



George Tyson, Chair
Town of Los Altos Hills

Tina Walia, Vice Chair
City of Saratoga

Elliot Scozzola
City of Campbell

Sheila Mohan
City of Cupertino

Zach Hilton
City of Gilroy

Sally Meadows
City of Los Altos

Rob Rennie
Town of Los Gatos

Evelyn Chua
City of Milpitas

Bryan Mekechuk
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Margaret Abe-Koga
City of Mountain View

Larry Klein
City of Sunnyvale

Otto Lee
County of Santa Clara

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

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

Wednesday, May 10, 2023
7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

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

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

Teleconference Meeting
Webinar:

<https://cityofcupertino.zoom.us/j/95580440988>

Telephone (Audio Only):
US: +1 669-900-6833
Webinar ID: 955 8044 0988

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

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



George Tyson, Chair
Town of Los Altos Hills

Tina Wallia, Vice Chair
City of Saratoga

Elliot Scozzola
City of Campbell

Sheila Mohan
City of Cupertino

Zach Hilton
City of Gilroy

Sally Meadows
City of Los Altos

Rob Rennie
Town of Los Gatos

Evelyn Chua
City of Milpitas

Bryan Mekechuk
City of Monte Sereno

Yvonne Martinez Beltran
City of Morgan Hill

Margaret Abe-Koga
City of Mountain View

Larry Klein
City of Sunnyvale

Otto Lee
County of Santa Clara

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087

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

AGENDA

Call to Order

Roll Call

Public Comment on Matters Not Listed on the Agenda

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

Consent Calendar (Action)

- 1a) Approve Minutes of the April 12, 2023, Board of Directors Meeting
- 1b) Receive March 2023 Treasurer Report
- 1c) Authorize the Chief Executive Officer to Approve the Agreement with Strategic Energy Innovations to Host Three Climate Corps Fellows for the 2023-2024 Fellowship Cycle
- 1d) Adopt Resolution Approving Amendment to Operating Rules and Regulations to Expand Executive Committee Membership to Up to Six Members
- 1e) Authorize Request for Extension to Comply with Load Management Standards
- 1f) Receive SVCE Rate Schedules Effective May 1, 2023
- 1g) Adopt Resolution Moving Reinstatement of SVCE's Delinquent Payment Policy to May 2023
- 1h) Authorize the Chief Executive Officer to Execute an Amendment to the Agreement with Enervee Corporation to Extend the Term of the Agreement for 15.5 Months and Increase Compensation by \$175,500
- 1i) Executive Committee Report

George Tyson, Chair
Town of Los Altos Hills

1j) California Community Power Report

1k) Additional Committee Reports

Tina Walia, Vice Chair
City of Saratoga

Regular Calendar

Elliot Scozzola
City of Campbell

2) CEO Report (Discussion)

3) Appoint Sixth Member to SVCE's 2023 Executive Committee (Action)

Sheila Mohan
City of Cupertino

4) Update on FY 2022-2023 Digital Engagement Initiatives (Information)

Zach Hilton
City of Gilroy

Board Member Announcements and Direction on Future Agenda Items

Sally Meadows
City of Los Altos

Public Comment on Closed Session

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

Rob Rennie
Town of Los Gatos

Evelyn Chua
City of Milpitas

Closed Session

Public Employee Performance Evaluation
Title: Chief Executive Officer

Bryan Mekechuk
City of Monte Sereno

Conference with Labor Negotiators

Yvonne Martinez Beltran
City of Morgan Hill

Agency Representatives: George Tyson, Chair, Board of Directors,
Tina Walia, Vice Chair, Board of Directors

Unrepresented Employee: Chief Executive Officer

Margaret Abe-Koga
City of Mountain View

Conference with Legal Counsel – Anticipated Litigation

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section
54956.9: (one potential case)

Larry Klein
City of Sunnyvale

Report from Closed Session

Otto Lee
County of Santa Clara

Adjourn

svcleanenergy.org

333 W El Camino Real
Suite 330
Sunnyvale, CA 94087



Silicon Valley Clean Energy Authority

Board of Directors Meeting

Wednesday, April 12, 2023

7:00 pm

Cupertino Community Hall
10350 Torre Avenue
Cupertino, CA

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

929 Coventry Way
Milpitas, CA 95035

Wasa Park Hotel
1 Sankt Eriksplan, 113 20,
Stockholm, Sweden

DRAFT MEETING MINUTES

Call to Order:

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

Roll Call

Present:

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

Absent:

Elliot Scozzola, Campbell

Public Comment on Matters Not Listed on the Agenda

No speakers.

Consent Calendar

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

- 1a) Approve Minutes of the March 8, 2023, Board of Directors Meeting
- 1b) Receive February 2023 Treasurer Report
- 1c) Review Operating Rules and Regulations Amendment to Expand Executive Committee Membership to Up to Six Board Members
- 1d) Authorize the Chief Executive Officer to Execute an Amended and Restated PPA for a Previously Executed Distributed Energy Storage Agreement for Resilience and Capacity with Sunrun Inc. in an Amount Not to Exceed \$7,400,000 and for a Modified Term from January 1, 2024 through December 31, 2034
- 1e) Adopt Resolution to Approve SVCE's Amended Files and Records Management Policy and Authorize the Chief Executive Officer to Make Future Updates to the Policy and Records Retention Periods in Consultation with General Counsel
- 1f) Receive Q1 2023 Decarbonization Programs Update
- 1g) Authorize the Chief Executive Officer to Execute Amendment to Agreement with Piseni & Brinker, LLP for Financial Audit Services
- 1h) Executive Committee Report
- 1i) Legislative Response to Industry Transition 2023 Ad Hoc Committee Report
- 1j) California Community Power Report
- 1k) Additional Committee Reports

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

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

Regular Calendar

2) CEO Report (Discussion)

CEO Girish Balachandran addressed the following topics in his report:

- 1) Introduction of SVCE's five newest employees:
Jessica Feng, Power Resources Planner,
Alex Krause, Senior Quantitative Analyst,
Leanna Huynh, Senior Programs Specialist,
Eric Rodriguez, Programs Lead, and
Kaley Dodson, Energy Services Specialist

All provided brief welcome comments; Chair Tyson welcomed the new employees on behalf of the Board.
- 2) A brief update on anticipated penalties, noting that the Board would be informed when received;
- 3) Information on the Governor's change proposal through a budget trailer bill, and
- 4) Provided an invitation to board members to join staff for dinner following an upcoming in-person retreat.

Senior Communications Manager Pamela Leonard provided an update on upcoming Earth Day activities.

Chair Tyson opened Public Comment.
No speakers.

Chair Tyson closed Public Comment.

3) Delegate Authority to the Chief Executive Officer to Execute Power Purchase Agreement for Biomass Project Rio Bravo Fresno (Action)

Monica Padilla, COO and Director of Power Resources and Charles Grinstead, Senior Manager of Power Resources provided a presentation with a request for the Board of Directors to delegate authority to the CEO to execute a short-term power purchase agreement with Rio Bravo Fresno Biomass energy, with the following parameters:

Capacity: 25 megawatts
 Est. Annual Generation: 175,000 MWhs
 Price: fixed dollar per megawatt hour
 Term: 2.75 years, May 1, 2023 through December 31, 2025
 Not-to-exceed dollar amount: \$60,000,000

Staff provided background information on the resource; Board members provided comments on the project's contribution to SVCE's resource adequacy and the efficient burning of the biomass.

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

MOTION: Director Chua moved and Director Mekechuk seconded the motion to authorize the CEO to execute a power purchase agreement for the Rio Bravo Fresno renewable biomass project.

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

4) Adopt Resolution Authorizing the Chief Executive Officer to Finalize Negotiations and Execute Power Purchase Agreement with Middle River Power for the Hanford Hybrid Natural Gas Power Plant and Battery Energy Storage System; Allowing for an Exception to the Board-adopted Energy Risk Management Policy; and Directing Staff to Return with a Policy and Guidelines for Establishing a Fund to Mitigate the Impacts of Emissions Associated with the Hanford PPA (Action)

CEO Balachandran introduced the item. COO and Director of Power Resources Padilla and Senior Manager of Power Resources Grinstead provided a presentation which included background information on California's Clean Goals, Reliability Challenges and Requirements; SVCE's Energy and Capacity Portfolio, Procurement and Progress efforts; information on Middle River Power's Hanford Hybrid Natural Gas Power Plant with Battery Storage System; and an overview of the recommendation.

Staff responded to board member questions regarding similar existing projects, natural gas use and cost, battery storage, an emissions mitigation fund, resource adequacy capacity, emissions reductions, and project location.

Chair Tyson opened Public Comment.
 Eric Muller, SVCE customer, commented on the difficult decisions that will need to be made and the importance of educating the community.

Chair Tyson closed Public Comment.

MOTION: Director Lee moved and Director Abe-Koga seconded the motion to adopt Resolution 2023-06 which provides for the following:

- 1. Delegates authority to the Chief Executive Officer (CEO) to finalize negotiations and execute a Power Purchase Agreement (PPA) with Middle River Power, or its affiliate MRP Pacifica Marketing LLC, for Resource Adequacy with Dispatchable Energy from its Hanford Hybrid Natural Gas Power Plant and Battery Energy Storage System ("Hanford")**

for a term not to exceed twelve years and in an amount not to exceed \$280,000,000 over the life of the PPA with the following parameters:

- a. Resource Adequacy (RA) capacity from existing Hanford Natural Gas Power Plant of 99.4 megawatts (MW)
 - b. Additional RA capacity from a new Battery Energy Storage System (BESS) of 16 MW sited adjacent to Hanford with an expected 13.97 MW to count towards the Mid-term Reliability Procurement Order and with expected commercial on-line date of April 1, 2024 date and delivery through April 30, 2036.
 - c. Dispatchable energy from the Natural Gas Peaker Power Plant subject to operating constraints and to meet demand under certain market and grid conditions;
2. Provides for an exception to the Board-approved Energy Risk Management Policy to allow for procurement of natural gas to manage risk associated with the Natural Gas Peaker Plant Toll portion of the Hanford project, if necessary, and
3. Directs staff to develop a policy and/or guidelines to set aside funds to be used for programs and/or projects to mitigate emissions associated with energy produced by the Hanford project resulting from the Hanford PPA and return to the Board by the December 2023 Board meeting with a recommendation.

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

5) Adopt Resolution to Update Design of SVCE's E-ELEC Generation Rate Discount (Action)

Adam Selvin, Director of Energy Services and Community Relations, and Peter Mustacich, Energy Services Lead, provided a presentation which included: background information on SVCE's electrification discount; information on the E-ELEC rate and E-ELEC discount timeline; various discount approaches; evaluation of different customer profiles; Executive Committee feedback on the proposed E-ELEC design discount in phases; and a request to approve a design update to the E-ELEC discount to a "TOU Super" design structure.

Staff responded to board member questions regarding data analysis from the first phase of enrolled customers, timing on when the discount would take effect, if time-of-use currently exists on other plans, incentivizing customers, information on the pilot program, and the proposed design structure.

CEO Balachandran reiterated that the rate is voluntary and opt-in.

Board members provided comments on the design structure.

Chair Tyson opened Public Comment.

No speakers.

Chair Tyson closed Public Comment.

MOTION: Director Mekechuk moved and Director Meadows seconded the motion to adopt Resolution 2023-07 to update the E-ELEC discount to reflect the "TOU Super" design structure to establish generation rates 30% lower than PG&E's generation rates during Off-Peak summer and winter time-of-use periods, 10% higher than PG&E's generation rates during Peak summer and winter time-of-use periods, and with no deviation (0%) from PG&E's generation rates during Partial-Peak summer and winter time-of-use periods.

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

Board Member Announcements and Future Agenda Items

Director Meadows announced the City of Los Altos adopted reach codes as recommended by The City of Los Altos' Environmental Commission after being sent to the California Energy Commission.

Director Abe-Koga announced the Bay Area Air Quality Management District Board adopted amendments to Rule 9-4 and 9-6 at their March meeting that will ban the replacement of gas appliances starting in 2027. Director Abe-Koga noted the district would be conducting a study to be completed two years prior to the start of the ban.

Director Chua announced the City of Milpitas will be celebrating Earth Day Saturday, April 22, 2023, from 10am to noon.

Public Comment on Closed Session

No speakers.

The Board of Directors convened to Closed Session at 8:37 p.m.

Closed Session

Conference with Legal Counsel – Anticipated Litigation

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (one potential case)

The Board of Directors reconvened from Closed Session at 9:06 p.m.

Report from Closed Session

Chair Tyson announced there was nothing to report.

Adjourn

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

ATTEST:

Andrea Pizano, Board Secretary



TREASURER REPORT

**Fiscal Year to Date
As of March 31, 2023**

(Preliminary & Unaudited)

Issue Date: May 10, 2023

Table of Contents

	<u>Page</u>
Summary	2
Statement of Net Position	4
Statement of Revenues, Expenses & Changes in Net Position	5
Statement of Cash Flows	6-7
Actuals to Budget Report	8-10
Monthly Change in Net Position	11
Investments Report	12
Customer Accounts	13
Accounts Receivable Aging Report	14

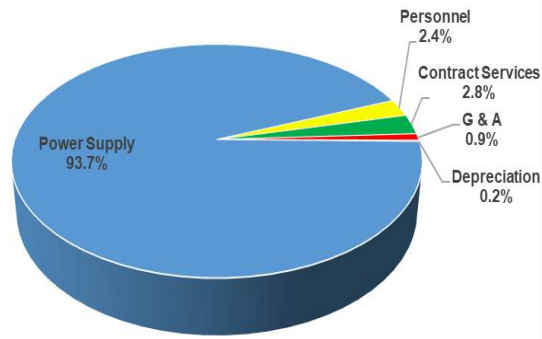
SILICON VALLEY CLEAN ENERGY AUTHORITY
Financial Statement Highlights* (\$ in 000's)

Financial Highlights for the month of March 2023:

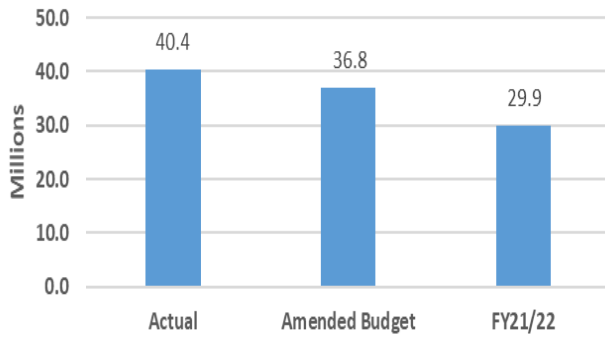
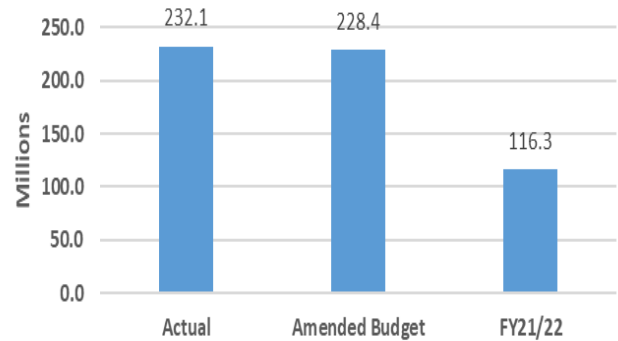
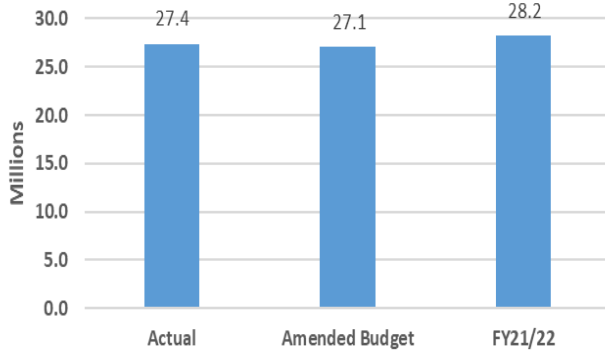
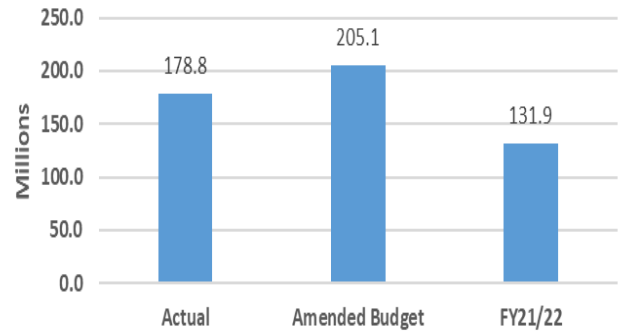
- > SVCE operations resulted in a change in net position of \$13.7 million for the month of March and \$56.2 million for fiscal-year-to-date (FYTD).
- > Retail GWh sales for the month landed 8% above budget.
- > FYTD operating margin of \$65.3 million or 28% is above amended budget expectations of 16% operating margin for the fiscal year to date.
- > FYTD Power Supply costs are -12% below mid-year budget.
- > SVCE is investing ~92.1% of available funds generating FYTD interest/divident income of \$2.2 million.

