/6/2020



May 04, 2020

Deal No.

3688980

SILICON VALLEY CLEAN ENERGY AUTHORITY

650 W OLIVE AVE,

SUNNYVALE, CA 94086-7637

Fax: 1-713-265-2175

202BE066

CONFIRMATION AGREEMENT

This confirmation agreement (this "Confirmation" or "Agreement") shall confirm the agreement reached on May 01, 2020, between Shell Energy North America (US), L.P. ("Shell Energy") and SILICON VALLEY CLEAN ENERGY AUTHORITY ("CounterParty") (herein sometimes referred to as a "Party" and collectively as the "Parties") regarding the sale of electric capacity and/or electric energy under the terms and conditions set forth below.

BUYER: SILICON VALLEY CLEAN ENERGY AUTHORITY

SELLER: Shell Energy North America (US), L.P.

PRODUCT/FIRMNESS: FIRM

PERIOD OF DELIVERY	01/01/2021 through 01/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays

PERIOD OF DELIVERY	02/01/2021 through 02/28/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays

PERIOD OF DELIVERY	03/01/2021 through 03/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays

PERIOD OF DELIVERY	04/01/2021 through 04/30/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays

PERIOD OF DELIVERY	05/01/2021 through 05/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays

PERIOD OF DELIVERY	06/01/2021 through 06/30/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays

Deal No.

3688980

PERIOD OF DELIVERY	07/01/2021 through 07/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays
PERIOD OF DELIVERY	08/01/2021 through 08/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays
PERIOD OF DELIVERY	09/01/2021 through 09/30/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays
PERIOD OF DELIVERY	10/01/2021 through 10/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays
PERIOD OF DELIVERY	11/01/2021 through 11/30/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays
PERIOD OF DELIVERY	12/01/2021 through 12/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	Monday thru Saturday, Hours ending 0700 thru 2200 Excluding NERC Holidays
PERIOD OF DELIVERY	01/01/2021 through 01/31/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400
PERIOD OF DELIVERY	02/01/2021 through 02/28/2021
QUANTITY:	[REDACTED]
PRICE:	[REDACTED]
DELIVERY POINT(S):	NP 15 EZ Gen Hub
SCHEDULING:	NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

Deal No.

3688980

PERIOD OF DELIVERY 03/01/2021 through 03/31/2021
QUANTITY: [REDACTED]
PRICE: [REDACTED]
DELIVERY POINT(S): NP 15 EZ Gen Hub
SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 04/01/2021 through 04/30/2021
QUANTITY: [REDACTED]
PRICE: [REDACTED]
DELIVERY POINT(S): NP 15 EZ Gen Hub
SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 05/01/2021 through 05/31/2021
QUANTITY: [REDACTED]
PRICE: [REDACTED]
DELIVERY POINT(S): NP 15 EZ Gen Hub
SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 06/01/2021 through 06/30/2021
QUANTITY: [REDACTED]
PRICE: [REDACTED]
DELIVERY POINT(S): NP 15 EZ Gen Hub
SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 07/01/2021 through 07/31/2021
QUANTITY: [REDACTED]
PRICE: [REDACTED]
DELIVERY POINT(S): NP 15 EZ Gen Hub
SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 08/01/2021 through 08/31/2021
QUANTITY: [REDACTED]
PRICE: [REDACTED]
DELIVERY POINT(S): NP 15 EZ Gen Hub
SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 09/01/2021 through 09/30/2021
QUANTITY: [REDACTED]
PRICE: [REDACTED]
DELIVERY POINT(S): NP 15 EZ Gen Hub
SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

Deal No.

3688980

PERIOD OF DELIVERY 10/01/2021 through 10/31/2021
 QUANTITY: [REDACTED]
 PRICE: [REDACTED]
 DELIVERY POINT(S): NP 15 EZ Gen Hub
 SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 11/01/2021 through 11/30/2021
 QUANTITY: [REDACTED]
 PRICE: [REDACTED]
 DELIVERY POINT(S): NP 15 EZ Gen Hub
 SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

PERIOD OF DELIVERY 12/01/2021 through 12/31/2021
 QUANTITY: [REDACTED]
 PRICE: [REDACTED]
 DELIVERY POINT(S): NP 15 EZ Gen Hub
 SCHEDULING: NERC Holidays , Hours ending 0100 thru 2400; Monday thru Saturday, Hours ending 0100 thru 0600; Monday thru Saturday, Hours ending 2300 thru 2400; Sunday thru Sunday, Hours ending 0100 thru 2400

TIME ZONE: PPT
 TOTAL MWH: [REDACTED]

SPECIAL CONDITIONS: Seller and Buyer agree to notify each other as soon as practically possible of any interruption or curtailment affecting this transaction. Buyer should notify Shell Energy at 1-(800) 267-2562.

SUBJECT TO MASTER AGREEMENT EEI DATED: 11/28/2016

This Confirmation sets forth the terms of the transaction into which the Parties have entered into and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of electric energy and/or electric capacity please have this confirmation executed by an authorized representative or officer of your company and return via facsimile to (713) 767 5414. If no facsimile objection to this Confirmation has been received by Shell Energy by facsimile transmission by 5:00 p.m., Houston, Texas time, five (5) business days after delivery of this Confirmation to the other Party by facsimile, then this Confirmation (i) shall be binding and enforceable against Counterparty and Shell Energy and (ii) shall be the final expression of all the terms hereof, regardless whether executed by the other Party.

SILICON VALLEY CLEAN ENERGY AUTHORITY

Shell Energy North America (US), L.P.