Change in Net Position	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Actual	10,608	10,380	2,026	6,211	13,295	13,720	-	-	-	-	-	-	56,240	73,365
Power Supply Costs	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Energy & REC's	18,322	15,903	13,022	10,566	9,996	9,989							77,798	
Wholesale Sales	(976)	(300)	(436)	-	-	-							(1,711)	
Capacity	4,101	4,063	4,228	2,207	2,360	2,362							19,321	
CAISO Charges	(538)	3,364	10,935	2,124	9,626	(2,529)							22,981	
NEM Expense	204	(150)	(438)	(510)	(136)	24							(1,006)	
Charge/Credit (IST/Net Rev)	2,104	(1,060)	8,054	21,448	4,167	15,430							50,143	
Net Power Costs	23,218	21,819	35,365	35,834	26,012	25,276	-	-	-	-	-	-	167,526	392,436
Other	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Capital Expenditures	34	-	4	-	17	2							57	200
Energy Programs	73	182	898	156	158	272							1,738	15,007
Load Statistics - GWh	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Total	Amended Budget
Retail Sales Actual	299	296	341	341	311	334							1,922	
Retail Sales Budget	315	308	331	336	295	309	290	313	340	358	369	342	3,907	3,907

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

YTD EXPENSES**Other Statistics and Ratios**

Working Capital	\$274,971,469
Current Ratio	8.6
Operating Margin	27.8%
Expense Coverage Days	206
Long-Term Debt	\$0
Total Accounts	278,106
Opt-Out Accounts (Month)	69
Opt-Out Accounts (FYTD)	567
Opt-Up Accounts (Month)	24
Opt-Up Accounts (FYTD)	(9)

Retail Sales - Month**Retail Sales - YTD****Controllable O&M - Month****Controllable O&M - YTD**

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF NET POSITION

As of March 31, 2023

ASSETS

Current Assets

Cash & Cash Equivalents	\$ 223,410,046
Accounts Receivable, net of allowance	40,082,762
Accrued Revenue	24,651,932
Other Receivables	403,605
Prepaid Expenses	1,503,233
Deposits	20,870,783
Restricted cash	162,726

Total Current Assets **311,085,087**

Noncurrent assets

Capital assets, net of depreciation	352,244
Lease asset, net of amortization	1,083,375
Deposits	45,130

Total Noncurrent Assets **1,480,749**

Total Assets **312,565,836**

LIABILITIES

Current Liabilities

Accounts Payable	977,107
Accrued Cost of Electricity	24,207,653
Other accrued liabilities	1,318,524
User Taxes and Energy Surcharges due to other gov'ts	1,552,025
Supplier securit deposits	7,400,000
Lease liability	495,583

Total Current Liabilities **35,950,892**

Noncurrent Liabilities

Supplier security deposits	7,031,250
Lease liability	660,243

Total noncurrent liabilities **7,691,493**

Total Liabilities **43,642,385**

NET POSITION

Net investment in capital assets	279,793
Restricted for security collateral	162,726
Unrestricted (deficit)	268,480,932
Total Net Position	\$ 268,923,451

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

October 1, 2022 through March 31, 2023

OPERATING REVENUES

Electricity Sales, Net	\$231,352,985
GreenPrime electricity premium	736,850
Other income	28,156

TOTAL OPERATING REVENUES	<u>232,117,991</u>
---------------------------------	---------------------------

OPERATING EXPENSES

Cost of Electricity	167,525,476
Contract services	4,917,319
Staff compensation and benefits	4,375,363
Other operating expenses	1,674,249
Depreciation	303,659

TOTAL OPERATING EXPENSES	<u>178,796,066</u>
---------------------------------	---------------------------

OPERATING INCOME(LOSS)	<u>53,321,925</u>
-------------------------------	--------------------------

NONOPERATING REVENUES (EXPENSES)

Grant income	716,553
Interest Income	2,216,734
Financing costs	(15,283)

TOTAL NONOPERATING REVENUES (EXPENSES)	<u>2,918,004</u>
---	-------------------------

CHANGE IN NET POSITION	56,239,929
-------------------------------	-------------------

Net Position at beginning of period	<u>212,683,522</u>
-------------------------------------	--------------------

Net Position at end of period	<u>\$268,923,451</u>
--------------------------------------	-----------------------------

SILICON VALLEY CLEAN ENERGY AUTHORITY

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

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers	\$ 252,418,785
Other operating receipts	16,819,496
Payments to suppliers for electricity	(200,686,116)
Payments for other goods and services	(7,403,504)
Payments for staff compensation and benefits	(4,185,449)
Tax and surcharge payments to other governments	(4,100,343)
Net cash provided (used) by operating activities	<u>52,862,869</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Grant revenue received	716,553
Finance costs paid	(1,750)
Net cash provided (used) by financing activities	<u>714,803</u>

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Acquisition of capital assets	<u>(57,407)</u>
-------------------------------	-----------------

CASH FLOWS FROM INVESTING ACTIVITIES

Interest income received	<u>2,216,734</u>
Net change in cash and cash equivalents	55,736,999
Cash and cash equivalents at beginning of year	<u>167,835,773</u>
Cash and cash equivalents at end of period	<u>\$ 223,572,772</u>

Reconciliation to the Statement of Net Position

Cash and cash equivalents (unrestricted)	\$ 223,410,046
Restricted cash	<u>162,726</u>
Cash and cash equivalents	<u>\$ 223,572,772</u>

SILICON VALLEY CLEAN ENERGY AUTHORITY

STATEMENT OF CASH FLOWS (Continued)

October 1, 2022 through March 31, 2023

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

Operating Income (loss)	\$ 53,321,925
Adjustments to reconcile operating income to net cash provided (used) by operating activities	
Depreciation expense	303,659
(Increase) decrease in net accounts receivable	15,580,460
(Increase) decrease in other receivables	(321,891)
(Increase) decrease in accrued revenue	856,766
(Increase) decrease in prepaid expenses	(525,305)
(Increase) decrease in current deposits	(305,462)
Increase (decrease) in accounts payable	(30,701)
Increase (decrease) in accrued cost of electricity	(15,927,739)
Increase (decrease) in accrued liabilities	(27,401)
Increase (decrease) in energy settlements payable	4,080,530
Increase (decrease) in taxes and surcharges due to other governments	(141,972)
Increase (decrease) in supplier security deposits	<u>(4,000,000)</u>
Net cash provided (used) by operating activities	<u>\$ 52,862,869</u>

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

	FYTD	FYTD	Variance		FY 2022-23	FY 2022-23
	Actual	Amended Budget	\$	%	Amended Budget	Remaining Budget
OPERATING REVENUES						
Energy Sales	\$232,069,538	\$227,773,900	\$4,295,638	2%	\$522,853,000	\$290,783,462
Green Prime Premium	736,850	600,102	136,748	23%	1,055,000	318,150
Other Income	28,156	25,000	3,156	13%	50,000	21,844
TOTAL OPERATING REVENUES	232,834,544	228,399,002	4,435,542	2%	523,958,000	291,123,456
ENERGY EXPENSES						
Power Supply	167,525,476	191,317,342	(23,791,866)	-12%	392,436,000	224,910,524
Operating Margin	65,309,068	37,081,660	28,227,408	76%	131,522,000	66,212,932
OPERATING EXPENSES						
Data Management	1,595,021	1,706,250	(111,229)	-7%	3,413,000	1,817,979
PG&E Fees	588,871	735,000	(146,129)	-20%	1,470,000	881,129
Salaries & Benefits	4,375,363	5,642,440	(1,267,077)	-22%	11,285,000	6,909,637
Professional Services	1,552,762	4,052,663	(2,499,901)	-62%	8,016,000	6,463,238
Marketing & Promotions	294,644	435,559	(140,915)	-32%	862,000	567,356
Notifications	49,468	65,625	(16,157)	-25%	131,000	81,532
Lease	258,207	262,500	(4,293)	-2%	525,000	266,793
General & Administrative	766,529	928,568	(162,039)	-17%	1,857,000	1,090,471
TOTAL OPERATING EXPENSES	9,480,865	13,828,605	(4,347,740)	-31%	27,559,000	18,078,135
OPERATING INCOME/(LOSS)	55,828,203	23,253,055	32,575,148	140%	103,963,000	48,134,797
NON-OPERATING REVENUES						
Investment Income	2,216,734	1,490,158	726,576	49%	3,870,000	1,653,266
TOTAL NON-OPERATING REVENUES	2,216,734	1,490,158	726,576	49%	3,870,000	1,653,266
NON-OPERATING EXPENSES						
Financing	1,750	1,500	250	17%	3,000	1,250
CAPITAL EXPENDITURES, TRANSFERS, & OTHER						
Capital Outlay	57,407	100,000	(42,593)	-43%	200,000	142,593
Transfer to Programs Fund	9,765,000	9,765,000	-	0%	9,765,000	-
Nuclear Allocation	1,900,000	1,900,000	-	0%	1,900,000	-
Multi Family Discount Programs	9,500,000	9,500,000	-	0%	9,500,000	-
Electrification Discount Programs	9,500,000	9,500,000	-	0%	9,500,000	-
Transfer to CRCR Fund	3,600,000	3,600,000	-	0%	3,600,000	-
TOTAL OTHER USES	34,322,407	34,365,000	(42,593)	0%	34,465,000	142,593
NET INCREASE/(DECREASE) IN AVAILABLE FUND BALANCE	\$23,720,780	-\$9,623,287	\$33,344,067	-346%	\$73,365,000	

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

	Amended BUDGET	ACTUAL	ADOPTED BUDGET REMAINING	ACTUAL/ ADOPTED BUDGET
REVENUE & OTHER SOURCES:				
Transfers in - General Programs	\$ 9,765,000	\$ 9,765,000	\$ -	100.0%
Transfers in - Nuclear Allocation	\$ 1,900,000	\$ 1,900,000	\$ -	100.0%
Transfers in - Multi-Family DI	\$ 9,500,000	\$ 9,500,000	\$ -	100.0%
Total	\$ 21,165,000	\$ 21,165,000	\$ -	
EXPENDITURES & OTHER USES:				
Program expenditures	15,007,082	868,442	14,138,640	5.8%
Net increase (decrease) in fund balance	<u>\$ 6,157,918</u>	<u>\$20,296,558</u>		
Fund balance at beginning of period		<u>28,536,229</u>		
Fund balance at end of period		<u>\$48,832,787</u>		

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

	Amended BUDGET	ACTUAL	ADOPTED BUDGET REMAINING	ACTUAL/ ADOPTED BUDGET
REVENUE & OTHER SOURCES:				
Transfer from Operating Fund	\$ 3,600,000	\$ 3,600,000	\$ -	100.0%
EXPENDITURES & OTHER USES:				
Customer bill relief credit	3,600,000	-	3,600,000	0.0%
Other program expenditures	3,119,875	869,474	2,250,401	27.9%
Total Program expenditures	<u>6,719,875</u>	<u>869,474</u>	<u>5,850,401</u>	
Net increase (decrease) in fund balance	<u>\$ (3,119,875)</u>	<u>2,730,526</u>		
Fund balance at beginning of period		<u>7,982,993</u>		
Fund balance at end of period		<u>\$10,713,519</u>		

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

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

SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING FUND

BUDGET RECONCILIATION TO STATEMENT OF

REVENUES, EXPENSES AND CHANGES IN NET POSITION

October 1, 2022 through March 31, 2023

Net Increase (decrease) in available fund balance per budgetary comparison schedule	\$ 23,720,780
Adjustments needed to reconcile to the changes in net position in the Statement of Revenues, Expenses and Changes in Net Position	
Subtract depreciation expense	(303,659)
Subtract program expense not in operating budget	(1,737,916)
Add back GASB 87 expenses not in operating budget	238,317
Add back transfer to Program fund	34,265,000
Add back capital asset acquisition	57,407
Change in Net Position	<u>56,239,929</u>

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

	October	November	December	January	February	March	April	May	June	July	August	September	YTD
OPERATING REVENUES													
Electricity sales, net	\$ 35,283,024	\$ 33,596,659	\$ 39,756,116	\$ 42,320,931	\$ 40,149,296	\$ 40,246,959							\$ 231,352,985
Green electricity premium	133,572	123,147	130,539	120,693	101,229	127,670							736,850
Other Income	2,250	15,255	-	2,250	5,651	2,750							28,156
Total operating revenues	35,418,846	33,735,061	39,886,655	42,443,874	40,256,176	40,377,379	-	-	-	-	-	-	232,117,991
OPERATING EXPENSES													
Cost of electricity	23,218,378	21,819,493	35,364,953	35,834,118	26,012,142	25,276,392							167,525,476
Staff compensation and benefits	656,536	673,219	792,543	742,292	723,137	787,636							4,375,363
Data manager	265,853	265,687	265,535	265,615	266,006	266,325							1,595,021
Service fees - PG&E	98,200	98,021	98,152	98,182	98,159	98,157							588,871
Consultants and other professional fees	410,507	374,917	575,873	298,921	372,763	700,446							2,733,427
Other operating expenses	200,337	182,040	881,981	206,710	(17,169)	220,350							1,674,249
Depreciation	50,510	50,510	50,449	50,397	50,866	50,927							303,659
Total operating expenses	24,900,321	23,463,887	38,029,486	37,496,235	27,505,904	27,400,233	-	-	-	-	-	-	178,796,066
Operating income (loss)	10,518,525	10,271,174	1,857,169	4,947,639	12,750,272	12,977,146	-	-	-	-	-	-	53,321,925
NONOPERATING REVENUES (EXPENSES)													
Grant income	-	-	-	716,553	-	-	-	-	-	-	-	-	716,553
Interest income	91,459	111,370	172,923	549,063	546,985	744,934	-	-	-	-	-	-	2,216,734
Financing costs	(2,428)	(2,359)	(4,010)	(2,251)	(2,152)	(2,083)	-	-	-	-	-	-	(15,283)
Total nonoperating revenues (expenses)	89,031	109,011	168,913	1,263,365	544,833	742,851	-	-	-	-	-	-	2,918,004
CHANGE IN NET POSITION	\$ 10,607,556	\$ 10,380,185	\$ 2,026,082	\$ 6,211,004	\$ 13,295,105	\$ 13,719,997	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 56,239,929

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

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>
	\$91,459	\$111,370	\$172,923	\$549,063	\$546,985	\$744,934	\$0	\$0	\$0	\$0	\$0	\$0	<u>\$2,216,734</u>
<hr/>													
Portfolio Invested													
<i>Average daily portfolio available to invest*</i>	172,316,490	194,339,856	206,387,935	204,912,664	186,285,344	199,970,241							
<i>Average daily portfolio invested</i>	159,489,912	182,240,450	193,643,770	187,505,697	173,917,058	184,112,597							
<i>% of average daily portfolio invested</i>	92.6%	93.8%	93.8%	91.5%	93.4%	92.1%							
<hr/>													
Detail of Portfolio													
		<u>Annualized Yield</u>		<u>Carrying Value</u>		<u>Interest Earned</u>							
<i>Money Market - River City Bank</i>		1.26%		\$724		\$724							
<i>ICS Account**</i>		2.56%		\$1,035,109		\$12,161							
<i>CAMP Account***</i>		4.80%		\$177,721,225		\$724,233							

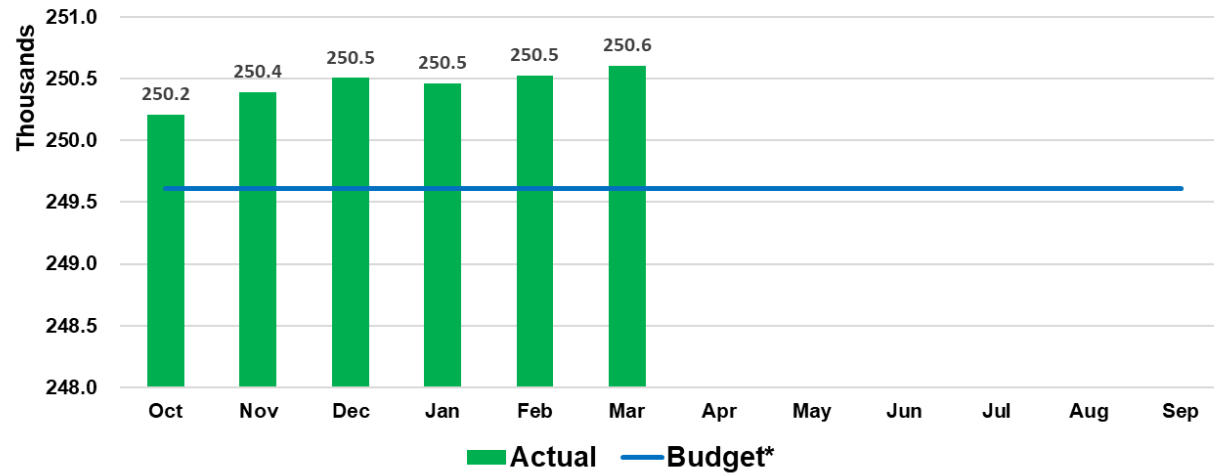
* Note: Balance available to invest does not include lockbox funds.

** IntraFi Cash Service Account (ICS) - River City Bank

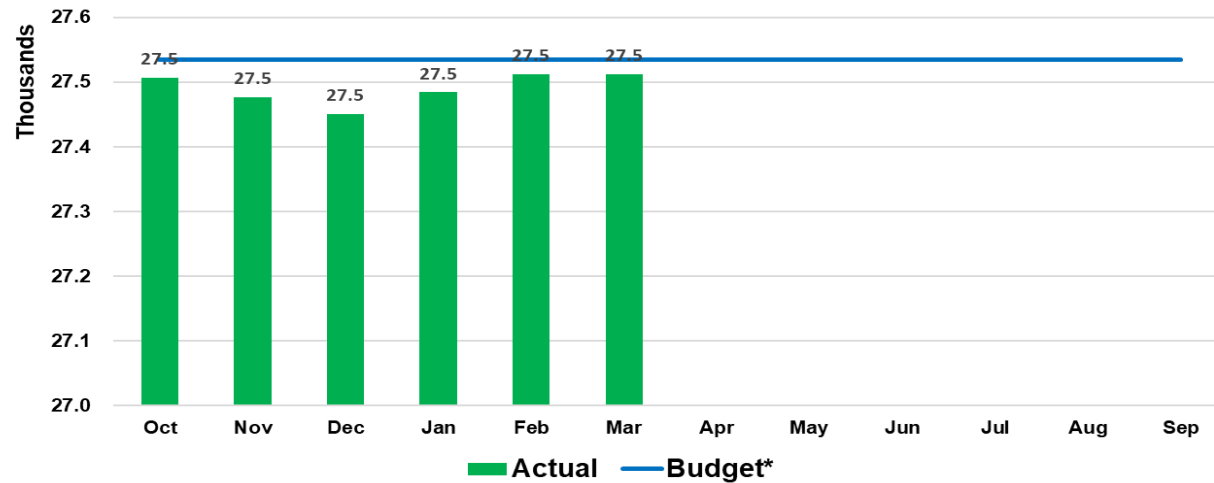
*** California Asset Management Program (CAMP)

CUSTOMER ACCOUNTS

RESIDENTIAL ACCOUNTS



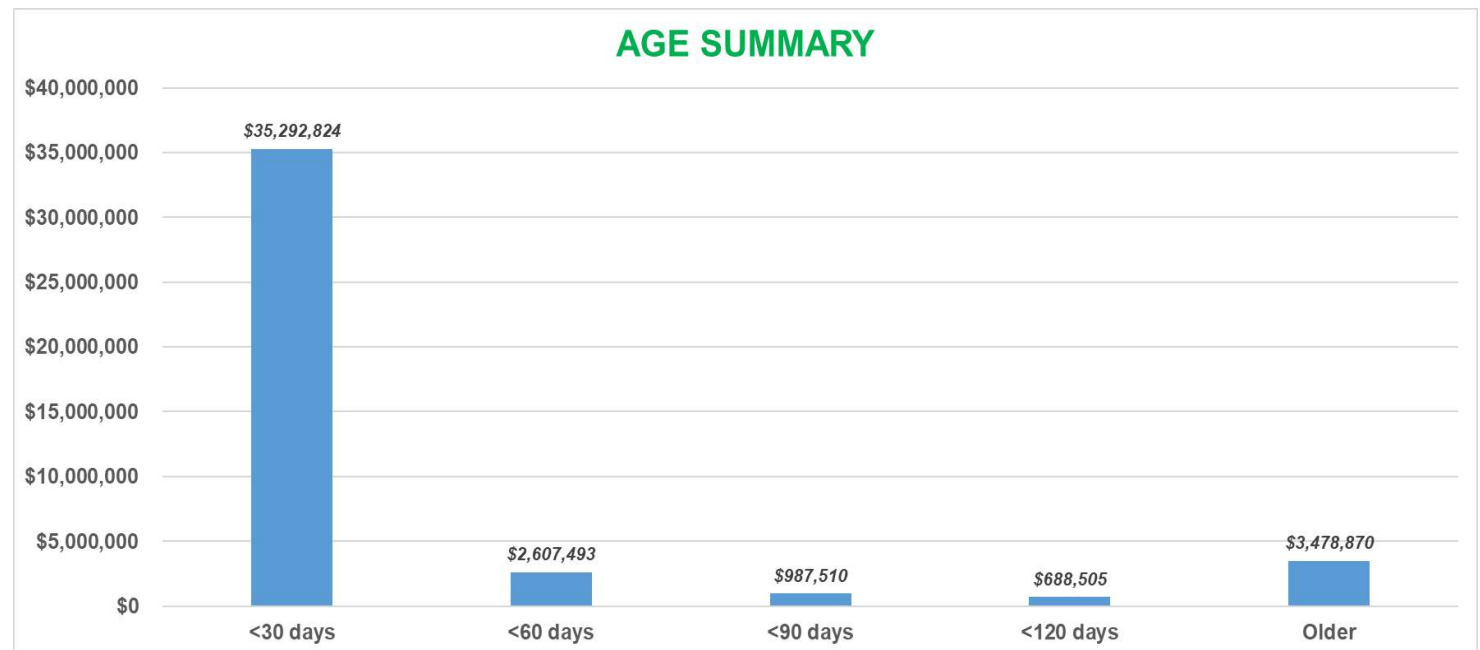
NON-RESIDENTIAL ACCOUNTS



SILICON VALLEY CLEAN ENERGY AUTHORITY ACCOUNTS RECEIVABLE AGING REPORT

	October	November	December	January	February	March	April	May	June	July	August	September
0 to 30 days	77.4%	76.1%	80.5%	82.3%	81.3%	82.0%						
31 to 60 days	7.6%	7.9%	5.1%	4.8%	5.3%	6.1%						
61 to 90 days	4.6%	4.8%	4.0%	2.7%	3.2%	2.3%						
91 to 120 days	3.4%	2.9%	2.3%	2.5%	2.1%	1.6%						
Over 120 days	7.0%	8.3%	8.1%	7.8%	8.2%	8.1%						

Accounts Receivable Days
30 Days
\$43,055,202
TOTAL DUE
Bad Debt % (<i>Budget</i>)
1%





Staff Report – Item 1c

Item 1c: Authorize the Chief Executive Officer to Approve the Agreement with Strategic Energy Innovations to Host Three Climate Corps Fellows for the 2023-2024 Fellowship Cycle

From: Girish Balachandran, CEO

Prepared by: Adam Selvin, Director of Energy Services and Community Relations

Date: 5/10/2023

RECOMMENDATION

Authorize the CEO to execute the Service Agreement, any nonfinancial amendments, and other related documents for Climate Corps fellow hosting services with the nonprofit Strategic Energy Innovations, not-to-exceed \$216,000 through June 30, 2024.

BACKGROUND

SVCE was introduced to Strategic Energy Innovations (SEI) and the Climate Corps fellowship program in 2017 through the City of Cupertino's Office of Sustainability, who had a fellow focused on outreach projects for SVCE's startup phase. Since 2017, SVCE has hosted Climate Corps fellows on the Energy Services and Community Relations team primarily focused on outreach and educational initiatives. During the 2022-2023 Climate Corps fellowship cycle, SVCE is hosting two fellows, one focused on outreach, and another working with the Decarbonization Programs and Policy team on the fleet electrification program.

SEI's services include recruitment for fellows along with preliminary interviews, monthly trainings for fellows, and opportunities for professional development. The Climate Corps fellowship extends over a 10-month period and the services include helping staff with outreach, communications efforts, report preparation, and any other needs the organization has for marketing and program development.

ANALYSIS & DISCUSSION

Aligned with SVCE's mission to reduce the dependence on fossil fuels and fight climate change locally, the Climate Corps fellowship program focuses on advancing sustainable solutions with organizations while fostering emerging leaders. The award-winning Climate Corps fellowship program provides professional development opportunities in the sustainability and energy fields by connecting young professionals to work with companies, agencies and local governments on projects that address climate change issues. Hosting Climate Corps fellows not only helps individuals interested in the energy field gain industry experience, but also helps SVCE to continue to reach the organization's goals set forth in the adopted strategic plan.

SVCE has hosted Climate Corps fellows for the past seven fellowship cycles, including two fellows this current cycle. Climate Corps fellows have been instrumental in the success of SVCE outreach projects and initiatives. Past and current fellow projects include the Bike to the Future high school scholarship competition focused on clean transportation innovation, managing the annual SVCE Education Fund, creating and running the EmPowerSV youth short-film competition, and additional support for outreach initiatives and programs.

Agenda Item: 1c**Agenda Date: 5/10/2023**

The added benefit of working with a defined fellowship program is that much of the recruitment effort and liability for the fellows is managed by SEI, and fellows receive professional development opportunities. The scope of work for SEI includes:

- Recruitment assistance
- Ongoing training and support of selected fellows
- Development of metrics for fellows to measure and track progress
- Monthly follow-ups to review progress
- Receipt of a Climate Protection Professional Career Certificate with Skyline College at conclusion of fellowship

The 2023-2024 fellowship cycle starts in September 2023 and runs until June 2024. With the proposed agreement, SVCE plans to host three fellows, one under the Energy Services and Community Relations team, one under the Decarbonization Programs and Policy team, and another under the Power, Policy, Planning, Procurement, Regulatory and Operations (4PRO) team.

The Community Outreach Fellow, supervised by SVCE Senior Manager of Communications, Pamela Leonard, will mainly focus on youth engagement activities and the DIY Energy Savings Toolkit program. Other duties may include supporting the community relations team with outreach events and initiatives.

The Programs Fleet Electrification and Climate Action Fellow supervised by Senior Manager of Public Sector Services Anthony Eulo will focus on encouraging and supporting the electrification of public sector and private sector fleets around Silicon Valley through research and interfacing with fleet managers and representatives.

The 4PRO Fellow will be supervised by Senior Manager of Power Resources, Charles Grinstead. The fellow's primary role will be to research emissions of the CAISO grid, including local area, technology specific, and resource specific emissions. Other duties may include reviewing and analyzing regulatory policies related to emissions reporting.

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

STRATEGIC PLAN

Hiring three climate corps fellows will help achieve the following goals from the October 2022 Board-adopted Strategic Plan.

- Goal 3: Manage and optimize power supply resources to meet affordability, GHG reduction and reliability objectives.
- Goal 6: Empower customers with the awareness, knowledge and resources needed to make effective clean energy choices
- Goal 7: Support communication and engagement with public, private, and non-profit stakeholders to leverage our decarbonization efforts.
- Goal 15: Build and maintain a high-performing team to be an employer of choice

The 4PRO fellow will work to support Goal 3 by researching emissions impact on portfolio compliance reporting. With the Outreach Fellow's role to conduct and assist with youth engagement, the DIY Energy Savings Toolkit program and outreach initiatives, the fellow will support the team in continuing to reach the metrics set in Goal 6. The Fleet Electrification Fellow will also work in supporting Goal 7 through engaging with public and private fleet managers and representatives to support the fleet electrification efforts identified in the Electric Vehicle Infrastructure Joint Action Plan. By utilizing SEI's support in recruitment and hiring, SVCE can act on Goal 15 with reduced staff time.

Agenda Item: 1c**Agenda Date: 5/10/2023**

ALTERNATIVE

The alternative is to not hire three Climate Corps fellows, hire only one fellow, or do not hire any fellows and the work outlined within the fellow job descriptions will be led by staff.

FISCAL IMPACT

The fiscal impact of this agreement would be \$216,000, which will be included in the 2023-2024 FY budget, should it be approved by the SVCE board. The current 2022-2023 FY budget does account for temporary staff, inclusive of the annual Climate Corps fellowship.

ATTACHMENTS

1. SEI Climate Corps Fellowship Agreement
2. Outreach Fellow Job Description
3. Fleet Electrification Fellow Job Description
4. 4PRO Fellow Job Description

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

THIS AGREEMENT, is entered into this 1st day of September 2023, by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency, ("Authority" or "Partner"), and STRATEGIC ENERGY INNOVATIONS, a nonprofit organization whose address is 899 Northgate Dr #401, San Rafael, CA 94903 (hereinafter referred to as "Consultant") (collectively referred to as the "Parties" and individually as a "Party").

RECITALS:

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

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

C. Authority and Consultant desire to enter into an agreement for Climate Corps fellow hosting upon the terms and conditions herein.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM**

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

2. **SERVICES TO BE PERFORMED**

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

3. **COMPENSATION TO CONSULTANT**

Consultant shall be compensated for services performed pursuant to this Agreement in a total amount not to exceed two hundred and sixteen thousand dollars and no/100 (\$216,000,.00) based on the rates and terms set forth in Exhibit "C," which is attached hereto and incorporated herein by this reference.

4. **TIME IS OF THE ESSENCE**

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

5. **STANDARD OF CARE**

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

6. **INDEPENDENT PARTIES**

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

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

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

8. **NON-DISCRIMINATION**

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

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

9. **HOLD HARMLESS AND INDEMNIFICATION**

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

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

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

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

10. **INSURANCE**

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

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

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

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

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

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

11. **CONFLICT OF INTEREST**

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

12. **PROHIBITION AGAINST TRANSFERS**

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

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

13. **SUBCONTRACTOR APPROVAL**

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

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

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

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

14. **REPORTS**

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

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

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

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

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

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

15. **RECORDS**

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

16. **PARTY REPRESENTATIVES**

The Chief Executive Officer ("Authority Representative") shall represent the Authority in

all matters pertaining to the services to be performed under this Agreement. Nathan McKenzie (Consultant Representative”) shall represent Consultant in all matters pertaining to the services to be performed under this Agreement.

17. **INFORMATION AND DOCUMENTS**

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

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

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

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

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

18. **NOTICES**

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

TO AUTHORITY:

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

TO CONSULTANT:

Nathan McKenzie
Strategic Energy Innovations
899 Northgate Drive, Suite 410
San Rafael, CA 9403

19. **TERMINATION**

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

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

20. **COMPLIANCE WITH LAWS**

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

Consultant represents and agrees that all personnel engaged by Consultant in performing services are and shall be fully qualified and are authorized or permitted under state and local law to perform such services. Consultant represents and warrants to Authority that it has all licenses,

permits, certificates, qualifications, and approvals required by law to provide the services and work required to perform services under this Agreement, including a business license. Consultant further represents and warrants that it shall keep in effect all such licenses, permits, and other approvals during the term of this Agreement.

21. **CONFLICT OF LAW**

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

22. **ADVERTISEMENT**

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

23. **WAIVER**

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

24. **INTEGRATED CONTRACT**

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

25. **AUTHORITY**

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

26. **INSERTED PROVISIONS**

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

27. **CAPTIONS AND TERMS**

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

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

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

29. **EXHIBITS**

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

30. **FORCE MAJEURE**

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

31. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**

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

32. **ATTORNEY FEES**

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

33. **SEVERABILITY**

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

34. **SUCCESSORS AND ASSIGNS**

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

35. **NO THIRD PARTY BENEFICIARIES INTENDED**

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

virtue of this Agreement.

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

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

37. **DRAFTING PARTY**

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

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

RECOMMENDED FOR APPROVAL

Adam Selvin, Director of Energy Services and Community Relations

RECOMMENDED FOR APPROVAL

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
STRAREGIC ENERGY INNOVATIONS

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**

Through Climate Corps, SEI agrees to:

- Recruit and assist in selection of three Fellows for a commitment of 1,756 total hours over a period of 10 months for each Fellow.
 - o 1,464 hours of on-site service with Partner (“on-site hours”)
 - o 132 hours of training led by SEI (“training hours”)
 - o 160 hours personal time off (“PTO hours”)
- Train and support the selected Fellows with a comprehensive training program that includes a training manual, a multi-day orientation led by an array of experts, monthly trainings, a mid-year two-day retreat, and two Professional Development Assessment reviews.
- Work with the Partner to develop a specific Fellowship Scope for specific Partner initiatives that aligns with Climate Corps goals and defines the Training Plan for the Fellows.
- Provide assistance in defining and developing metrics for the Fellow to measure and track the progress of project activities throughout their Fellowship.
- Provide monthly follow-ups to review progress with Site Supervisor and Fellows.
- Define and implement any corrections to Fellows’ plan determined to be necessary based on feedback collected from Fellows and Partner.

Partner agrees to:

- Take part in the recruitment and interview process to identify Fellows best fitted for the specific projects' needs, with the understanding that Partner has right of refusal of any proposed Fellows.
- Provide one to three specific climate resiliency initiatives that each Fellow can work on during their term of service.
 - o Initiatives must be well-defined, approved for implementation, and include specific learning objectives.
 - o Partner Agency will work with SEI to finalize a mutually agreed-upon Fellowship Scopes no later than one month after the Fellows arrives on site.
- Assign Site Supervisors who will be available to meet at least weekly with the Fellows for one-on-one project meeting time, coordinate other necessary staff supervision needed for successful implementation of the Fellowship Scope.
- Support Fellows to complete monthly reporting to SEI indicating whether progress is being made on the initiatives.
- Provide feedback on Program and Fellows effectiveness by:
 - o Filling out and submitting a Professional Development Assessment providing feedback on Fellows activities two times a year;
 - o Participating in program-wide conference calls to discuss program progress; and
 - o Responding to Partner Agency feedback surveys as requested.
- Refrain from using the Fellows for displacement of a Partner Agency employee during the Fellowship term.
- Allow SEI to share results from this program through grant reporting, program marketing, and fundraising.

- Provide program-wide support through either:
 - o Sponsoring a venue and staff presentations for a monthly training event for all Fellows; or
 - o Participating in a program sponsored training session or professional development event.
 - o Being receptive to informational interview requests from 1 or more current Fellow

Program Plan

Fellow service information

[A] Number of Fellows	3
Service Term	Full Cycle: September 1, 2023 to June 30, 2024
Standard Hours	Full Cycle: 1,764 total hours, allocated as follows: <ul style="list-style-type: none"> • 1,464 hours of on-site service with Partner (“on-site hours”) • 140 hours of training led by SEI (“training hours”) • 160 hours of vacation, holiday and sick time (VHS)

Position fee

[B] Amount	\$49,000 per non-profit Fellow
-------------------	--------------------------------

Additional funding

[C] Amount	\$20,000
Use of additional funds	<p>[Living Stipend: Additional funds will go towards enhancing Fellow’s Living Stipend. Funds will be paid out to Fellow twice a month as part of the Fellow’s regular stipend checks.]</p> <p>[End-of-Program Award: Additional funds will go towards enhancing Fellow’s end of program award.]</p> <p>[Expense reimbursements: Additional funds will be held by SEI in a reimbursement account for Program-related costs such as commuting, trainings, and other benefits. For Fellow to be reimbursed, Fellow must submit a Partner-approved Climate Corps Expense Report and to SEI. SEI will disburse the funds to Fellow within 30 days after receiving the request and following Partner approval. If, at the end of the Service Term, any funds remain in the account, SEI will transfer the remaining funds to Partner.]</p>
[D] Administration fee	Partner will pay to SEI a fee equal to 15% of the amount of additional funds.