DocuSigned by:

Girish Balachandran

By: 5CA84B9AC4C24C3...
 Name: GIRISH Balachandran
 Title: CEO
 Date: 5/4/2020

John W. Pillion

By: _____
 Name: John W. Pillion
 Title: Confirmations Team Lead
 Date: 05/04/2020

**IMPORT RA PRODUCT
CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY
AND
3 PHASES RENEWABLES INC.**

This confirmation letter (“Confirmation”) confirms the Transaction between 3 Phases Renewables Inc. (“Seller”) and Silicon Valley Clean Energy, a California joint powers authority, (“Buyer”), each individually a “Party” and together the “Parties,” dated as of April 22, 2020 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product. This Transaction is governed by the terms and conditions of the Western System Power Pool Agreement effective as of the Confirmation Effective Date, together with any and all exhibits, schedules or supplements thereto or incorporated therein by reference, as amended or modified, each in force and effect from time to time between the Parties (collectively, the “Master Agreement”), as amended and supplemented by this Confirmation, under the following terms and conditions. The definitions and provisions contained in this Confirmation, the Master Agreement, the RA Rules (as defined herein), and in the tariffs and/or protocols of the California Independent System Operator (“CAISO”) as amended from time to time (the “CAISO Tariff” or the “Tariff”), shall apply to this Confirmation and are incorporated by reference; provided that, to the extent that this Confirmation is inconsistent with any provision of the Master Agreement, this Confirmation shall govern the rights and obligations of the Parties hereunder. Consistent with Sections 32 and 35 of the Master Agreement, this Confirmation, together with all other transactions, confirmations (as defined in the Master Agreement) and the Master Agreement, form a single integrated agreement between the Parties and are not separate contracts. This Confirmation supersedes and replaces any prior oral or written confirmation or agreement, including broker confirmations, regarding this Transaction.

ARTICLE 1 DEFINITIONS

11 “Contract Quantity” means the amount of Import RA Product stated in megawatts (“MW”) in Section 5.1(b). The Import RA Product shall be self-scheduled into the CAISO IFM in accordance with Section 4.2 below, unless self-scheduling is not required pursuant to Section 4.2.

12 “Import Energy Product” has the meaning set forth in CPUC D.04-10-035, D.05-10-042, and D.19-10-021, as may be revised on rehearing.

13 “Import Resource Adequacy (RA) Product” or “Import RA Product” means Resource Adequacy Capacity, as defined by Appendix A to the CAISO Tariff, that meets the following requirements: (a) is an Import Energy Product with operating reserves, (b) cannot be curtailed for economic reasons, and (c) is (i) delivered on transmission that cannot be curtailed in operating hours for economic reasons or bumped by higher priority transmission or (ii) specifies a firm delivery point (i.e., not Seller’s choice). The Import RA Product is delivered from the System Resource and can be counted toward Buyer’s RAR as described in the applicable RA Rules, and all other resource adequacy requirements established by any other regional entity responsible for RAR. Notwithstanding the foregoing, Buyer and Seller acknowledge and agree that any Energy self-scheduled by Seller into the CAISO IFM pursuant to Section 4.2 will be delivered to the

CAISO, and not to Buyer, and Buyer shall have no right to take delivery or possession of, no title to, nor any ownership interest in any Energy generated by the System Resource and delivered to the CAISO. For the purposes of the preceding sentence and Section 4.2, the capitalized term “Energy” shall have the meaning ascribed by Appendix A to the CAISO Tariff.

14 “Monthly Import RA Capacity Payment” has the meaning provided for in Article 6 hereof.

15 “Non-Resource-Specific Import RA Product” means Import RA Product from a RA import resource that does not meet the requirements of a “resource-specific” RA import as defined under the RA Rules.

16 “Product” means Import RA Product as defined herein.

17 “RA Capacity Delivery Point” means the CAISO Scheduling Point PVWEST which maps to the CAISO Branch Group PALOVERDE_ITC where Buyer holds intertie import capability, or another location as agreed to in writing by the Parties.

18 “Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for Buyer by the California Public Utilities Commission (“CPUC”) pursuant to the RA Rules, or by any other governmental body having jurisdiction.

19 “RA Rules” means orders of the California Public Utilities Commission (CPUC) as contained in D.04-01-050, D.04-10-035, D.05-10-042, D.06-04-040, D.06-06-064, D.06-07-031, D. 06-12-037, D.07-06-029, D.08-06-031, D.09-06-028, D.10-06-036, D.10-12-038, D.11-06-022, D.11-10-003, D.12-06-025, D.13-06-024, D.14-06-050, D.15-06-063, D.16-06-045, D.17-06-027, D.19-10-021 and any other existing, subsequent, or modifying decisions, resolutions, orders or rulings issued by the CPUC from time to time in the Resource Adequacy phases of Rulemaking R.04-04-003, R.05-12-013, R.08-01-025, R.09-10-032, R.11-10-023, R.14-02-001, R.14-10-010, R.17-09-020 and R.19-11-009 or by any applicable successor proceeding.

110 “System Resource” means one or more of a group of resources located outside of the CAISO Control Area capable of providing Energy and/or Ancillary Services to the RA Capacity Delivery Point.

ARTICLE 2 TRANSACTION TERMS AND CONDITIONS

2.1 Seller and Buyer acknowledge and agree that, subject to meeting the other terms and conditions of this Confirmation, Seller shall have the sole discretion to designate the Import RA Product provided for under this Confirmation as either a Resource-Specific Import RA Product or a Non-Resource-Specific Import RA Product pursuant to Section 4.2.

ARTICLE 3 FURTHER ASSURANCES; REPRESENTATIONS AND WARRANTIES

3.1 Throughout the Delivery Term, Seller and Buyer shall take all commercially reasonable actions and execute any and all documents or instruments, including attestations reasonably

necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's or subsequent purchaser's RAR in accordance with Section 9 herein consistent with the Tariff and RA Rules. Such commercially reasonable actions may include but are not limited to the following:

- (a) Meeting requirements established by the Tariff and CPUC in its RA counting protocols, including demonstration of the ability to deliver the Contract Quantity over the hours of the Delivery Term required for full RAR eligibility of the Contract Quantity in accordance with Section 1.1 herein, and demonstrating that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CPUC or other regional entity or entities responsible for RA administration, and provision of a Supply Plan to the CAISO by Seller's Scheduling Coordinator and sufficient information to allow for the submission of a complete Resource Plan by Buyer's Scheduling Coordinator;
- (b) Negotiating in good faith to make necessary amendments, if any, to this Transaction to conform this Transaction to subsequent clarifications, revisions or decisions rendered by the CPUC or regional entity or entities responsible for RA administration, so as to maintain the benefits of the bargain struck by the Parties; and
- (c) At all times using "Good Utility Practice" as defined in the Tariff.

3.2 Seller represents and warrants that throughout the Delivery Term:

- (a) Buyer or subsequent purchaser has the exclusive right to count the Contract Quantity of Import RA Product from Seller's System Resource toward Buyer's or subsequent purchaser's RAR;
- (b) No portion of the Contract Quantity of Import RA Product is curtailable for economic reasons or has been committed by Seller to any third party in order to satisfy RAR or analogous capacity obligations in other markets; and
- (c) Seller shall abide by all applicable CAISO Tariff provisions and procedures approved by the Federal Energy Regulatory Commission ("FERC"), and RA Rules approved by the CPUC as they apply to the Import RA Product.

3.3 For the avoidance of doubt, if approved by the CPUC and/or the CAISO, Seller may replace any Product necessary for Buyer to make its equivalent RA demonstration with another System Resource.

ARTICLE 4 CAISO DISPATCH REQUIREMENTS

4.1 Unless the System Resource is affected by an event of force majeure that results in a partial or full transmission outage reducing the amount of Contract Quantity, Seller shall commit the full Contract Quantity to the CAISO in compliance with the applicable provisions of the Tariff implementing the RA Rules, including, without reservation, section 40.6 of the Tariff. Buyer shall

have no liability for the failure of Seller to comply with such Tariff provisions, including any penalties or fines imposed on Seller for such noncompliance.

4.2 Seller agrees that, in compliance with Section 40.6 of the Tariff, during the Delivery Term Seller shall self-schedule the Energy associated with the Contract Quantity into the CAISO Day Ahead Integrated Forward Market (“Integrated Forward Market” or “IFM”) at the RA Capacity Delivery Point of the Import RA Product at a minimum during the Timeframe, as adjusted for any outages or reductions in Contract Quantity reported to the CAISO in accordance with the Tariff. “Timeframe” means the hours of 4:00 to 9:00 pm PST, inclusive, or any other hours the CAISO may identify as Availability Assessment Hours (“AAH”) during the Delivery Term of this Confirmation. In compliance with Section 40.6 of the Tariff, Seller shall submit a bid or a self-schedule or have a bid submitted on the Seller’s behalf by the CAISO into the IFM in all hours not covered in the Timeframe. Seller shall self-schedule a sufficient number of hours, inclusive of those scheduled during the AAH window, during each month of the Delivery Term such that the total number of hours self-scheduled into the CAISO Integrated Forward Market is greater than or equal to 160 hours per month. In the event that D.19-10-021 is, in part or in its entirety, stayed, vacated, set aside, annulled, rescinded, replaced, superseded, revised or its enforcement enjoined by the CPUC, the FERC or a court of competent jurisdiction, such that the Energy associated with a Non-Resource-Specific Import RA Product does not need to be self-scheduled into the Integrated Forward Market in order for the Import RA Product to be eligible to meet Buyer’s RAR under the RA Rules as per ordering paragraphs 2 and 3 of D.19-10-021, then Seller shall not be subject to the self-scheduling obligation set forth by this Section 4.2 to the extent and for any period of time in the Delivery Term during which self-scheduling is not required in order for the Contract Quantity to be eligible to meet Buyer’s RAR.

ARTICLE 5 CONTRACT QUANTITY AND DELIVERY TERM

5.1 Contract Quantity and Delivery Term

- (a) Delivery Term: [REDACTED]
- (b) Contract Quantity:
 - i. [REDACTED]
- (c) Intertie Resource ID: [REDACTED]

ARTICLE 6 MONTHLY IMPORT RA PRODUCT PAYMENT

With respect to each Showing Month, Buyer shall make a payment to Seller for each Unit, in arrears, after Seller’s delivery of the Import RA Capacity, which shall be considered to be “delivered” for purposes of this Confirmation when the CIRA Tool shows the Supply Plan accepted for the Import RA Capacity from the Unit(s) by CAISO (the “Monthly Import RA Capacity Payment”). The Parties hereby agree that all invoices under this Confirmation shall be due and payable on the twentieth (20th) day of the month following Seller’s delivery of the Import RA Capacity, provided that if such day is not a Business Day, then such invoice will be due and

payable on the next Business Day that occurs after the twentieth (20th) day of such month. Each Unit's Monthly Import RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Contract Quantity for the Monthly Delivery Period, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, that the invoice shall be adjusted for any Contract Quantity that was not delivered for such Showing Month.

Contract Price:



Buyer shall pay the Contract Price to Seller in accordance with the Master Agreement.

**ARTICLE 7
BUYER'S AND SELLER'S SCID**

Buyer: LSVCE

Seller: TPES

**ARTICLE 8
CAISO REVENUES**

Seller shall retain any and all revenues received from the CAISO in relation to this Transaction.