Timing	[Additional funds to be held in a reimbursement account are due at the same time as the first installment of the Program fee.] [Partner will pay additional funds and the administration fee promptly following receipt of an invoice from SEI.]
---------------	---

Total fee

Amount	\$ 216,000
Timing	Partner will pay the fee in two installments: <ul style="list-style-type: none"> • \$108,000 due October 15, 2023 • \$108,000 due February 15, 2024

Partner contact information

Contact person and title	Pamela Leonard
Email address	pamela.leonard@svcleanenergy.org
Phone number	(408) 549-2671
Mailing address	333 W. El Camino Real, Ste. 330 Sunnyvale, CA 94087
Billing contact information (if different from above)	
P.O. Number (if applicable)	

SEI contact information

Contact person and title	Nathan McKenzie, Program Director
Email address	nathan@seiinc.org
Phone number	415-507-1432
Mailing address	899 Northgate Drive, Suite 410 San Rafael, CA 94903

Additional Terms	<p><u>Program Initiation</u></p> <p>Recruitment and Selection SEI will recruit, screen, and select a Fellow to serve at Partner during the service term set out in the Program Plan (“Service Term”). Partner will assist in the recruitment and selection of Fellow, including, without limitation, developing a job description specific to Partner’s activities and needs, conducting interviews, and participating in the final selection. If Partner ultimately fails to select a Fellow, Partner will pay to SEI a \$2,500 fee for the recruiting effort promptly following receipt of an invoice from SEI.</p> <p>Employment Relationship SEI and Partner acknowledge that Fellow is an employee of SEI. SEI will notify each Fellow that Fellow is not an employee of Partner.</p> <p>Fellow Orientation At the start of the Service Term, SEI will provide Fellow with an orientation to the Program. Partner will provide Fellow with an orientation to Partner’s mission, programs, operations, systems, and facilities.</p> <p>Fellowship Scope Partner will cooperate with SEI to develop a written scope of work (“Fellowship Scope”) for each Fellow. The Fellowship Scope will: (a) outline the training plan for the Fellow, (b) describe one to three specific climate change resiliency projects that the Fellow will work on during the Service Term, and (c) define anticipated deliverables and Fellow performance and learning goals. Partner and SEI will complete the Fellowship Scope within one month after the Fellow’s first day of service.</p> <p><u>Training and Support</u></p> <p>Fellow Training SEI will train and support the Fellow with a training program that includes: monthly trainings, a mid-year two-day retreat, an end of program symposium, and two professional development assessment reviews. Time spent by the Fellow in this training program will count as training hours under the Program Plan.</p> <p>Training Calendar SEI will provide a calendar of training activities to Partner and will notify Partner of any schedule changes in advance.</p> <p>Ongoing Support and Assistance SEI will help Partner and Fellow develop metrics for evaluating the Fellow’s progress. SEI will schedule monthly sessions with Fellow and Partner to review the Fellow’s progress, and will assist the Fellow and Partner with defining or implementing any changes to the Fellowship Scope or other documents as appropriate.</p> <p>Partner’s Program-wide Support Partner will carry out Program-wide activities reasonably requested by SEI, such as: (a) sponsoring a venue and staff presentations for a monthly training event for all Fellows, (b) participating in a Program-sponsored training session or</p>
-------------------------	---

professional development event, or (c) accepting informal interview requests from one or more other Fellows in the Program.

Ownership of Materials

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

Fellow Responsibilities, Scheduling, and Supervision

Fellow Responsibilities

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

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

Payment to Fellow; Additional Funding

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

Hours and Work Schedule

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

Work Environment and Resources

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

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

We recognize that sites will have different timelines and protocols for reopening. Site Supervisors, please notify your Climate Corps Regional Supervisor in advance via email if your site plans to reopen and you will be expected to physically report to service. Please share: (1) Date of expected reopening and date you will begin to report to work on site; (2) Health and safety measures in place to minimize the threat of exposure (i.e. distancing, availability of PPE and disinfecting supplies). If your site organization has a COVID-19 policy, please share.

Fellow Attendance at Climate Corps Events

Partner will allow Fellow to attend all Program events, including, without limitation, orientation, monthly trainings, retreats, field trips to other Climate Corps partner sites, and the Climate Corps Symposium, so that Fellow can fulfill his or her Program training requirements and enhance his or her professional development. Time spent by the Fellow at these events will count as training hours under the Program Plan.

Site Supervisor

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

Reporting and Recordkeeping**Program Reports**

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

Site Visits

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

Recordkeeping

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

Communication**Program Contacts**

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

Cooperation

SEI and Partner acknowledge Fellow's success in the Program depends in large part on the effectiveness of collaboration between the parties. Both parties will provide timely access to data, information, and personnel, ensure the accuracy and

completeness of data and information provided, and promptly notify one another about challenges, concerns, and successes.

Fellow Performance

SEI cannot guarantee specific performance results for any Fellow. Partner will notify SEI immediately of any significant problems with Fellow's professional performance or conduct, including, without limitation, failure to report to a site or unprofessional behavior. SEI will work with Partner to provide assistance or discuss an appropriate response.

Exhibit B
Schedule of Performance

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

Task	Begin	Complete
1. Fellow Interview and Recruitment	May 2023	August 2023
2. Fellowship Cycle	September 2023	June 2024

Exhibit C **Compensation**

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

The compensation to be paid to Consultant under this Agreement for all services described in Exhibit “A” and reimbursable expenses shall not exceed a total of two hundred and sixteen thousand dollars and no/100 (\$216,000.00), as set forth below. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to Authority unless previously approved in writing by Authority.

Task	Estimated Budget
1. Fellow Position Fee – Fellow 1	\$ 49,000
2. Fellow Living Stipend – Fellow 1	\$20,000
3. SEI Administrative Costs – Fellow 1	\$3,000
4. Fellow Position Fee – Fellow 2	\$49,000
5. Fellow Living Stipend – Fellow 2	\$20,000
6. SEI Administrative Costs – Fellow 2	\$3,000
7. Fellow Position Fee – Fellow 3	\$49,000
8. Fellow Living Stipend – Fellow 3	\$20,000
9. SEI Administrative Costs – Fellow 3	\$3,000
Total	\$216,000

Invoices

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

Reimbursable Expenses

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

Additional Services

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

Exhibit D
Insurance Requirements and Proof of Insurance

Consultant shall maintain the following minimum insurance coverage:

A. **COVERAGE:**

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

Climate Corps Description – Community Outreach Fellow

Do you want to be a part of an organization that is fighting climate change, accelerating electric innovation and reinvesting locally? Silicon Valley Clean Energy (SVCE) is the community choice electricity provider for 13 communities in Santa Clara County. By providing renewable and carbon-free electricity, SVCE has reduced local, energy-related emissions by 29% from the 2015 baseline and is continuing to reduce emissions through innovative community programs focused on building and transportation electrification.

Under staff direction, the fellow's main tasks will be to develop, coordinate and plan SVCE's youth climate engagement initiatives and DIY Energy Savings Toolkits. Other tasks include supporting the community relations team by engaging in community outreach to inform and engage residents and businesses to build awareness of Silicon Valley Clean Energy and available offers and services. This position also requires research and analytical tasks for projects and assignments that utilize specific and acquired academic skills and knowledge for a variety of outreach and marketing-related activities.

The work performed for this fellowship requires strong communication, public speaking, creative and independent research skills. Under the direction and guidance of staff, fellows will research opportunities to support outreach and business development.

Essential Duties

The successful fellow will:

- Develop and coordinate youth climate engagement initiatives;
- Perform tasks of an analytical or research nature for suitable projects or ongoing assignments which call for specific acquired academic skills and knowledge;
- Locate sources of information and collect and organize data, as directed;
- Assist with the development of written, graphic and/or oral reports and material;
- Create messaging and graphics for social media, write news releases, staff reports, newsletter articles, and other presentation materials;
- Attend virtual and in-person community events where SVCE is present; and
- Gain knowledge of community choice energy providers and of the energy industry as a whole.

Qualifications

Qualified candidates should be a recent graduate from an academic institution with a degree that will provide the specific skills and knowledge that will contribute to available work assignments.

Additionally, we are looking for someone who is passionate about learning, not afraid to be challenged and excited by the opportunity to apply acquired academic knowledge to real world business endeavors.

The following skills are also highly desired:

- Exceptional writing skills
- Detail-oriented and organized
- Understanding and passion for the traditional and social media landscape
- Strong interviewing, public speaking and presentation skills
- Working with youth
- Graphic or web design and editing skills
- Ability to work with a team, as well as independently motivated
- Passion to help build our brand while building your career
- Knowledge of Santa Clara County and its communities

- Bilingual Spanish or Chinese languages is strongly desired
- Applicants must be able to perform the essential job functions with or without a reasonable accommodation

Climate Corps Description – Fleet Electrification and Climate Action Fellow

Do you want to be a part of an organization that is fighting climate change, accelerating electric innovation and reinvesting locally? Silicon Valley Clean Energy (SVCE) is the community choice electricity provider for 13 communities in Santa Clara County. By providing renewable and carbon-free electricity, SVCE has reduced local, energy-related emissions by 29% from the 2015 baseline and is continuing to reduce emissions through innovative community programs focused on building and transportation electrification.

Under staff direction, the fellow's primary role will be to encourage and support the electrification of public sector and private sector fleets across Silicon Valley. With transportation emissions accounting for the majority of greenhouse gas emissions in the area, electrifying fleets will result in direct, significant decreases in emissions. In addition, fleet electric vehicle use can demonstrate the practicality of electric vehicles for everyday use and will catalyze additional electric vehicle adoption.

The fellow will research successful fleet electrification efforts and interface with local government representatives and private sector fleet managers on opportunities to invest in both vehicle and charging infrastructure. The research performed during this fellowship will directly inform current and near-term program design and budgetary allocations.

The fellow will work under the direction of SVCE staff to research, assess and analyze funding and finance opportunities for fleet electrification. The work performed for this fellowship requires strong research skills, organization, and a self-starter attitude.

As fleet electrification work frequently ebbs and flows as fleet owners engage, the fellow's secondary role will be to conduct research and analyze a variety of issues relating to climate action of interest to SVCE and SVCE member agencies. This may include technological research, policy comparisons, activity reporting, administrative reporting, and communication material development. Most of this work will center on the broad topic of building electrification as SVCE is deeply involved in this issue.

Essential Duties

The successful fellow will:

- Assess the baseline state of fleet electrification efforts in the SVCE service territory;
- Research fleet electrification projects completed by public agencies and private sector companies;
- Explore fleet electrification support programs initiated by other community choice energy agencies and other funders;
- Contact fleet managers in member agencies, other governmental/educational agencies and private sector companies to gauge interest in advancing fleet electrification;
- Pursue opportunities to match SVCE resources and other resources with fleet managers ready to engage in a fleet electrification planning and implementation efforts;
- Begin program implementation; and
- Evaluate and chronicle program successes, lessons learned, and future opportunities.

Qualifications

Qualified candidates should be a recent graduate from an academic institution with a degree that will provide the specific skills and knowledge that will contribute to available work assignments.

Additionally, we are looking for someone who is passionate about learning, not afraid to be challenged and excited by the opportunity to apply acquired academic knowledge to real world business endeavors.

The following skills are also highly desired:

- Basic understanding of principles of transportation and building decarbonization
- Excel and PowerPoint experience
- Exceptional research skills
- Ability to run cost-benefit analysis, Net Present Value calculations, and risk analyses
- Develop other qualitative and quantitative metrics to compare and prioritize opportunities
- Knowledge of California regulatory and legislative bodies and processes governing energy, transportation, and climate change
- Educational focus of finance, economics, public policy, business administration or related field

Climate Corps Description – Power, Policy, Planning, Procurement, Regulatory and Operations Fellow

Do you want to be a part of an organization that is fighting climate change, accelerating electric innovation and reinvesting locally? Silicon Valley Clean Energy (SVCE) is the community choice electricity provider for 13 communities in Santa Clara County. By providing renewable and carbon-free electricity, SVCE has reduced local, energy-related emissions by 29% from the 2015 baseline and is continuing to reduce emissions through innovative community programs focused on building and transportation electrification.

Under staff direction, the fellow's primary role will be to research emissions of the CAISO grid, including local area, technology specific, and resource specific emissions. The successful candidate will be responsible for researching the impacts of these emissions in an agency's portfolio for the purposes of present and future compliance reporting such as the Power Content Label and CPUC GHG emissions.

The fellow will also learn the process of contract negotiations, portfolio modeling and reporting, and position management. The fellow will be responsible for completing ad-hoc assignments from the Power Supply team as requested and must be able to manage multiple priorities and deadlines in a fast-paced environment.

Essential Duties

The successful fellow will:

- Assess the existing SOX and NOX emissions of the CAISO grid historically
- Research specific resources historical and expected emissions, and its impact on portfolio compliance reporting
- Explore existing public data on emissions from other community choice energy agencies and independently owned utilities
- Review and analyze regulatory policies related to emissions reporting
- Provide regular updates and reports to management on progress and findings related to research projects

Qualifications

Qualified candidates should be a recent graduate from an academic institution with a degree that will provide the specific skills and knowledge that will contribute to available work assignments. Candidates are expected to possess excellent communication and interpersonal skills, with an ability to work independently and collaboratively in a team environment.

Additionally, we are looking for someone who is passionate about learning, not afraid to be challenged and excited by the opportunity to apply acquired academic knowledge to real world business endeavors.

The following skills are also highly desired:

- Exceptional research skills
- Strong ability to report findings to management in succinct, data-driven presentations
- Basic understanding of principles of California Wholesale Power Markets Experience using data analytics tools, such as Microsoft Excel, PowerBI, Python; Related technologies, are desired, but not required.
- Knowledge of California regulatory and legislative bodies and processes governing energy procurement, emissions, and climate change

- Educational focus of finance, economics, public policy, business administration or related field



Staff Report – Item 1d

Item 1d: Adopt Resolution Approving Amendment to Operating Rules and Regulations to Expand Executive Committee Membership to Up to Six Members

From: Girish Balachandran, CEO

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 5/10/2023

RECOMMENDATION

Staff recommends the SVCE Board of Directors adopt Resolution 2023-08 approving the amendment to SVCE's Operating Rules and Regulations (ORR) to expand Executive Committee membership to up to six Board members. The amendment was proposed at the April 12, 2023 Board of Directors Meeting; a notification was emailed to all Directors and Alternate Directors on April 28, 2023 per the ORR amendment process (Article VI).

EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee met March 24, 2023 and voted in favor of recommending the Board approve the proposed amendment to the ORR to expand membership of the Executive Committee to up to six Board members.

BACKGROUND

SVCE's ORR were first adopted in June 2016 as the Authority was in its infancy with the intent that they can be expanded as the board further addressed its operations and policies.

The ORR have been previously amended to include/revise:

- Regular meeting location;
- Authorization for the Chair of the Board to designate an alternative meeting place within the jurisdiction of the authority after consultation with the Chief Executive Officer on available meeting locations in the event that the Cupertino Community Hall is not available for a regular or adjourned regular meeting;
- Changing the Date of the Annual Meeting and the Appointment of Officers and Committee Members and Conforming the Provisions Regarding the Holding of Regular Meetings to Board Resolution Nos. 2016-14 and 2017-11;
- Defining unexcused absences from board meetings;
- Including reference to SVCE's Code of Ethics Policy;
- Clarification of general Committee Membership;
- Clarification of Executive Committee appointments in January of each year; and
- Addition of Chair and Vice Chair Vacancy language.

The ORR was last amended in January 2021.

ANALYSIS & DISCUSSION

The existing ORR states the Executive Committee consists of five Board members (Article 4, Section 2). Staff would like to change this to identify that up to six Board members can make up the Executive Committee. Changing this language allows flexibility in the event the Board would like to elect six members instead of the

Agenda Item: 1d**Agenda Date: 5/10/2023**

current five, and an opportunity for other board members to express interest in membership with an additional seat. SVCE's other Brown Act committees (Finance and Administration Committee, Audit Committee) allow up to six members to participate.

Below is the proposed language change:

Article 4, Section 2

*Executive Committee. There shall be an Executive Committee consisting of **up to six** Board members. The duties of the Executive Committee shall be to review and provide advice to the Chief Executive Officer and the entire Board on policy, operational and organizational matters and perform such other responsibilities, tasks or activities as delegated to it by the Board.*

ALTERNATIVE

Staff is open to suggestions from the Board of Directors.

FISCAL IMPACT

No fiscal impact as a result of reviewing the proposed ORR amendment.

ATTACHMENT

1. Resolution 2023-08 Amending the Operating Rules and Regulations
2. SVCE Operating Rules and Regulations Amendments Draft (redline)

RESOLUTION NO. 2023-08

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY AMENDING THE OPERATING RULES AND REGULATIONS TO EXPAND EXECUTIVE COMMITTEE MEMBERSHIP TO UP TO SIX BOARD MEMBERS

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, Section 2.5.11 of the Joint Powers Agreement provides for adoption by the Board of Directors of Operating Rules and Regulations; and

WHEREAS, the Board of Directors adopted Resolution No. 2016-04 on June 8, 2016 approving the initial Operating Rules and Regulations for the Authority; and

WHEREAS, the Operating Rules and Regulations currently provide that there shall be an Executive Committee consisting of five Board members; and

WHEREAS, the Board of Directors wish to amend the Operating Rules and Regulations to expand Executive Committee membership to up to six Board members.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SILICON VALLEY CLEAN ENERGY AUTHORITY DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 2 of Article IV of the Operating Rules and Regulations is hereby amended to read:

Section 2. Executive Committee. There shall be an Executive Committee consisting of up to six Board members. The duties of the Executive Committee shall be to review and provide advice to the Chief Executive Officer and the entire Board on policy, operational and organizational matters and perform such other responsibilities, tasks or activities as delegated to it by the Board.