**ARTICLE 9
RESALE OF IMPORT RA PRODUCT**

9.1 Buyer may re-sell all or a portion of the Contract Quantity and any associated rights, in each case, acquired under this Transaction. In the event Buyer re-sells all or a portion of the Contract Quantity of Import RA Product and any associated rights acquired under this Transaction ("Resold Import RA Product") Seller agrees to follow Buyer's instructions with respect to providing such Resold Import RA Product to subsequent purchasers of such Resold Import RA Product. Seller further agrees to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Import RA Product, provided the foregoing shall not require Seller to enter into any agreements or transactions directly with any such subsequent purchaser.

9.2 Seller's obligations under this Section 9 are contingent on Buyer notifying Seller with the information required by this Section 9 no later than five (5) Business Days prior to the deadline for filing the Supply Plan for the Resold Import RA Product. Further, any resale of Import RA Product by Buyer to a subsequent purchaser must be permitted under the RA Rules, Tariff, CAISO business practices and applicable law, and Seller shall not be required to take any action hereunder or execute any documents or instruments that would not be permitted under the Tariff, CAISO business practices or applicable law.

9.3 In the event there is any Resold Import RA Product, Buyer agrees to notify Seller that such a sale has occurred and agrees to provide Seller with the information specified below promptly

following such sale (and any other information reasonably requested by Seller so that Seller may perform its obligations in this Section 9) and promptly notify Seller of any subsequent changes to such information with respect to any particular sale:

- i. Benefitting load serving entity SC identification number (SCID),
- ii. Volume (in MW) of Resold Import RA Product,
- iii. Subsequent Sale delivery period for Resold Import RA Product.

ARTICLE 10

ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

10.1 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement:

- (a) (i) Buyer may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit's SC or as necessary for Supply Plans; and (iii) Buyer may disclose information to any subsequent purchaser. Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the disclosing party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as confidential. Over-designation would include stamping whole agreements, entire pages or series of pages as Confidential that clearly contain information that is not confidential.
- (b) Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("Requested Confidential Information"), Buyer will as soon as practical notify Seller in writing via email that such request has been made. Seller will be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer.

10.2 Indemnification

To the extent Seller fails to fulfill its obligations under this Confirmation and such failure is not excused under this Confirmation or the Master Agreement or by Buyer's (or any purchaser of Resold Import RA Product) failure to perform, then Seller agrees to indemnify Buyer for:

- (a) monetary penalties, directly resulting from Seller's nonperformance hereunder, assessed against Buyer by the CPUC or the CAISO, as applicable, pursuant to the RA Rules or Tariff as applicable as of the date of this Confirmation, but only to the

extent such penalties being assessed could not be avoided by Buyer following notice from Seller of its nonperformance; and

- (b) costs of any RA Capacity incurred by Buyer to address a deficiency hereunder, using reasonable efforts to procure a product similar in price to Import RA Product, in such quantity equal to the Contract Quantity less the quantity of Import RA Product provided to Buyer by Seller hereunder. At Seller's discretion, in lieu of reimbursing Buyer for the costs set out in this Section 10.3, Seller may provide RA Capacity to Buyer, provided such RA Capacity meets the requirements of the RA Rules and the Tariff.

10.3 Change in Law

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

If the Parties cannot reach agreement on any such amendments to this Confirmation within the earlier of (i) 30 days following initiation of discussions regarding the Change in Law ("Negotiation Period"), or (ii) 5 Business Days prior to the deadline for filing the Supply Plan, to the extent practicable and lawful, the Parties shall perform their respective obligations hereunder in accordance with the RA Rules, Tariff or other applicable laws, regulations or rules prior to the Change in Law; provided, however, that if the Change in Law results in the Product no longer being able to be counted towards Buyer's Resource Adequacy Requirements, then Buyer may terminate this Confirmation, 5 or more Business Days prior to the deadline for filing the Supply Plan, upon written notice to Seller, which shall be effective the next Business Day after such notice is received, and any such termination shall be without liability to either Party.

10.4 Governing Law

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

10.5 Collateral

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

10.6 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.) and is a public entity separate from its constituent members. Buyer will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Seller will have no rights and will not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Buyer or Buyer's constituent members, in connection with this Confirmation.

10.7 Other WSPP Agreement Changes

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

- (a) Section 22.3 of the WSPP Agreement is amended by:

In Section 22.3(c), deleting the third sentence thereof and replacing it with the following: "If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary."

- (b) Section 28.1 of the WSPP Agreement shall be applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.
- (c) Subsections 34.1 and 34.2 of the WSPP Agreement are hereby deleted and replaced with the following:

"34.1 INFORMAL DISPUTE RESOLUTION

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

"34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY

OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”

- (d) The phrase “arbitration or” is hereby deleted from the first line of Section 34.4.
- (e) The following shall be inserted as a new Section 34.5:

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

- (f) Section 37 of the WSPP Agreement is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.
- (g) Section 41 “Witness” of the WSPP Agreement shall become Section 42 and the following “Standard of Review” Section substituted in its place:

“The Parties agree as follows:

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

- i. Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether

proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the “Mobile-Sierra” doctrine) and clarified in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish 554 U.S. 527 (2008) and NRG Power Marketing LLC v. Maine Pub. Util. Comm’n, 558 U.S. 165 (2010).

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

10.8 Counterparts

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

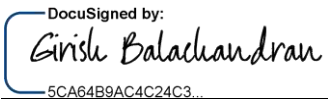
10.9 Entire Agreement; No Oral Agreements or Modifications

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

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

SILICON VALLEY CLEAN ENERGY,
a California joint powers authority

3 PHASES RENEWABLES INC.

By: 
5CA64B9AC4C24C3...

Name: Girish Balachandran

Title: CEO

By:  Digitally signed
by Eric Hulin

Name: Eric Hulin

Title: Director, Sales & Marketing

**IMPORT CAPABILITY TRANSFER
CONFIRMATION LETTER
BETWEEN
SILICON VALLEY CLEAN ENERGY AUTHORITY
AND
CITY AND COUNTY OF SAN FRANCISCO, ACTING BY
AND THROUGH ITS PUBLIC UTILITIES COMMISSION,
CLEANPOWERSF**

This confirmation letter including all appendices hereto (“Confirmation”) confirms the Transaction between **Silicon Valley Clean Energy Authority**, a California joint powers authority (“Buyer”) and **City and County of San Francisco, acting by and through its Public Utilities Commission, CleanPowerSF** (“Seller”), each individually a “Party” and together the “Parties”, dated as of April 24, 2020 (the “Confirmation Effective Date”) in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation, in the amounts described in this Confirmation. This Confirmation is governed by the terms and conditions of the WSP Agreement effective as of January 25, 2020, along with any schedules and amendments thereto (collectively, the “Master Agreement”). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.” If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

**ARTICLE 1
TRANSACTION**

1.1 Product

Seller shall sell and transfer to Buyer, and Buyer shall purchase and receive from Seller, the Remaining Import Capability (the “Product”), at the Delivery Points in the amount of the Contract Quantity at the Contract Price for the Delivery Period.

1.2 Delivery Period and Term

(a) 

(b) Term. The Term of this Transaction shall commence upon the Confirmation Effective Date and shall continue until the later of (i) the expiration of the Delivery Period or (ii) the date that the Parties’ obligations under this Confirmation have been satisfied. This Confirmation shall be effective and binding as of the Confirmation Effective Date.

1.3 Contract Quantity

For the Delivery Period, Seller shall transfer the Product to Buyer in the amount as follows (the “Contract Quantity”).

Contract Quantity (MW)

Contract Year	Contract Month	Contract Quantity (MWs)
[REDACTED]		

1.4 Contract Price

The Contract Price means, for any Contract Month, the price specified in the Contract Price table as set forth below.

CONTRACT PRICE TABLE

Contract Year	Contract Month	Contract Price (\$/kW-
[REDACTED]		

1.5 Delivery Points

The Delivery Points shall be [REDACTED]

ARTICLE 2

DELIVERY OBLIGATIONS

2.1. Delivery

Within three (3) Business Days from the Confirmation Effective Date, Seller shall transfer the Product to Buyer by registering the transfer with CAISO as a Bilateral Import Transfer Capability in the amount of the Contract Quantity for the applicable Contract Month, and completing any other action or documentation required by the CAISO to effect such transfer (the "Registration").

2.2. Buyer's Re-Sale of Product

Buyer may re-sell all or a portion of the Product acquired under this Confirmation.

ARTICLE 3 PAYMENT

3.1 One-Time Payment

Buyer shall make a One-Time Payment to Seller for the Product on the twenty-third (23rd) day of the month occurring at least five (5) Business Days after receipt of Seller's invoice.

The One-Time Payment is calculated as follows:

$$\text{One-Time Payment} = \sum_{ii}^{nn} (A_{ii} \times B_{ii} \times 1,000)$$

where: A = Contract Price (in \$/kW-month) for Contract Month *i*

B = Contract Quantity *i* (in MW) transferred by Seller for Contract Month *i*

i = Each Contract Month

n = number of Contract Months

The One-Time Payment calculation shall be rounded to two decimal places.

3.2 Offset Rights

Either Party may offset any amounts owing to it for revenues, penalties, fines, costs reimbursement, or other payments pursuant to Section 9 of the Master Agreement against any future amounts it may owe to the other Party.

ARTICLE 4 CONFIDENTIALITY

Notwithstanding Section 30 of the Master Agreement, the Parties agree that:

- (a) This Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.);
- (b) both Parties may disclose the terms of this Confirmation to the CAISO to effectuate Seller's performance and the transfer of the Product and the Parties acknowledge that

the CAISO may publicly disclose the transfer of the Product from Seller to Buyer in accordance with the CAISO Tariff promptly following Seller's performance; and

- (c) in the event Buyer resells all or any portion of the Product, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction, other than the Contract Price;

provided, that each disclosing Party shall use reasonable efforts to limit, to the extent possible, the ability of any such applicable Governmental Authority or the CAISO to further disclose such information. In addition, in the event Buyer resells all or any portion of the Contract Quantity to another party, Buyer shall be permitted to disclose to the other party to such resale transaction all such information necessary to effect such resale transaction.

ARTICLE 5 COLLATERAL REQUIREMENTS

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

**ARTICLE 6
GENERAL PROVISIONS**

6.1 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.

6.2 Joint Powers Authority

Each Party hereby acknowledges and agrees that the other Party is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (California Government Code Sections 6500 et seq.) and is a public entity separate and distinct from its members. Each Party shall solely be responsible for all of such Party's debts, obligations and liabilities accruing and arising out of this Agreement, and each Party agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of the other Party's members, any cities or counties participating in Buyer's community choice aggregation program, or any of Buyer's retail customers in connection with the Transaction to which this Confirmation applies.

6.3 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

6.4 Entire Agreement; No Oral Agreements or Modifications

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

6.5 Additional Terms and Conditions

Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Seller may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco (collectively, "Political Activity") in the performance of this Confirmation. Seller agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the Controller. The terms and provisions of Chapter 12.G are incorporated herein by reference. In the event Seller violates the provisions of this Section, City may, in addition to any other rights or remedies available hereunder, (i) terminate this Confirmation, and (ii) prohibit Seller from bidding on or receiving any new City contract for a period of two years. The Controller will not consider Seller's use of profit as a violation of this Section. In complying with this Section, Seller shall not be required to disclose any documents or other information that are protected from disclosure or if such disclosure is or would be prohibited under laws applicable to Seller.