ADOPTED AND APPROVED this 10th day of May, 2023, by the following vote:

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

City of Monte Sereno	Director Mekechuk				
City of Morgan Hill	Director Martinez Beltran				
City of Mountain View	Director Abe-Koga				
County of Santa Clara	Director Lee				
City of Saratoga	Director Walia				
City of Sunnyvale	Director Klein				

Chair

ATTEST:

Clerk

SILICON VALLEY CLEAN ENERGY AUTHORITY

OPERATING RULES AND REGULATIONS

ARTICLE I

FORMATION

The Silicon Valley Clean Energy Authority (the “Authority”) was established on March 31, 2016 pursuant to the execution of the Silicon Valley Clean Energy Authority Joint Powers Agreement (the “Agreement”) by the County of Santa Clara, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Monte Sereno, Morgan Hill, Mountain View, Saratoga and Sunnyvale and the Towns of Los Altos Hills and Los Gatos. The members of the Authority are referred to as Party or Parties in these Operating Rules and Regulations. As defined by the Agreement, these Operating Rules and Regulations consist of rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

ARTICLE II

PURPOSES

The Authority is formed to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. These programs include but are not limited to the establishment of a Community Choice Aggregation Program known as Silicon Valley Clean Energy in accordance with the terms of the Agreement.

ARTICLE III

BOARD OF DIRECTORS

Section 1. Appointment of Chair and Vice-Chair. The Board shall appoint from among themselves by majority vote a Chair and Vice-Chair. The Chair and Vice-Chair shall be appointed for one-year terms expiring at the annual meeting held in January of each year. As provided by the Agreement, there are no limits on the number of terms that a Board member may serve as Chair or Vice-Chair.

Section 2. Appointment of Secretary and Treasurer. The Secretary and Treasurer shall be appointed by the Board for one-year terms expiring at the annual meeting held in January of each year.

Section 3. Extension of Term of Office. If for any reason, the appointment of a Board officer is not made in January of any year, such officer shall continue to serve in his or her position until an appointment is made at a meeting of the Board.

Section 4. Removal of Officers. An officer of the board shall be subject to removal as an officer of the board at any time for any reason by a majority vote of the entire Board.

Section 5. Removal of Board Members for Cause. A Director may be removed by the Board for cause. Cause shall be defined for the purposes of this section as follows:

- a. Unexcused absences from three consecutive Board meetings. Board members shall make every effort to notify the Chair and/or Board Clerk no later than 24 hours prior to any regular meeting of his/her absence. The failure to give such notice shall be deemed an unexcused absence unless the failure to give timely notice was due to emergency circumstances.
- b. Unauthorized disclosure of confidential information or documents from a closed session or the unauthorized disclosure of information or documents provided to the Director on a confidential basis and whose public disclosure may be harmful to the interests of the Authority.
- c. Failure to comply with SVCE's Code of Ethics Policy.

Written notice shall be provided to the Director proposed for removal and the governing body that appointed such Director at least thirty days prior to the meeting at which the proposed removal will be considered by the Board. The notice shall state the grounds for removal, a brief summary of the supporting facts, and the date of the scheduled hearing on the removal. The Director proposed for removal shall be given an opportunity to be heard at the removal hearing and to submit any supporting oral or written evidence. A Director shall not be removed for cause from the Board unless two-thirds of all Directors on the Board (excluding the Director subject to removal) vote in favor of the removal.

ARTICLE IV

COMMITTEES

Section 1. Establishment of Committees. The Executive Committee and all other Committees of the Board shall be selected as provided by Sections 4.6 and 4.7 of the Agreement. Each duly established Committee may establish any Standing or Ad Hoc Committees determined to be appropriate or necessary. The duties and authority of all Committees shall be subject to the approval and direction of the Board. The term of office for each Committee established by the Board shall be one year. The Executive Committee members shall be appointed at the annual meeting in January with all other Committee members appointed in February. There are no limits on the number of terms that a Director may serve on a Committee. If for any reason, the appointment of Committee members is not made at either the January or February meeting of the Board in any year as provided above, such Committee members shall continue to serve in their positions until an appointment is made at a meeting of the Board. An alternate Director may not attend a Committee meeting on behalf of an absent regular Director. Except for the Executive Committee, alternate Directors may be appointed by the Board to Committees. However, for each Committee, not more than one Committee member shall represent a particular member agency.

Section 2. Executive Committee. There shall be an Executive Committee consisting of ~~five~~^{up to six} Board members. The duties of the Executive Committee shall be to review and provide advice to the Chief Executive Officer and the entire Board on policy, operational and organizational matters and perform such other responsibilities, tasks or activities as delegated to it by the Board.

ARTICLE V

MEETINGS

Section 1. Regular Meetings. The regular meetings of the Board of Directors of Authority shall be held on the second Wednesday of each month at the hour of 7 p.m. at the Cupertino Community Hall, located at 10350 Torre Avenue, in Cupertino, California. In the event that Cupertino Community Hall is not available for a regular or adjourned regular meeting, the Chair of the Board may designate an alternative meeting place within the jurisdiction of the Authority after consultation with the Chief Executive Officer on available meeting locations.

Section 2. Special Meetings. Special meetings of the Board may be called at any time and may be held in any location within the jurisdiction of the Authority as provided by the notice for the special meeting.

Section 3. Annual Meeting. The Board shall hold an annual meeting in January of each year at which time it will appoint Board officers and Executive Committee members.

Section 4. Open Meeting Requirements. The meetings of the Board, the Executive Committee and all other committees established by the Board shall be governed by the provisions of the Ralph M. Brown Act (Government Code Section 54950 et seq.).

Section 5. Chair and Vice Chair Vacancies. At any meeting of the Board or a committee where the Chair and Vice Chair are not present, the previous Chair of that body will serve as Interim Chair. If that person is not present, the longest serving member of that body will serve as Interim Chair. If it is a new committee, members will draw lots to determine who will serve as Interim Chair.

ARTICLE VI

AMENDMENTS

These Operating Rules and Regulations may be amended by a majority vote of the full membership of the Board but only after such amendment has been proposed at a regular meeting and acted upon at the next or later regular meeting of the Board for final adoption. The proposed amendment shall not be finally acted upon unless each member of the Board has received written notice of the amendment at least 10 days prior to the date of the meeting at which final action on the amendment is to be taken. The notice shall include the full text of the proposed amendment.



Staff Report – Item 1e

Item 1e: Authorize Request for Extension to Comply with Load Management Standards

From: Girish Balachandran, CEO

Prepared by: Adam Selvin, Director of Energy Services & Community Relations
Citlalli Sandoval, Senior Regulatory Advisor

Date: 5/10/2023

RECOMMENDATION

Staff recommends that the Silicon Valley Clean Energy (SVCE) Board of Directors authorize SVCE staff to request an extension to comply with the California Energy Commission's (CEC) Load Management Standards.

EXECUTIVE COMMITTEE RECOMMENDATION

The Executive Committee met April 28, 2023 and voted to support staff's recommendation for the Executive Committee to recommend the SVCE Board of Directors authorize SVCE staff to request an extension to comply with the California Energy Commission's (CEC) Load Management Standards, to be included on the Consent Calendar.

BACKGROUND

On January 20, 2023 the Office of Administrative Law approved the CEC's regulatory action to amend the Load Management Standards (California Code of Regulations Title 20 §§ 1621-1625). The Load Management Standards apply to Silicon Valley Clean Energy in addition to California's investor-owned utilities, publicly-owned utilities, and community choice aggregators (CCAs) and were adopted to encourage the use of electrical energy at off-peak hours, encourage the control of daily and seasonal peak loads to improve electric system equity, efficiency and reliability, minimize or delay the need for new capacity, and reduce fossil fuel consumption and greenhouse gas emissions.

The Load Management Standards include several compliance deadlines beginning in 2023 and ending in 2027.

Typically, administrative matters such as requests for extension do not require Board of Director approval. However, the Load Management Standards state that the rate approving body of a CCA can approve a plan or revisions to a previously approved plan that delays compliance or modifies compliance with the requirements of California Code of Regulations Title 20 §§ 1623.1 (b)-(c).

California Code of Regulations Title 20 §§ 1623.1 (b)-(c) require Silicon Valley Clean Energy to:

- 1) Upload existing time-dependent rates into the CEC's Market Informed Demand Automation Server (MIDAS) no later than three (3) months after April 1, 2023 (i.e., July 1, 2023)¹;
- 2) Submit to the CEC's Executive Director of a list of load flexibility programs deemed cost-effective no later than eighteen (18) months after April 1, 2023 (i.e., October 1, 2024);
- 3) Request approval from its rate approving body for at least one marginal cost-based rate within twenty-seven (27) months of April 1, 2023 (i.e., July 1, 2025); and

¹ Time-dependent rates are rates that can vary depending on the time of day to encourage off-peak electricity use and reductions in peak electricity use (e.g., time-of-use, hourly, and sub-hourly rates are time-dependent rates).

Agenda Item: 1e**Agenda Date: 5/10/2023**

- 4) Offer to each of its electricity customers within fifty-one (51) months of April 1, 2023 (i.e., July 1, 2027) voluntary participation in either a marginal cost-based rate or a cost-effective program previously identified in the list of load flexibility programs submitted to the CEC's Executive Director.

ANALYSIS & DISCUSSION

The amended Load Management Standards require investor-owned utilities, publicly-owned utilities, and large CCAs to populate a California-wide online database that is customer and machine accessible, the Market Informed Demand Automation Server (MIDAS), with dynamic rates.² MIDAS is designed to provide utilities' time-varying rates, greenhouse gas emission signals, and California Independent System Operator FlexAlerts. By July 1, 2023, Silicon Valley Clean Energy is required to upload its time-dependent rates into MIDAS.³

Silicon Valley Clean Energy has participated and continues to participate in a CEC working group for MIDAS implementation. However, timely compliance with the July 1, 2023 upload deadline is not technologically feasible or cost-effective for Silicon Valley Clean Energy, because the MIDAS database, as well as the final protocols for the upload of Silicon Valley Clean Energy's existing time-dependent rates to the database, have not been finalized by the CEC, and therefore Silicon Valley Clean Energy cannot cost-effectively establish the automated systems necessary to perform the upload, thereby making timely compliance technologically infeasible at this time.

CCAs and investor-owned utilities have submitted to the CEC a letter jointly signed by all large CCAs and investor-owned utilities requesting an extension to comply with the MIDAS upload requirement. However, there is a possibility that the CEC rejects the request and requires each CCA to individually request an extension through a plan to comply with the Load Management Standards.

Silicon Valley Clean Energy requests that the Board determine in connection with its grant of extension pursuant to California Code of Regulations Title 20 § 1623.1(a)(2) that despite Silicon Valley Clean Energy's good faith efforts to comply, requiring timely compliance with the Load Management Standards requirements will result in extreme hardship to Silicon Valley Clean Energy.

STRATEGIC PLAN

This item relates to SVCE's Board-adopted Strategic Plan Goal 8, "Enact and maintain competitive service offerings for SVCE customers that deliver measurable economic and environmental benefits", Measure 3, "Provide policy support for key customer-facing L&R activities."

ALTERNATIVE

Do not authorize a request for extension. If Silicon Valley Clean Energy is not in compliance with the Load Management Standards, then the CEC could seek injunctive relief.

² Large CCA defined as providing in excess of 700 GWh of electricity to customers in any calendar year.

³ California Code of Regulations Title 20 § 1623.1 (c)



Staff Report – Item 1f

Item 1f: Receive SVCE Rate Schedules Effective May 1, 2023

From: Girish Balachandran, CEO

Prepared by: Adam Selvin, Director of Account Services and Community Relations
 Peter Mustacich, Energy Services Lead
 Peyton Parks, Energy Services Lead

Date: 5/10/2023

RECOMMENDATION

Receive staff report and rate tables for new SVCE rates effective May 1, 2023 reflecting an updated discount to the E-ELEC residential rate including a 30% discount to PG&E for Off-Peak time-of-use (TOU) periods, a 10% increase for Peak TOU periods, and no discount (0%) for Partial-Peak TOU periods, established per the discount design update approved by the Board on April 12, 2023 by the adoption of Resolution 2023-07, Resolution to Update Design of SVCE's E-ELEC Generation Rate Discount.

BACKGROUND

At the December 14, 2022 Board meeting, the Board directed staff to adopt the E-ELEC rate mirroring PG&E's new residential customer rate with a 10% discount relative to PG&E's generation rate. At the April 12, 2023 Board meeting, the Board directed staff to update the E-ELEC discount structure on May 1, 2023 to reflect a TOU-based design to further promote aligning customer usage with times of lower energy costs and reduced grid stress.

ANALYSIS & DISCUSSION

SVCE rate schedules and associated billing determinants have been updated for the E-ELEC rate as referenced in the Attachments, and reflect a 30% discount to PG&E's comparable generation rates during the Summer and Winter Off-Peak TOU periods, a 10% increase relative to PG&E's generation rates during Peak TOU periods, and no discount (0%) during Partial-Peak TOU periods. The rates are currently loaded into the billing system and became effective on May 1, 2023.

STRATEGIC PLAN

Rate setting is directly supported by SVCE Strategic Plan Goal 8 – "Enact and maintain competitive service offerings for SVCE customers that deliver measurable economic and environmental benefits".

FISCAL IMPACT

During the December 14, 2022 Board of Directors meeting, the Board voted to allocate \$19M to customer-focused electrification programs, of which \$9.5M was approved to fund a multi-year discount to the E-ELEC rate. The updated E-ELEC generation rates approved during the April 12, 2023 Board meeting do not impact the approved budget.

ATTACHMENT

1. SVCE Residential Rate Schedule effective May 1, 2023

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	\$ 0.14589	\$ 0.14989	\$ 0.15614	Rates applicable to all usage throughout the year
E-6	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.26997	\$ 0.27397	\$ 0.28539	3:00 p.m. to 8:00 p.m. Monday through Friday
	SUMMER PART-PEAK	\$ 0.19036	\$ 0.19436	\$ 0.20246	12:00 p.m. to 3:00 p.m. AND 8:00 p.m. to 10:00 p.m. Monday through Friday, 5:00 p.m. to 8:00 p.m. Saturday and Sunday
	SUMMER OFF-PEAK	\$ 0.12299	\$ 0.12699	\$ 0.13228	All other times including Holidays
	Winter (Oct-May)				
	WINTER PART-PEAK	\$ 0.15453	\$ 0.15853	\$ 0.16514	5:00 p.m. to 8:00 p.m. Monday through Friday
	WINTER OFF-PEAK	\$ 0.12209	\$ 0.12609	\$ 0.13134	All other times including Holidays
EV-A, EV-B	Summer (May-Oct)				
	SUMMER PEAK	\$ 0.29680	\$ 0.30080	\$ 0.31333	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	\$ 0.15907	\$ 0.16307	\$ 0.16986	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	\$ 0.11454	\$ 0.11854	\$ 0.12348	All other hours
	Winter (Nov-Apr)				
	WINTER PEAK	\$ 0.11011	\$ 0.11411	\$ 0.11886	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	\$ 0.08625	\$ 0.09025	\$ 0.09401	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	\$ 0.08625	\$ 0.09025	\$ 0.09401	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	\$ 0.20657	\$ 0.21057	\$ 0.21934	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
SUMMER PART-PEAK	\$ 0.16364	\$ 0.16764	\$ 0.17463	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	\$ 0.12415	\$ 0.12815	\$ 0.13349	All other hours

Winter (Oct-May)

WINTER PEAK	\$ 0.15197	\$ 0.15597	\$ 0.16247	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
WINTER PART-PEAK	\$ 0.13998	\$ 0.14398	\$ 0.14998	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	\$ 0.11744	\$ 0.12144	\$ 0.12650	All other hours

E-ELEC Summer (Jun-Sep)

SUMMER PEAK	\$ 0.32020	\$ 0.32420	\$ 0.29473	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
SUMMER PART-PEAK	\$ 0.19162	\$ 0.19562	\$ 0.19562	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	\$ 0.10136	\$ 0.10536	\$ 0.15052	All other hours

Winter (Oct-May)

WINTER PEAK	\$ 0.14186	\$ 0.14586	\$ 0.13260	4:00 p.m. to 9:00 p.m. every day including weekends and holidays
WINTER PART-PEAK	\$ 0.10863	\$ 0.11263	\$ 0.11263	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	\$ 0.06550	\$ 0.06950	\$ 0.09928	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
E-TOU-B	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.25800	\$ 0.26200	\$ 0.27292	4:00 p.m. to 9:00 p.m. Monday through Friday
	SUMMER OFF-PEAK	\$ 0.13987	\$ 0.14387	\$ 0.14986	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.15624	\$ 0.16024	\$ 0.16692	4:00 p.m. to 9:00 p.m. Monday through Friday
	WINTER OFF-PEAK	\$ 0.11900	\$ 0.12300	\$ 0.12812	All other times including Holidays
E-TOU-C	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.19216	\$ 0.19616	\$ 0.20433	4:00 p.m. to 9:00 p.m. everyday
	SUMMER OFF-PEAK	\$ 0.14085	\$ 0.14485	\$ 0.15089	All other times
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.14535	\$ 0.14935	\$ 0.15557	4:00 p.m. to 9:00 p.m. everyday
	WINTER OFF-PEAK	\$ 0.13092	\$ 0.13492	\$ 0.14054	All other times



Silicon Valley Clean Energy

Residential Generation Rates and Generation Service Cost Comparison

SVCE Rate Schedule	Time of Use Period	SVCE Generation Rates ¹	SVCE Generation Service ²	PG&E Generation Service ³	Notes
E-TOU-D	Summer (Jun-Sep)				
	SUMMER PEAK	\$ 0.22141	\$ 0.22541	\$ 0.23480	5:00 p.m. to 8:00 p.m. Monday - Friday
	SUMMER OFF-PEAK	\$ 0.12065	\$ 0.12465	\$ 0.12984	All other times including Holidays
	Winter (Oct-May)				
	WINTER PEAK	\$ 0.18217	\$ 0.18617	\$ 0.19393	5:00 p.m. to 8:00 p.m. Monday - Friday
	WINTER OFF-PEAK	\$ 0.14850	\$ 0.15250	\$ 0.15885	All other times including Holidays
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 5/1/2023

² SVCE Generation Service reflects our price for Generation, with added PG&E fees (PCIA and Franchise Fees), effective 5/1/2023

³ PG&E Generation service rate effective 5/1/2023



Staff Report – Item 1g

Item 1g: Adopt Resolution Moving Reinstatement of SVCE’s Delinquent Payment Policy to May 2023

From: Girish Balachandran, CEO

Prepared by: Adam Selvin, Director of Energy Services and Community Relations
Peyton Parks, Energy Services Lead

Date: 5/10/2023

RECOMMENDATION

Staff requests the Board of Directors (Board) adopt Resolution 2023-09, moving re-instatement of SVCE’s Delinquent Payment policy from March 2022 to May 2023.

BACKGROUND

At its November 10th, 2021 meeting, the SVCE Board approved moving the reinstatement date of SVCE’s Delinquent Payment Policy to March 2022. This timing was predicated on an extension of PG&E’s scheduled service disconnection moratorium and to allow for federally funded California Arrearage Payment Program (CAPP) relief payments to be applied directly to customers’ outstanding aged balances that were accrued due to non-payment during the identified COVID-19 crisis period March 4th, 2020 through June 15th, 2021.

Prior to any customer disconnections occurring, SVCE staff learned in Spring 2022 that a second round of CAPP relief payments would be made to qualifying customers for an extended COVID-19 crisis period of June 16th, 2021 through December 31, 2021. These payments to customers were to be made no later than January 2023. One of the requirements of the CAPP program is that participating utilities suspend disconnection for non-payment until a minimum of 90 days after an eligible customer has received a CAPP payment.

SVCE staff delayed reinstatement of the Delinquent Payment Policy to accommodate residential customers in arrears that were qualified to receive a CAPP payment in January 2023. In total, SVCE residential customers received a total of \$1.9M in relief payments- approximately \$1.2M in January 2022 and an additional \$700k in January 2023. These payments to vulnerable families helped to alleviate approximately 33% of SVCE’s growing 120+ day aged arrearage burden brought on by the COVID-19 pandemic.

ANALYSIS & DISCUSSION

An extended service disconnection moratorium allowed for significant new customer credits funded by the second iteration of the California Arrearage Payment Program (CAPP) to be applied to customer balances in arrears in January 2023. Per the CAPP rules, customers eligible for CAPP payments may not have their service disconnected for non-payment before April 2023 at the earliest.

As such, SVCE staff requests that re-start of the Delinquent Payment Policy be reinstated in the current month, May 2023. This means qualifying SVCE customers under the existing Delinquent Payment Policy, regardless of arrearage amount or days overdue, would receive at least three late payment notices beginning in May and over three consecutive months. No customers would be returned to PG&E before August of 2023. This will allow time for customers made aware of their outstanding balances and impending return to PG&E service to make applicable payments on their balances in arrears and to avoid being returned to PG&E service.

Agenda Item: 1g**Agenda Date: 5/10/2023**

STRATEGIC PLAN

This recommendation balances SVCE strategic plan goals described in Goal 10 'empower customers with the awareness, knowledge and resources to make effective clean energy choices', and Goal 13 'commit to maintaining a strong financial position'.

ALTERNATIVE

Staff is open to new suggestions from the Board of Directors. In this new resolution, staff has strived to maintain consistency with direction provided in previous related resolutions.

FISCAL IMPACT

Delaying reinstatement of the Delinquent Payment Policy until May 2023 has allowed time for credits under the California Arrearage Payment Program to be applied. This has helped customers with delinquent payments meet their payment obligations while reducing SVCE's outstanding customer balances. Timely reinstatement will aid SVCE in further reducing its aging outstanding amounts.

ATTACHMENT

1. Resolution 2023-09 Modification of the Reinstatement Date of the Delinquent Payment Policy

SILICON VALLEY CLEAN ENERGY AUTHORITY
RESOLUTION NO. 2023-09

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SILICON
VALLEY CLEAN ENERGY AUTHORITY MODIFYING THE
REINSTATMENT DATE OF THE DELINQUENT PAYMENT POLICY**

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

WHEREAS, at the May 10, 2017 Board of Directors Meeting, the Board adopted the policy FP10, the Delinquent Accounts & Collections Policy, authorizing return of SVCE customers to PG&E for non-payment; and

WHEREAS, in March of 2020, due to the outbreak of the COVID-19 pandemic and statewide shelter-in-place orders, PG&E suspended their service disconnection policy for non-payment, and SVCE suspended its return of customers to PG&E for non-payment; and

WHEREAS, since March of 2020, SVCE customer arrearage amounts have doubled to nearly \$6 million, and the number of customers in arrears has grown from 13,000 to 21,000; and

WHEREAS, COVID restrictions are being lifted, economic conditions are improving, and PG&E was scheduled to reinstate its service disconnection policy effective June 30th, 2021; and

WHEREAS, a broad range of payment plans, discounts and debt relief programs are now available to help impacted customers address their past-due payments; and

WHEREAS, SVCE seeks to reduce arrearage and avoid potential PG&E service disconnections by helping customers identify and utilize available debt forgiveness and financial support programs; and minimize customer returns to PG&E, financial write-offs of bad debt, and exposure to additional arrearage; and

WHEREAS, on June 9, 2021, the Board of Directors of the Silicon Valley Clean Energy Authority approved Resolution No. 2021-12 reinstating SVCE’s delinquent payment policy effective July 1, 2021; and

WHEREAS, on June 24, 2021, the California Public Utilities Commission voted to approve Decision D.21-06-036, extending PG&E’s service disconnection moratorium by three months, from June 30, 2021 to September 30th, 2021; and

WHEREAS, on July 16th, 2021, the Governor approved Assembly Bill 135, establishing the California Arrearage Payment Program (CAPP), which will provide direct credits to customers with past-due balances of 60 days or more, for debts incurred between March 4th 2020 and June 15th 2021, with credits to be applied no later than January 31, 2022; and

WHEREAS, on August 11th, 2021, the Board of Directors of the Silicon Valley Clean Energy Authority approved Resolution No. 2021-18, extending reinstatement SVCE's delinquent payment policy from July 1, 2021, to November 1, 2021; and

WHEREAS, on September 30th, 2021, PG&E announced that it is extending its service disconnection moratorium through January 1, 2022, and is automatically enrolling all residential and small business customers with past due balances over 60 days in new extended payment arrangements; and

WHEREAS, in January 2022, an estimated 11,000 SVCE customers will receive direct credits from the CAPP program and may not have their service disconnected for non-payment for a minimum of 90 days after receiving the credit such that the earliest any CAPP payment recipient would be eligible for service disconnection would be April 2022.

WHEREAS, in Spring 2022, an additional round of funding for the CAPP program was announced and made available to settle customer arrearages for a pandemic-related period of June 16, 2021 through December 31, 2021, to be applied to customer invoices no later than January 2023.

WHEREAS, as of January 2023, an additional group of SVCE customers will have received direct credits from the second iteration of the CAPP program and may not have their service disconnected for non-payment for a minimum of 90 days after receiving the credit such that the earliest any CAPP payment recipient would be eligible for service disconnection would be April 2023.

NOW THEREFORE, the Board of Directors of the Silicon Valley Clean Energy Authority does hereby resolve, determine, and order as follows:

Section 1. SVCE's delinquent payment policy will be reinstated effective May 10, 2023. Affected customers will receive a minimum of three (3) monthly late payment notices before being returned to PG&E; no customer returns will occur before August 2023.

PASSED AND ADOPTED this 10th day of May 2023, by the following vote:

JURISDICTION	NAME	AYE	NO	ABSTAIN	ABSENT
City of Campbell	Director Scozzola				
City of Cupertino	Director Mohan				
City of Gilroy	Director Hilton				
City of Los Altos	Director Meadows				
Town of Los Altos Hills	Director Tyson				
Town of Los Gatos	Director Rennie				
City of Milpitas	Director Chua				
City of Monte Sereno	Director Mekechuk				
City of Morgan Hill	Director Martinez Beltran				
City of Mountain View	Director Abe-Koga				
County of Santa Clara	Director Lee				
City of Saratoga	Director Walia				
City of Sunnyvale	Director Klein				

Chair

ATTEST:

Andrea Pizano, Board Clerk



Staff Report – Item 1h

Item 1h: Authorize the Chief Executive Officer to Execute an Amendment to the Agreement with Enervee Corporation to Extend the Term of the Agreement for 15.5 Months and Increase Compensation by \$175,500

From: Girish Balachandran, CEO

Prepared by: Adam Selvin, Director of Energy Services and Community Relations

Date: 5/10/2023

RECOMMENDATION

Staff recommends that the Board authorize the Chief Executive Officer to execute an amendment to the agreement with Enervee Corporation to extend the term of the agreement for 15.5 months until September 30, 2024 and increase compensation by \$175,500 for a new not to exceed total of \$742,000. This amendment and extension will allow SVCE to continue educating customers on electrification and enable customer action on the eHub Appliances Assistant site.

BACKGROUND

In 2019, staff started the process of building eHub, an online resource center for customers to learn more about electrification. SVCE issued an RFP to select vendor partners that could provide online tools to help customers increase their energy literacy and enable actions such as evaluating efficient, electric home appliances, EVs, and solar and battery storage options.

In fall 2020, eHub was formally launched to customers. Per goals identified in SVCE's strategic plan, SVCE is continuing to expand eHub capabilities to increase accessibility and resources to help customers make clean energy choices. In winter 2020, the Board approved the addition of \$95,000 to the original Enervee agreement in order to add new categories and functionality. Although the increase was approved by the Board, an amendment was not officially signed. As such, this current amendment is presented as the first formal amendment, and contains the previously approved \$95,000 increase, in addition to the \$175,500 currently being requested.

The Enervee platform, known as the 'Appliances Assistant' on the SVCE eHub, provides customers with online educational resources to support an understanding of home appliance energy consumption, energy savings, and electrification - including product and price comparisons, energy efficiency scores, and customer reviews. Customers can then link directly to retailers (e.g., Home Depot, Amazon) to place orders or purchase products directly on the Appliances Assistant with eligible fulfillment partners (e.g., Lightbulbs.com, Best Buy).

If desired, SVCE can offer post-purchase discounts/rebates. For certain products that are warehoused by fulfillment partners, such as smart thermostats or LED lightbulbs, Enervee offers a more direct retail experience, enabling SVCE to provide real-time discounts at the time of purchase. Also, for products that require professional installation, customers have access to pre-screened local service providers through HomeAdvisor, linked as an external resource from the Appliances Assistant. Enervee charges \$8 per digital rebate claimed. Over the past three years, SVCE has spent \$72,250.60 on customer rebates and \$10,696 on rebate processing fees.

ANALYSIS & DISCUSSION

The objective of eHub is to inspire, educate, and enable customers to take action with respect to electrification and decarbonization in mobility and the built environment. Significant education is needed to help familiarize customers with electrification, and the benefits of electric appliances for homes, EVs, and solar and storage.

Since launching the Enervee platform with eHub, staff continues to expand SVCE's ability to meet customers' needs, build awareness and promote home electrification. New features since the initial contract was signed include developing online customer promotions to allow customers to claim rebates on eligible products and adding an induction cooktop category and electric leaf blower category. Since launching eHub in 2020, the Appliances Assistant has had 138,937 unique users and 12,891 returning users who spend an average time of 2 minutes and 4 seconds on the site, which shows the tool is being utilized as a resource for customers.

Extending the agreement with Enervee for 15.5 months will allow customers to continue using the Appliances Assistant, helping customers make informed decisions when considering purchasing electric home appliances. The time period for this contract to be extended until September 30, 2024 is based on staff planning to issue another Request for Proposals in winter 2024 to re-examine the vendor landscape for eHub 2.0.

The cost estimate for extending the Enervee contract for 15.5 additional months is \$175,500 and covers the fees for operating the Appliances Assistant platform. Enervee fees have increased 5% to adjust for inflation and reflects the vendor's increased labor costs. The list below includes cost estimates:

Service	Monthly Fee	Total for Contact Duration
Operation and maintenance fees for the Enervee Choice Engine – Appliances	\$4,375	\$67,812
License fee for cooktop category	\$437	\$6,774
License fee for leaf blower category	\$437	\$6,774
Commerce	\$2,625	\$40,688
Customer Care	\$1,575	\$24,412
Engage Paid Media Program	\$774	\$12,000
Engage Sweepstakes Program	\$4,000 per campaign	\$8,000
Ad Banners Set Up Fee	One time set up fee	\$9,000

Total: \$175,460

The cost estimate to run online customer promotions vary based on rebate value and Enervee charges \$8 per rebate processed. In the past three years, SVCE has spent \$72,250.60 on rebates and \$10,696 on processing rebates that were claimed. SVCE has also set aside \$100,000 in the board-approved marketing budget, separate from the Enervee contract funding, for future online customer promotions.

To extend the contract for 15.5 additional months, staff requests the Board of Directors approve the amendment to the existing Enervee contract, increasing the current not-to-exceed total of \$566,500 to a new total of \$742,000.

STRATEGIC PLAN

The eHub Appliances Assistant helps to achieve Goal 6: Empower customers with the awareness, knowledge and resources needed to make effective clean energy choices, as listed in the 2022 Strategic Plan. By extending the contract for 15.5 additional months, SVCE can continue to help provide customers with the ability to understand home appliance energy consumption, energy savings, and electrification - including product and price comparisons, energy efficiency, and customer reviews.

Agenda Item: 1h**Agenda Date: 5/10/2023**

Extending the contract to allow customers to continue using the Appliances Assistant tool also contributes to Measure 2 within Goal 6 to enable customer education, engagement, and action related to electrification and decarbonization via online tools, resources, and promotions.

ALTERNATIVE

Maintain the existing contract for the remainder of the contract period. SVCE customers will not have access to the Appliances Assistant after the contract expires. Staff could also explore other vendors with similar services.

FISCAL IMPACT

The Board approved 2022-2023 fiscal year budget includes a \$250,000 annual budget for the ongoing operation of eHub. If this contract extension and updated not-to-exceed amount of \$175,500 is approved, SVCE's annualized software service support fees for all eHub tools total \$221,100 which remains under the annual \$250,000 budget. SVCE has set aside \$100,000 annually, separate from the Enervee contract budget, to provide online customer promotions through eHub.

ATTACHMENTS

1. Amendment to Enervee Corporation contract
2. Enervee Customer Resource Center Appliance Marketplace Agreement with updated Scope of Work
3. Enervee Corporation Contract

FIRST AMENDMENT TO AGREEMENT WITH ENERVEE CORPORATION

WHEREAS, the SILICON VALLEY CLEAN ENERGY AUTHORITY, an independent public agency (“Authority”), and ENERVEE CORPORATION, entered into that certain agreement entitled MASTER SUBSCRIPTION AGREEMENT, effective on April 17, 2020, hereinafter referred to as “Original Agreement”; and

WHEREAS, Authority and ENERVEE CORPORATION 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. Section 10.1 of the Original Agreement shall be amended to read as follows:

The term of this Agreement will begin on the Effective Date (April 17, 2020) and shall terminate on September 30, 2024 unless terminated earlier as per this Section 10. The initial term and all renewal terms are collectively referred to as the “Term.” Each Subscription Term commences on Acceptance and continues for the Subscription Term specified in the corresponding Order Form and for the period of any renewals or extensions thereunder.

2. Exhibit C SOW ENERVEE APPLIANCES CHOICE ENGINE of the Original Agreement is deleted in its entirety and replaced with the new Exhibit C ENERVEE CHOICE ENGINE as shown in Attachment 1.

3. Exhibit D SOW ENERVEE CHECKOUT of the Original Agreement is deleted in its entirety and replaced with the new Exhibit D ENERVEE COMMERCE as shown in Attachment 1.

4. Exhibit G OPERATIONS AND MAINTENANCE of the Original Agreement shall be amended to delete the following sections in their entirety:

3. Customer Service (deleted)

3.1 Phone Support Service (Optional at Extra Cost) (deleted)

3.2 Live Phone Support and Voicemail (deleted)

3.1 Email Support (deleted)

3.2 Major Holidays (deleted)

All other sections remain unchanged.

5. Exhibit H PROFESSIONAL SERVICES of the Original Agreement is deleted in its entirety and replaced with the new Exhibit H PROFESSIONAL SERVICES as shown in Attachment 1.

6. Exhibit I CHOICE ENGINE SERVICES PACKAGES of the Original Agreement is deleted in its entirety and replaced with the new Exhibit I CHOICE ENGINE SERVICES PACKAGES as shown in Attachment 1.