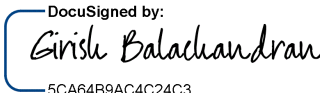
Applicable Law. Section 24 of the WSPP Agreement is deleted and replaced with the following: "This WSPP Agreement and any Confirmation shall be governed by and construed in accordance

with the laws of the State of California, without regard to principles of conflicts of law.”

Acknowledged and agreed to as of the Confirmation Effective Date.

**SILICON VALLEY CLEAN ENERGY
AUTHORITY, a California joint powers
authority**

**CITY AND COUNTY OF SAN
FRANCISCO, ACTING BY AND
THROUGH ITS PUBLIC UTILITIES
COMMISSION, CLEANPOWERSF**

By: 
5CA64B9AC4C24C3...

By: 

Name: Girish Balachandran

Name: Ramon Abueg

Title: CEO

Title: Deputy Manager, Power Operations

Date: 4/24/2020

Date: 24 April 2020

APPENDIX A DEFINED TERMS

“Agreement” has the meaning specified in the introductory paragraph of this Confirmation.

“Applicable Laws” means any constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgements, decrees, injunctions, writs and orders of any Governmental Authority having jurisdiction over one or both Parties, this Transaction, or the terms of this Agreement.

“Bilateral Import Capability Transfer” is the transfer of Remaining Import Capability from one Market Participant (as defined in the CAISO Tariff) to another, as described in the CAISO Tariff.

“Branch Group” means the branch group name used by the CAISO to represent the location of an Intertie with a Maximum Import Capability.

“Buyer” has the meaning specified in the introductory paragraph of this Confirmation.

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

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

“CEC” means the California Energy Commission.

“Confirmation” has the meaning specified in the introductory paragraph of this Confirmation.

“Confirmation Effective Date” has the meaning specified in the introductory paragraph of this Confirmation.

“Contract Month” means the month during the Delivery Period as set forth in the Contract Quantity Table specified Section 1.03.

“Contract Price” has the meaning specified in Section 1.04.

“Contract Quantity” has the meaning specified in Section 1.03.

“CPUC” means the California Public Utilities Commission.

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody’s. If no rating is assigned to such entity’s unsecured, senior long-term debt or deposit obligations by any Ratings Agency, then “Credit Rating” means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody’s. If an entity is rated by more than one Ratings Agency and the ratings are at different levels, then “Credit Rating” means the lowest such rating.

“Delivery Period” has the meaning specified in Section

1.02(a). “Delivery Point” has the meaning specified in

Section 1.05.

“Good Utility Practice” has the meaning set forth in the CAISO Tariff.

“Governmental Authority” means any: (a) federal, state, local, municipal or other government; (b) governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (c) court or governmental tribunal.

“Independent Evaluator” has the meaning set forth in CPUC Decision 04-

12-048. “Intertie” has the meaning set forth in the CAISO Tariff.

“Investment Grade Rating” means a Credit Rating of “BBB- or above” by S&P and “Baa3 or above” by Moody’s if rated by both S&P and Moody’s or “BBB- or above” by S&P or “Baa3 or above” by Moody’s if rated by S&P or Moody’s but not both.

“Master Agreement” has the meaning specified in the introductory paragraph of this

Confirmation. “Maximum Import Capability” has the meaning set forth in the CAISO Tariff.

“Moody’s” means Moody’s Investor Services, Inc.

“MW” means megawatt (or 1,000 kilowatts) of alternating current electric energy generating capacity.

“One-Time Payment” has the meaning specified in Section 3.01.

“NOB” means the CAISO Branch Group corresponding to the CAISO Intertie NOB_ITC.

“Palo Verde” means the CAISO Branch Group corresponding to the CAISO Intertie PALOVRDE_ITC.

“Pre-Pay Buyer” means a Buyer who fails to maintain an Investment Grade Rating or has no Credit Rating, or whose guarantor fails to maintain an Investment Grade Rating or has no Credit Rating.

“Product” has the meaning specified in Section 1.01.

“Ratings Agency” means any of S&P and Moody’s (collectively the “Ratings Agencies”). “Registration” has the meaning specified in Section 2.01.

“Remaining Import Capability” has the meaning set forth in the CAISO

Tariff. “Scheduling Point” has the meaning set forth in the CAISO Tariff.

“SC” has the meaning set forth in the CAISO Tariff.

“Seller” has the meaning specified in the introductory paragraph of this Confirmation. “S&P” means Standard & Poor’s Financial Services LLC.

“Tariff” means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time.

“Term” has the meaning specified in Section 1.02(b).

“WSPP Agreement” is defined in the introductory paragraph hereof.