7. Exhibit J PARTNER PROMOTION RESPONSIBILITIES of the Original Agreement is deleted in its entirety and replaced with the new Exhibit J PARTNER PROMOTION RESPONSIBILITIES as shown in Attachment 1.
8. Exhibit K ENGAGE PROGRAM of the Original Agreement is deleted in its entirety and replaced with the new Exhibit K ENERVEE ENGAGE PROGRAM as shown in Attachment 1.
9. Exhibit M SAAS SUBSCRIPTION ORDER FORM OPTIONAL SERVICES of the Original Agreement shall be amended to include the additional information provided in Exhibit M ORDER FORM PRICING as shown in Attachment 1.
10. The Original Agreement shall be amended to add Exhibit P CUSTOMER CARE as shown in Attachment 1.
11. The Original Agreement shall be amended to add Exhibit Q MARKETPLACE AD BANNERS as shown in Attachment 1.
12. The Original Agreement shall be amended to add Exhibit R ECO FINANCING (OPTIONAL) as shown in Attachment 1.
13. This Amendment shall be effective on May 10, 2023.
14. 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.
15. 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

Adam Selvin, Director of Energy Services & Community Relations

RECOMMENDED FOR APPROVAL

Amrit Singh, Chief Financial Officer/Director of Administrative Services

CONSULTANT NAME
ENERVEE CORPORATION

By: _____
Name: Clayton Claassen
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

ORDER FORM

PARTNER INFORMATION	
Partner: Silicon Valley Clean Energy Authority	Address:
Program Contact:	Billing Contact:
Phone:	Phone:
Email:	Email:

TERMS & CONDITIONS	
<p>This Order Form and all Attachments is entered into by and between Silicon Valley Clean Energy Authority ("Partner", "SVCE") and Enervee Corporation to be effective as of the date of last signature below. This Order Form is governed by the Master Service Agreement ((the "Agreement") between Partner and Enervee, as amended, together with all attachments thereto.</p> <p>The Agreement, as modified and amended hereby, will remain in full force and effect and will govern, control, and contain the entire understanding between the parties with respect to the subject matter of this Order Form. All terms not otherwise defined herein shall have meaning assigned to them in the Agreement.</p> <p>Order Form Term: June 19, 2023 through September 30, 2024</p> <p>Enervee and Partner have signed and executed this Order Form effective as of the Effective Date by their authorized representatives.</p>	
ENERVEE CORPORATION	SILICON VALLEY CLEAN ENERGY AUTHORITY
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

ATTACHMENT 1: STATEMENT OF WORK

Exhibit C: Enervee Choice Engine (updated)

Exhibit D: Enervee Commerce (updated)

Exhibit H: Professional Services (updated)

Exhibit I: Choice Engine Services Packages (updated)

Exhibit J: Partner Promotion Responsibilities (updated)

Exhibit K: Enervee Engage Program (updated)

Exhibit M: Order Form Pricing (updated)

Exhibit P: Customer Care (new)

Exhibit Q: Ad Banners (new)

Exhibit R: Eco Financing (new - optional)

EXHIBIT C: ENERVEE CHOICE ENGINE

Enervee Choice Engine or “Choice Engine” is a custom, fully automated appliance, and product recommendation platform. The solution brings together all the data customers need to make an informed decision - pricing, features, efficiency, popularity, and user reviews - into the single most comprehensive selection of products and information available online.

Enervee Choice Engine is designed to help Customers quickly and easily find the most efficient and therefore cost-saving appliances that meet their unique requirements. It drives continuous engagement and positions the Partner as a trusted advisor in the Customer’s appliance purchase decision. Enervee leverages the data pulled from the largest online retailers and manufacturers each day and compiles this information into a simple product card displaying the most important shopping information for Customers in a mobile friendly way.

DELIVERABLES	DESCRIPTION
Service	Enervee will maintain a geo-targeted, Partner-branded version of the Choice Engine.
ENERVEE CHOICE ENGINE	
Mobile First Design	Mobile first design with product cards. Each card gives the visitor key information on the price, user reviews and efficiency of a product.
Features and Functions	Favorite a product, save a search, sort and filter product listing, click to retailer offer, view product specifications, view product reviews, FAQs
Enervee Score®	Enervee Choice Engine provides a unique scoring system from 0-100, the Enervee Score, for electronics, appliances and lighting. The dynamic scoring is designed to help shoppers make a better decision when it comes to choosing their next appliance by comparing the energy efficiency between comparable models. (https://enervee.com/score/)
CLEARCOST	CLEARCOST shows the projected total costs of owning an appliance over its useful lifetime based on purchase price, Partner energy rates and usage profile.
YOUSAVE	Estimates the lifetime energy cost savings of a product compared to the baseline model of that size class.
Accessibility	Enervee builds its products in accordance with ADA requirements and shall maintain the website in a manner accessible to persons with disabilities.
Categories	Air Purifiers, Connected Homes, Dehumidifiers, EV Chargers, Light Bulbs, Power Strips, Dryers, Washers, Cooktops, Dishwashers, Freezers, Ranges, Refrigerators, Portable Power Stations, Air Conditioners, Electric Water Heaters, Evaporative Coolers, Thermostats, Lawn Mowers, Leaf Blowers, Pool Heaters, Pool Pumps

SET UP AND CUSTOMIZATION

Branding	Enervee incorporates branding elements throughout Homepage and other Enervee Appliances pages to ensure branding alignment including name, logos, color palette, images, default Enervee Appliances elements and copy. Partner provides brand guidelines.
Technical	Set up platform, platform data management and profile data management Quality testing before deployment
Hosting	Enervee hosts the Appliances site at a custom URL: https://appliances.svcleanenergy.org/
Tracking	Set up tracking of user activities on Enervee Appliances. Partner integrates remarketing pixel.
Region, Language, Currency	Partner Region, US English, US Dollar

OPERATIONS & MAINTENANCE

Partner-branded Choice Engine	Enervee will operate and manage the customized version of the Enervee Choice Engine after its deployment. All model, brand and price information, data sources and the Enervee Score will be updated daily.
Surveys	Enervee may conduct online surveys to Customers who have visited the Enervee Choice Engine. The surveys will ask questions about the customer shopping journey and what impact the Choice Engine had on his/her purchase decision. Survey results will be shared with Partner.
Data Management	Regular quality testing based on automated scripts that run daily for updates to Enervee Score and updating of new appliance models.
Partner Promotions	Product promotion possibilities on Enervee Choice Engine include placement of ads provided by Partner on the Marketplace in a specified format in the available ad slots. Partner can request one (1) update every six months with fourteen (14) business days advance notice.
Technical Support	Regular performance checks, issues related to technical support and maintenance are defined in EXHIBIT A of the Agreement, Data Protection and Disaster Recovery
Hosting	Hosting of Enervee Choice Engine for Partner on servers owned or leased by Enervee.
Reporting	Enervee provides access to an online reporting dashboard. Key metrics are tracked around site traffic and engagement. Additional metrics or views can be added at an additional cost through Professional Services.

	Enervee's Partner Success Executive will conduct quarterly business reviews (QBRs) with Partner to discuss progress and results of the platform.
Software Upgrades	Standard upgrades of the core Choice Engine functionality are included. Custom functionality and extensions may have additional costs.

Customer-facing information and services on the site will include:

- Products, in the selected categories by Partner, for sale through online retailers is updated daily
- Online sale offers with pricing, and user reviews from Amazon.com, Best Buy, Home Depot, Sears, Lowe's, and many others.
- User reviews are aggregated across all participating retailers into a single 5-star scale score.
- Recommendations for efficient models based on price, rebates, user reviews and Enervee Score
- Sorting of products based on price, user reviews, Enervee Score and CLEARCOST
- Filtering of products based on category-specific product specifications such as size/capacity, color, technology type.
- Elastic search in real time of all currently available products based on product name, brand, features and more
- Relative price uses \$ to \$\$\$\$ icons to show whether a model is inexpensive or highly priced compared to similar features/capacity models
- Allowing Customers to create a user profile linked to an email account
- Allowing Customers to "favorite" a product and get notifications when the price drops
- Allowing Customers to "save a search" and get notifications when new products meet the criteria

EXHIBIT D:
ENERVEE COMMERCE

Enervee Commerce provides an end-to-end transactional e-commerce platform integrated directly into the Choice Engine, providing the most convenient way to purchase products and apply any available rebates instantly. Enervee Commerce validates customer eligibility to purchase Partner-approved products at the time of purchase. Enervee Commerce platform enables Customers to purchase products and accepts credit and debit cards, and other payment processing options as these become available.

ENERVEE COMMERCE	
Setup	Enervee will enable all available categories and rebates. Any changes to the initial set up are defined as change requests and will be charged separately based on efforts.
Categories	Includes: Air purifiers, light bulbs, power strips, dryers, induction cooktops, leaf blowers, portable power stations, evaporative coolers, smart thermostats, lawn mowers, EV chargers, dehumidifiers, washers, ranges, refrigerators, dishwashers, room air conditioners, freezers. Additional categories may be added later by Enervee with SVCE's approval, which will not be unreasonably withheld.
Rebates	Enervee will set up the eligibility of Rebates for products specified by Partner based on criteria publicly available on the Energy Star rebate finder: https://www.energystar.gov/rebate-finder Partner must specify eligibility dates, rebate specific eligibility questions, and limits per Customer in the Implementation Workbook. One change to Rebate criteria per year is included. Any additional changes are defined as change requests and will be charged separately based on hours of effort.
Products	Enervee maintains the product catalog including price updates. Adding products or taking products out are defined as change requests and will be charged separately based on efforts.
Order Experience	Customers will add items to their cart on Enervee Commerce. The Customer will then proceed to cart checkout and must complete a verification to be eligible for the instant rebate. If eligible, they will receive the rebate instantly, if not, they can continue to purchase at full cost. Our distribution partner will receive and fulfill these orders from Enervee.
Bundled Services	For supported categories, Customers will have the option to include delivery, installation or haul away & recycling services. These services can be added to the order for the fees provided.
Handling of Returns	Customers will contact the order support phone number and/or email listed on the cart checkout page, support page, and/or order packing slip with any inquiries regarding their order. The Customer is responsible for all costs associated with returning orders not related to warehouse errors, damaged-in-shipment products, or defective items. These costs include restocking and/or shipping fees.

SET UP AND CUSTOMIZATION

Technical	Set up platform, platform data management quality testing before deployment
Customer Validation	Enervee and Partner will use a zip code, flat-file, or Enervee API integration for Customer validation. The rebate validation process will also be agreed upon and defined jointly by Enervee and Partner to prevent duplicate rebate payments and enforce rebate business rules.
Hosting	Enervee hosts Enervee Commerce on the existing Choice Engine URL
Tracking	Set up tracking of user activities during the checkout process.

REPORTING

Claims Report	Monthly report for settled rebates on Enervee Commerce transactions.
Transaction Report	Monthly transaction detail report of products sold & returned on Enervee Commerce

Claims Report Template	
claim_id	<i>TcOmBKIP</i>
Order ID	<i>1001-001</i>
status	<i>settled</i>
email	<i>janedoe@email.com</i>
category	<i>Thermostat</i>
claim_source	<i>commerce</i>
first_name	<i>Jane</i>
last_name	<i>Doe</i>
street_number	<i>123</i>
route	<i>Street Name</i>
unit	
city	<i>Los Angeles</i>
state	<i>CA</i>
postal_code	<i>90232</i>
phone	<i>5555555555</i>
account_ID	<i>10000000000</i>
payment_method	<i>payment_card</i>
Quantity	<i>1</i>
amount	<i>100</i>
utility	<i>Utility Name</i>
Model number	<i>Google Nest T3007ES</i>
purchase_date	<i>1/1/2022</i>
price	<i>500</i>
Product id	<i>139093284</i>
Incentive id	<i>5605</i>
store_name	<i>Aurora Marketplace</i>
redemption_date	<i>1/1/2022</i>
payment_date	<i>1/1/2022</i>
utility_measure_id	
opt_in_method	<i>online</i>
adjusted_amount	
adjusted_status	
adjusted_date	

EXHIBIT H: PROFESSIONAL SERVICES

Enervee offers Professional Services for Enervee Choice Engine customization based on Partner's needs. All material requests that are not related to bug fixes on the Enervee product roadmap will be scoped and a proposal detailing hours, timeline and deliverables will be provided to Partner for review and approval.

Enervee releases new software product upgrades and new developments including change requests 4-6 times per year. Partner and Enervee are planning Professional Services and Change Requests efforts in a roadmap development meeting at the beginning of each quarter. This enables Enervee to secure resources and synchronize the new developments with the software releases, Engage Program and/or the Partner marketing activities.

The following list is a non-exhaustive sample of product request examples that would be considered "out of scope", and that would require Professional Services engagements:

- Requests for addition of products and/or categories
- Requests for additional features or functions
- Requests for customized dashboards, event tracking or analytics
- Requests for additional reporting

EXHIBIT I:
CHOICE ENGINE SERVICES PACKAGES

DELIVERABLES	DESCRIPTION
Partner Promotions <i>Optional</i>	Product promotion possibilities on Enervee Choice Engine: up of a text and image native ad, separate ad for home page and for each category, tracking of clicks
Contractor <i>(Included)</i>	Includes an integrated Contractor module to connect Partner customers with pre-screened local service professionals. Leveraging HomeAdvisor's proven vetting system and methodologies, customers answer a few simple questions and are contacted immediately with a quote for the services they need. These services include installation of home EV chargers (including Level 2 chargers), HVAC upgrades and other appliance installations.

EXHIBIT J:
PARTNER PROMOTION RESPONSIBILITIES

Client confirms that it will meet the requirements specified below for channels, making all necessary resources available.

CHANNEL	FREQUENCY	REQUIREMENT
Partner Website	Ongoing	Choice Engine featured on Partner Homepage as top-level menu option. Promotion of Choice Engine on Homepage main carousel and relevant sub-pages. Choice Engine promoted on Partner energy efficiency related pages. All links go directly to the Choice Engine.
Partner Website	Ongoing	Enervee provided remarketing pixel placed
Email	1x/Month	Partner will provide a full list of all residential Customer email addresses, first and last names, home ownership status, etc., and approve Enervee to conduct email marketing to Customers, as per defined plan in Exhibit L, Engage Program. Maximum of 12 email campaigns per year.
Facebook Posts	Monthly	Choice Engines specific posts linking directly to platforms

Partner may take other promotional actions to promote the Choice Engine. Partner is responsible for communicating to Enervee the frequency and content of all promotional actions in advance on a quarterly basis to enable effective management of transactional and customer support activity on Choice Engine and Enervee Commerce.

EXHIBIT K: ENERVEE ENGAGE PROGRAM

The primary objective of Enervee's Engage program is to maximize sales of efficient products on the Choice Engine, in addition to ensuring a positive customer experience. In each instance, Engage builds and constantly optimizes traffic to meet these objectives. An essential channel of the Enervee Engage Program is email services for large scale traffic and reach of Partner's customers to drive awareness, actions, product sales and engagement.

Engage Email Program

Enervee offers full-service promotional email and data management including email template design and coding, enterprise email list management, audience segmentation, campaign setup and sends, analysis and performance reporting. Enervee email services provide the most cost-effective channel. To ensure the success of the Choice Engine and SVCE goals, the following requirements must be met by SVCE:

Requirements

General	<ul style="list-style-type: none"> • After initial framework approval, the partner has to approve assets in 1 week (5 business days) or less. • One round of review, no additional changes after the first set of revisions made. • Access to Customer database for user verification and cross check with email list
Email	<ul style="list-style-type: none"> • Permission for Enervee to send emails • Approval of Enervee's templates • Customization options are only <ul style="list-style-type: none"> ○ Hero image ○ Logo ○ Font ○ Brand colors ○ Legal disclaimers • Emails sent to all customers opted in to receive marketing from the utility <ul style="list-style-type: none"> ○ Full Partner residential customer email list ○ List includes segmentation data (home ownership, single or multi-family dwelling, fuel types, any affinity segmentation, preferred language) ○ Enervee determines all segmentation for each send to maximize performance and minimize unsubscribes. ○ Utility provides a refreshed list monthly with all new customers and removing any closed accounts. ○ Unsubscribed customers maintained in a separate list • Approval of email schedule prior to Choice Engine launch including up to 12 promotional emails per year • Approval of automated / triggered email campaigns. Number to be determined by Enervee based on selection of product categories and targets. <ul style="list-style-type: none"> ○ Cancellation or rescheduling of emails need to be 30 days in advance. ○ Promos around major shopping events cannot be canceled (Black Friday, Pre-Christmas, July 4th)



Paid Media	<ul style="list-style-type: none"> ● Approval of campaign templates, and ability to optimize ads within framework without ongoing approvals. ● Enervee determines use of channels as needed to optimize performance and goals ● Paid search <ul style="list-style-type: none"> ○ No restrictions on keywords outside of brand safety. ○ Utility partner to supply any keywords they are bidding on ● Google shopping <ul style="list-style-type: none"> ○ Approval of channel ● Facebook <ul style="list-style-type: none"> ○ Access to run ads through their existing Facebook page. This does not give Enervee to post on the page, only use the brand in ads. (Fallback: Permission to create a utility branded Choice Engine page). ○ Approval of Enervee ad templates ○ Customization options are only <ul style="list-style-type: none"> ■ Logo ■ Font ■ Brand colors ● YouTube <ul style="list-style-type: none"> ○ Permission to create a utility Choice Engine YouTube channel to host ads ○ Approval of Enervee ad templates ○ Customization options are only <ul style="list-style-type: none"> ■ Logo ■ Font ■ Brand colors ● Google Display <ul style="list-style-type: none"> ○ Approval of Enervee ad templates ○ Customization options are only <ul style="list-style-type: none"> ■ Logo ■ Font ■ Brand colors
Traditional advertising	<p>In some cases, depending on the territory and program it may be necessary to explore traditional and direct media channels. Requirements will be mutually agreed in writing if determined necessary</p>