**Department of Energy
Bonneville Power Administration
Power Business Line
CONFIRMATION AGREEMENT**

From: Bonneville Power Administration
P O Box 3621
Portland, OR 97208-3621
BPA Preschedule: (503) 230-3813
BPA Real Time: (503) 230-3341

To: Silicon Valley Clean Energy
333 W. El Camino Real, Suite 290
Sunnyvale, CA 94087
BPA Contract: 20PM-16346
Trade Date: 04/16/2020

This confirmation agreement ("Confirmation Agreement") sets forth the terms of this transaction agreed to by the **Bonneville Power Administration ("BPA") and Silicon Valley Clean Energy**, a California joint powers authority ("SVCE") (each a "Party" and together the "Parties"), in which BPA agrees to provide to SVCE the right to purchase Federal Surplus Power as Import Resource Adequacy ("RA") Capacity as specified herein. Transactions hereunder are in accordance with the Agreement to Enable Future Purchases, Sales, and Exchanges of Power and Other Services 19PM-16003 ("Enabling Agreement"). The definitions and provisions contained in the Enabling Agreement, in the decision of the California Public Utilities Commission ("CPUC") as contained in Decision ("D.") 04-10-035, D.05-10-042 and D.06-07-031, and in any subsequent or modifying rulings or decisions related to RA ("RA Rules"), and in the tariffs and protocols of the California Independent System Operator ("CAISO"), as amended from time to time ("Tariff"), shall apply to this Confirmation Agreement and are incorporated by reference; provided that, to the extent that any provision in this Confirmation Agreement is inconsistent with any provision of the Enabling Agreement, then the provision in this Confirmation Agreement shall govern the rights and obligations of the Parties hereunder.

Buyer: SVCE	Broker: None
Seller: BPA	Holiday: NERC
BPA Trader: Mark Miller	Product: Import System Resource Adequacy (RA) Capacity
Phone: (503) 230-4003	
SVCE Trader: Monica Padilla	Product Description: Non-Resource Specific Import System RA

Point of Delivery: [REDACTED]
Resource ID: [REDACTED]

Start Date	End Date	Demand Limit	RA Capacity Price \$/kW-month	Hours	Amount (MW)	Revenue/ Cost
9/01/2020	9/30/2020	N/A	[REDACTED]	Flat	[REDACTED]	[REDACTED]

I. RA Capacity Product Provisions:

1. Definitions:

- a. "Import RA Capacity Product", or "Import RA Capacity" means the qualified and deliverable capacity from the System Resource that can be counted toward SVCE's System Resource Adequacy Requirements ("RAR") as described in the CPUC's RA Rules, and all other resource adequacy requirements established by any other regional entity responsible for RAR including but not limited to the CAISO. Import RA Capacity does not confer to SVCE any right to the Contract Quantity of BPA's System Resource other than the right to count such Contract Quantity toward SVCE's RAR during the Delivery Term. Specifically, no federal energy associated with BPA's System Resource is required to be made available to SVCE as part of this RA Capacity obligation, and SVCE shall in no way be responsible to compensate BPA for any commitments to CAISO as set forth in this Transaction.
 - b. "Contract Quantity" means, for purposes of the RA Capacity Product, the amount of Import RA Capacity stated in megawatts ("MW"), made available twenty-four hours per day, seven days per week, to the RA Capacity Delivery Point through transmission service that is not recallable for economic reasons, and which is backed by operating reserves in the originating control area, delivered to the RA Capacity Delivery Point as set forth in this Confirmation Agreement.
 - c. "Delivery Term" means the period of time beginning on the Start Date and ending on the End Date.
 - d. "Flat" is defined as HE 0100 through HE 2400.
 - e. "RA Capacity Delivery Point" means the Point of Delivery, the CAISO Scheduling Point Sylmar (NOB) which maps to the CAISO Branch Group NOB_BG where SVCE holds intertie import capability.
 - f. "Resource Adequacy Requirements" or "RAR" means the resource adequacy requirements established for SVCE by the CPUC pursuant to the RA Rules, or by any other governmental body having jurisdiction.
 - g. "RA Rules" means orders of the California Public Utilities Commission as contained in D.04-01-050, D.04-10-035, D.05-10-042, D.06-04-40, D.06-06-064, D.06-07-031, D.06-12-037, D.07-06-029, D.08-06-031, D.09-06-028, D.10-06-036, D.10-12-038, D.11-06-022, D.11-10-003, D.12-06-025, D.13-06-024, D.14-06-050, D.15-06-063, D.16-06-045, and any other existing, subsequent, or modifying decisions, resolutions, orders or rulings issued by the CPUC from time to time in the Resource Adequacy phases of Rulemaking R.04-04-003, R.05-12-013, R.08-01-025, R.09-10-032, R.11-10-023, R.14-02-001, R.14-10-001, and R.17-09-020 or by any applicable successor proceeding.
 - h. "System Resource" means a group of resources located outside of the CAISO Control Area capable of providing Energy and/or Ancillary Services to the RA Capacity Delivery Point. System Resource does not include any energy source with an e-tag from a busbar of a nuclear or coal-fired generating facility.
2. **CAISO Dispatch Requirements:** Unless the System Resource is affected by an event of force majeure that results in a partial or full transmission outage reducing the amount of Contract Quantity, BPA shall provide the full Contract Quantity to the CAISO in compliance with the applicable provisions of the Tariff implementing the RA Rules, including, without reservation, section 40.6 of the Tariff. SVCE shall have no liability for the failure of BPA to comply with such Tariff provisions, including any penalties or fines imposed on BPA by the CAISO for such noncompliance.

3. Representations:

- a. BPA and SVCE represent and expressly agree that throughout the Delivery Term they shall take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure SVCE's (or a subsequent purchaser's) right to the use of the Contract Quantity for the sole benefit of SVCE's RAR, consistent with the CAISO Tariff and RA Rules, including:
 - i. Meeting requirements established by the CAISO Tariff and RA Rules, including (1) demonstrating the ability to deliver the Contract Quantity over all hours of the Delivery Term required for full RAR eligibility, (2) demonstrating that the Contract Quantity can be delivered to the CAISO controlled grid pursuant to "deliverability" standards established by the CPUC or other regional entity or entities responsible for RA administration, and (3) provision of a Supply Plan to the CAISO by BPA's Scheduling Coordinator and sufficient information to allow for the submission of a complete Resource Plan by SVCE's Scheduling Coordinator (as such terms are defined in the CAISO Tariff);
 - ii. Negotiating in good faith to make necessary amendments, if any, to this Confirmation Agreement mutually agreed upon to conform this Confirmation Agreement to subsequent clarifications, revisions or decisions rendered by the CPUC, CAISO or other regional entity or entities responsible for RA administration, so as to maintain the benefits of the bargain for each of the Parties; and
 - iii. At all times using "Good Utility Practice" as defined in the CAISO Tariff.
- b. BPA represents that throughout the Delivery Term:
 - i. SVCE or subsequent purchaser has the exclusive right to count the Contract Quantity of Import RA Capacity Product from BPA's System Resource toward SVCE's RAR;
 - ii. No portion of the Contract Quantity of Import RA Capacity Product has been sold by BPA to any third party in order to satisfy RAR; and
 - iii. BPA shall meet all terms applicable to it under CAISO Tariff provisions and procedures approved by the Federal Energy Regulatory Commission ("FERC"), and Import RA Rules approved by the CPUC as applying to the RA Capacity Product.

4. Indemnity Against Penalties and Replacement: If BPA fails to fulfill its obligation under this Confirmation Agreement to provide Import RA Capacity, and such failure is not excused under this Confirmation Agreement or the Enabling Agreement or by SVCE's failure to perform, then BPA agrees to indemnify SVCE for:

- a. any monetary penalties assessed by the CPUC and/or the CAISO against SVCE for SVCE's failure to meet the requirements of the RA Rules or Tariff as a direct result of BPA not fulfilling its obligation under this Confirmation Agreement. Such failure may be excused to the extent BPA provides SVCE with sufficient notice to take action necessary to avoid such monetary penalties being assessed and
- b. if BPA reimburses costs incurred by SVCE, using reasonable efforts to replace, if required, any RA Capacity to equal in total the volume of Contract Quantity and Delivery Term specified in Section 3.

Notwithstanding the foregoing, if approved by the CPUC and/or the CAISO, BPA may replace any Product necessary for SVCE to make its equivalent RA demonstration with another System Resource.

5. Resale of Import RA Capacity:

- a. SVCE may re-sell all or a portion of the Contract Quantity and any associated rights, in each case, acquired under this transaction. In the event SVCE re-sells all or a portion of the Contract Quantity of Import RA Capacity and any associated rights acquired under this transaction ("Resold Import RA Capacity") BPA agrees to follow SVCE's instructions with respect to providing such Resold Import RA Capacity to subsequent purchasers of such Resold RA Capacity. With respect to any Resold Import RA Capacity, BPA continues to be liable to SVCE for any damages due to the failure of BPA to comply with the terms of this transaction; provided, and BPA shall have no contractual obligation or liability to any subsequent purchaser.

- b. BPA's obligations under this Section 5 are contingent on SVCE 1) providing BPA with the information required by this Section 5 no later than two (2) Business Days prior to the deadline for filing the Supply Plan for the Resold Import RA Capacity; 2) any requested assignment being consistent with federal law applicable to BPA. Further, any resale of Import RA Capacity by SVCE to a subsequent purchaser must be permitted under the Tariff, CAISO business practices and applicable federal law, and BPA shall not be required to take any action hereunder or execute any documents or instruments that would not be permitted under the Tariff, CAISO business practices or applicable federal law.
- c. In the event there is any Resold Import RA Capacity, SVCE agrees to immediately notify BPA of such sale and agrees to provide BPA with all the information specified below promptly following such sale (and any other information reasonably requested by BPA so that BPA may perform its obligations in this Section 5) and promptly notify BPA of any subsequent changes to such information with respect to any particular sale:
- i. Benefitting load serving entity SC identification number (SCID),
 - ii. Volume (in MW) of Resold Import RA Capacity,
 - iii. Sale delivery period for Resold Import RA Capacity.

II. Additional Provisions

1. **Confidentiality:** Each Party recognizes that this Confirmation Agreement is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). Notwithstanding the Enabling Agreement, the Parties agree that SVCE, and any subsequent purchaser, may disclose this Confirmation Agreement to the CPUC, the CAISO or any other governmental body having jurisdiction in order to support its RAR showings, if applicable, and BPA may disclose the transfer of the Import RA Capacity under this Confirmation Agreement to the Scheduling Coordinator in order for such Scheduling Coordinator to timely submit accurate Supply Plans (as such terms are defined in the Tariff).
2. **Entire Agreement, No Oral Agreements or Modifications:** This Confirmation Agreement sets forth the terms of this transaction and, along with the Enabling Agreement, shall constitute the entire agreement between the Parties for the purchase and sale of the Product. Notwithstanding any other provision of the Enabling Agreement, this transaction may be confirmed only by a Documentary Writing executed by both Parties, and no amendment or modification to this transaction shall be enforceable except under a Documentary Writing executed by both Parties.
3. **Joint Powers Authority:** SVCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and is a public entity separate from its constituent members. Buyer will be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation Agreement.
4. **Counterparts:** This Confirmation Agreement may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation Agreement by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

We are pleased to enter into this transaction. Please sign and return an executed copy of this Confirmation Agreement via fax to BPA (503) 230-7463 or email to PTCContractAdmin@bpa.gov.

AGREED AND ACCEPTED

Bonneville Power Administration

MARK MILLER Digitally signed by MARK MILLER
Date: 2020.04.27 10:23:54 -07'00'

Print Name: Mark E. Miller
Title: Account Executive
Date: April 27, 2020

Silicon Valley Clean Energy

Girish Balachandran

Print Name: Girish Balachandran
Title: Chief Executive Officer
Date: 4/27/2020