Sweepstakes

General	<ul style="list-style-type: none"> ● Includes the set up and management of the specified number of sweepstakes <ul style="list-style-type: none"> ○ Technical Set up of sweepstakes via sweepstakes app and embedding it on a sweepstakes landing page on the marketplace ○ Design and implementation of Sweepstakes hero for the app and landing page ○ Implementation of methods of entry per discussion with SVCE. Some limitations will apply depending on capabilities of the sweepstakes app. ○ Implementation of legal terms and conditions. Enervee can provide a template for SVCE's legal team to review and customize per their requirements ○ Includes drawing of winners. It is optional to have Enervee's support team contact the winners and facilitate the prizes, or for the partner to facilitate the process ○ Does not include prizes. SVCE has the option to include electronic gift cards or additional prizes at their own expense. If SVCE chooses to include additional prizes, SVCE may facilitate distribution to winners ○ Implementation of promotional banners or pop ups on the Marketplace to promote the sweepstakes ○ Enervee retains the right to communicate with customers who choose to opt-in to email communication during the sweepstakes entry process. This list can also be shared with the utility on request
Optional	<ul style="list-style-type: none"> ● Driving Engagement with the Sweepstakes <ul style="list-style-type: none"> ○ The cost for the sweepstakes does not include budget for promoting the sweepstakes, but agreed on portions of any purchased Engage programs can be allocated to drive traffic to promote the sweepstakes ○ It is highly recommended to send at least 1-2 email promoting the sweepstakes ○ It is also highly recommended to utilize Engage's digital advertising programs to drive additional traffic



Reporting

General	Enervee will report using a standardized report on a quarterly basis. This report can include the following for email and advertising channels
Email	Broken out by campaign or automation: <ul style="list-style-type: none"> • # of emails • CTR • Unique clicks
Advertising	Broken out by ad media network (Meta, Google, etc.) <ul style="list-style-type: none"> • Ad impressions • CTR • Clicks

Deliverables

Part 1 Engage Email Program	<ul style="list-style-type: none"> • Email Schedule for the year • Program Framework for email and advertising, sweepstakes • Outline of Customization possibilities for email, advertising, sweepstakes
Part 2 Engage Program Customization	<ul style="list-style-type: none"> • Implementation of Enervee's templates to Partners CI within allowed parameters • Development of HTML emails • Production of customized ad templates • Production of Sweepstakes and landing page • Project Management
Part 3 Email List Management	<ul style="list-style-type: none"> • Import and segmentation of SVCE provided customer email list • Data maintenance of customer email list included in monthly fee • Additional subscribers can be implemented on demand • Black and whitelisting of email accounts • Deliverability check and optimization
Part 4 Email Campaign Setup & Management	<ul style="list-style-type: none"> • Campaign design per Enervee's templates • Campaign setup and implementation • Recipient list segmentation • Campaigns scheduling & send
Part 5 Advertising Campaign Setup & Management	<ul style="list-style-type: none"> • Campaign design per Enervee's templates • Campaign setup and implementation • Ongoing optimizations, keyword management and copy and design updates as needed



Part 6 Sweepstakes setup and management	<ul style="list-style-type: none"> • Terms and conditions example (if needed) • Outline and customization of proposed sweepstakes functionality within the platforms features • Execution of the sweepstake and sweepstakes landing page • Drawing of winners
--	---

All content and schedule would be approved by SVCE in advance. Triggered email content would also be approved by SVCE in advance but would be sent out by Enervee based on user behavior. SVCE can make a request to postpone an email or pause automated emails.

Enervee would seek SVCE approval for all campaign templates/framework but would have the ability to optimize the ads (products, price, text) within this framework without ongoing approvals.

SVCE will not unreasonably withhold approvals and provide all approvals requested in a timely manner with a maximum of 1 iteration allowed.

SVCE to provide a designated contact person that manages feedback and final approvals to be provided to Enervee

**EXHIBIT M:
ORDER FORM PRICING**

This exhibit provides the pricing and billing schedule applicable under this Order Form

PRICING					
Partner: SVCE		Service Start: June 19, 2023		Service End: September 30, 2024	
PRODUCT	QUANTITY	TYPE	DURATION	MONTHLY PRICE	TERM TOTAL PRICE
Enervee Choice Engine (Appliances)	1	Non-Profit	15.5 months	\$4,375	\$67,812
License fee for leaf blower category	1	Non-Profit	15.5 months	\$437	\$6,774
License fee for cook top category	1	Non-Profit	15.5 months	\$437	\$6,774
Commerce	1	Non-Profit	15.5 months	\$2,625	\$40,688
Customer Care: Phone, Voice Mail and Email Support	1	Non-Profit	15.5 months	\$1,575	\$24,412
Engage Paid Media Program	1	Non-Profit	15.5 months	\$774	\$12,000
Engage Sweepstakes Program (Sweepstakes promotion not included)	1	Non-Profit	Per Campaign Setup	\$4,000 per campaign	\$8,000 (optional)
Fast Track Rebate Processing Fee	1	Non-Profit	15.5 months	\$8.00 per rebate processed	Invoiced as incurred
Contractor	1	Non-Profit	15.5 months	Available at no cost	Available at no cost
Go Green Home Eco Financing (Optional)	1	Non-Profit	TBD	Available at no cost	Available at no cost
SUBTOTAL				\$10,223	\$166,460
ONE TIME FEES					
Ad Banners Set Up					\$9,000
ONE TIME FEE SUBTOTAL					\$9,000
ORDER FORM TOTAL					\$175,460
Any changes or additions to the agreed scope is defined as Professional Services and will result in additional costs at a rate of \$200 per hour.					

BILLING SCHEDULE		
INVOICE DATE	DESCRIPTION	AMOUNT
October 1, 2023	One Time Fees and June-Dec 2023 billings	\$79,453
Jan 1, 2024	Jan - Sep 2024 billings	\$96,007
BILLINGS TOTAL		\$167,460

Fast Track Rebates processed, and Instant Rebates issued on Commerce transactions will be billed monthly based on actuals. Sweepstakes program invoices will be invoiced on execution of Change Order Request.

Summary of previously approved funding

Original MSA – April 2020	
Service	3-Year Total
Annual License Fees	\$390,000
Customer Service Fees	\$54,000
One-Time Setup Fees	\$27,500
Total	\$471,500

Additional Board Approved Funding – Nov 2020	
Service	Total for Contract Duration
Additional License Fees for new product offerings (allowance)	Up to \$45,000
Rebate Administration Fees (allowance)	Up to \$40,000
New Features / Tools (allowance)	Up to \$10,000
Total	Up to \$95,000

Total Not-to-exceed amount = Original MSA (\$471,500) + Additional Board Funding (\$95,000) + Amendment (\$175,500) = \$742,000

EXHIBIT P: CUSTOMER CARE

For Enervee, providing excellent customer service means going the extra mile in making sure a customer is happy and satisfied with a company's products or services. It also involves providing service to a customer in a timely, pleasant manner. Enervee's Customer Care team is located in the United States and Enervee shall ensure that its Customer Care team members are well trained for effective exchange of product, rebate, and platform information with Customers.

Enervee will handle all customer inquiries, via email or phone, that relate to the operation of Choice Engine & Commerce, including website and webpage assistance, product and service inquiries, fulfillment, charges, and any other inquiries directly relating to the Marketplace.

Enervee will redirect any non-Marketplace-Platform-related calls or emails to SVCE, or the appropriate party designated by SVCE. Enervee will also manage all customer inquiries related to the Marketplace Platform redirected from SVCE to Enervee customer support service

1. LIVE PHONE SUPPORT SERVICE & VOICEMAIL

Enervee offers a live phone support center, which takes inbound calls for questions on products, assisting with rebate applications, or regarding the Choice Engine functionality.

- Enervee guarantees live phone support for all business days in the year with an unlimited number of minutes per month.
- Enervee needs a minimum thirty (30) days to set-up phone support, which includes training sessions for support agents, the set-up of the system with a dedicated number and the development/approval process for phone scripts and/or guides.
- Customers can call the dedicated toll-free number from 9:00 AM to 5:00 PM Pacific Time, excluding major holidays, to speak directly to an Enervee support agent during business hours. Extended business hours can be set up on demand.
- The toll-free number will include a voicemail line for customers to call and leave a message during non-business hours and major holidays. All voice messages from Customers will be returned within 72 hours, excluding major holidays or weekends.
- Partner will need to notify Enervee of any changes to the phone support set-up, specifically if there is expected to be an increasing volume of phone support minutes, with twenty (20) business days advance notice.
- Enervee will track monthly minutes from all incoming calls and any outbound phone calls to Customers.

2. EMAIL SUPPORT

Enervee guarantees email support on all business days in the year, excluding the major holidays.

Customers can ask questions by using a dedicated support email address. Enervee has a target to respond to all personal communication from users within 72 hours after initial contact.

3. MAJOR HOLIDAYS

- ☐ *New Year's Day*
- ☐ *Martin Luther King Jr. Day*
- ☐ *Presidents Day*
- ☐ *Memorial Day*
- ☐ *Independence Day*
- ☐ *Labor Day*
- ☐ *Veterans Day*
- ☐ *Juneteenth*
- ☐ *Thanksgiving Day*
- ☐ *Christmas Day*

4. CUSTOMER CARE REPORTING

Email Conversations

Enervee provides Partner the number of conversation threads upon request with twenty (20) business days advance notice.

Live Phones & Voicemails

Enervee provides The Partner the number of inbound calls, the number of outbound calls, and the total number of minutes used per month, reported monthly.

Customer Satisfaction/Customer Service Feedback Surveys (CSAT)

Enervee provides the Partner the average satisfaction rating (1-5), number of surveys sent, number of ratings received, and number of comments received of email conversations, reported monthly.

(CSAT) Reports will be provided via secure SFTP

SVCE reserves the right to conduct CSAT studies on the solution, in addition to any reporting Enervee produces.

In the case that CSAT is below a 4 (in a 1 – 5 scale) in a given month, Enervee will work with SVCE to identify and resolve any issues in the customer experience, technical or otherwise, as soon as possible.



EXHIBIT Q: MARKETPLACE AD BANNERS

Ad banners can be displayed in various areas on the Appliances Assistant with any messaging SVCE would like to display. Updates to the banners requires professional services work in the form of a Change Order.

SVCE has requested an ad banner to promote its Grid Shift rebate. Ad creative materials must be formatted specifically to fit within the available Appliances Assistant ad banner space.

An ad campaign must have ad tiles in the following sizes: 728x90, 160x600, 300x600, 300x100 (mobile) and are optimized for web resolution to ensure fast page loading speeds.

Each ad supports one link per banner.

Process Overview:

- Project kickoff, email - 1 day
- Content - 4-8 weeks
- Implementation - 4 weeks
- Review for the Utility - 5 days
- Released to Production - 2 days

SVCE can request an update every six months. More frequent changes to the banners or updates to the banners requires professional services work in the form of a Change Order Request.

EXHIBIT R: ECO FINANCING(OPTIONAL)

SVCE has the option at any time over the course of this contract term, to enable Eco Financing on Enervee Commerce. There will be no setup or recurring fee. Eco Financing enables customers to purchase select products on Enervee Commerce through a \$0 down loan with an affordable APR. Customers have the option to bundle in installation and other services. The rates are attractive to a wide range of customers. The loans are digitally underwritten, and customers set up loan servicing via ACH directly with Enervee's sponsor bank as the lender.

Enervee's partnership with The California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) positions the Go Green Home fund as a Loan Loss Reserve (LLR) to mitigate the financial risk of offering low interest rates to credit challenged customers (between 640-580 credit score), which is particularly useful to SVCE's low and moderate-income customer segments. Loans for emissions reducing products and high efficiency products can have as low as a 9.99% interest rate for credit challenged customers. This already proven solution enables SVCE customers (except for City of Palo Alto customers) to participate in the Go Green Home program, giving them access to this program's fund to finance their next emissions reducing and high efficiency appliance purchase directly off the SVCE Appliance Assistant. The program covers eligible products from \$200-\$5,000, inclusive of all taxes, accessories and installation. In short, it provides an alternative to using a credit card on the Appliances Assistant in the form of a loan option from a fund SVCE customers currently pay into.

The following is a list of electric products/measures that are eligible for Go Green Home financing (approved by CAEATFA):

- Refrigerators
- Dishwashers
- Ovens
- Air Conditioners
- Cooktops
- Ranges
- Washers
- Dryers
- Freezers
- Heat Pump Electric Water Heaters
- Air Purifiers
- Thermostats

The Go Green Home program is administered by The California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA). Enervee has approval from CAEATFA that validated PG&E customers in the SVCE area would be eligible for this program.

To begin the deployment of Eco Financing on the SVCE Appliances Assistant, SVCE must execute a Change Order with Enervee. To enable eligibility verification, SVCE will need to ensure that the current customer data feeds powering rebate eligibility verification includes customer data points required by CAEATFA, including any information as required by the program, which may change from time to time

Master Service Agreement

This agreement is entered into between Enervee Corporation ("**Enervee**") and Silicon Valley Clean Energy Authority, an independent public agency ("**Partner**") as of the date this Agreement is executed by both Parties – April 17, 2020 (the "**Effective Date**") and incorporates (i) the attached Terms and Conditions, which sets forth the general terms and conditions governing the relationship of the Parties, (ii) each Order Form executed pursuant to the Terms and Conditions, each of which describes the specific services to be provided by Enervee to Partner, and (iii) all other exhibits and attachments expressly incorporated herein (collectively, and as amended from time to time, the "**Agreement**"). Each of Enervee and Partner may be referred to as a "**Party**" and together as the "**Parties**."

MASTER SERVICE AGREEMENT**1. DEFINITIONS.**

Certain terms used in this Agreement, not otherwise defined on the cover page, shall have the meanings set forth below.

- 1.1. “Administrative User”** means an employee or contractor of Partner to whom Partner has assigned a unique identification number for access to the Web-based portion(s) of the Services for Partner’s own use as specified in an Order Form.
- 1.2. “Aggregated Data”** means aggregated and statistical data derived from the operation of the Service, including, without limitation, information, improvements, updates, enhancements, business practices, trends, analyses, metadata, performance results or other information or data which Enervee may develop in the course of providing the Services. For the avoidance of doubt, Aggregated Data shall not include any Personal Information and must be anonymized.
- 1.3. “Brand”** means any trademarks, service marks, trade names, domain names, logos, business names, product names and slogans, and all registrations and applications for registration thereof owned by or licensed to a Party or to which the Party has rights.
- 1.4. “Partner Data”** means any data or information supplied by Partner to Enervee under this Agreement or any Customer Information. Partner Data excludes Enervee Intellectual Property and Third Party Data.
- 1.5. “Personal Information Laws”** mean California Consumer Privacy Act of 2018, Cal. Civil Code § 1798.100 et seq. and its implementing regulations (the “CCPA”) and similar state data privacy laws.
- 1.6. “Confidential Information”** means, whether written or oral, (i) know-how, business methods, intellectual property, trade secrets, financial data and any other non-public, confidential or proprietary information of a Party and (ii) information that, by the nature of the information or the circumstances surrounding disclosure, ought reasonably to be treated as confidential. For purposes of this Agreement, Enervee Intellectual Property and Third Party Data shall be the Confidential Information of Enervee and Partner Data shall be the Confidential Information of Partner.
- 1.7. “Customer”** means any current or former Partner customer.
- 1.8. “Customer Information”** means a Customer’s name, address, telephone number, and any other Personal Information, as well as information related to the quantity, technical configuration, type, destination, and amount of use of service or products subscribed to by a customer of a regulated utility that is available to the utility solely by virtue of the customer-utility relationship.
- 1.9. “Documentation”** means Enervee’s electronic descriptions of the functionality and operation of Service identified in the Order Form.
- 1.10. “Enervee Content”** means (i) all content, including any text, copy, images, graphics, designs, photos, video, sound, derivative works or works of authorship, data, statistics, analyses, compilation, aggregation, forecasts and any similar information that is either owned, developed or licensed by Enervee; (ii) any information, improvements, updates, enhancements, business practices, or other information which Enervee may develop in the course of providing the Services; (iii) the Documentation; and (iv) Aggregated Data. For the avoidance of doubt, Enervee Content shall not include any Partner Data or Personal Information.
- 1.11. “Enervee Intellectual Property”** means: (i) any proprietary work or system that is owned, licensed or developed by Enervee; (ii) any data independently developed or created by Enervee; and (iii) any other Enervee Content.
- 1.12. “Initial Term”** is the initial term of the agreement, as set forth in the initial order

1.13. “Personal Information” means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular person or household. . Personal Information includes, but is not limited to, the data elements listed in section 140(o)(1)(A)-(K) of the CCPA, if any such data element identifies, relates to, describes, is reasonably capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular individual or household.

1.11. “Program Result Report” means the evaluations and results of the Services to be provided by Enervee to Partner as specified in an Order Form.

1.12. “Services” means the services to be made available by Enervee that are specified in an Order Form.

1.13. “Order Form” means a document signed by both Parties identifying Services to be made available by Enervee pursuant to this Agreement.

1.14. “Third Party Data” means all content received by Enervee from a third party (other than Partner) or made available by a third party (other than Partner) through the Services, including any text, images, graphics, designs, photos, video, sound, works of authorship, data, statistics, analyses, forecasts and similar information. Third Party Data does not include Customer Information.

1.15. “Term” means the initial term plus all renewed terms

1.16. “Renewal Term” means a period following the initial term for which the agreement has been renewed.

2. ORDER FORM; ACCESS AND USE

2.1. Order Form. The Services to be provided by Enervee under this Agreement shall be set forth in one or more Order Forms, each of which is incorporated into this Agreement by reference. The initial Order Form issued under this Agreement shall be attached to this Agreement. Additional Order Forms may be entered into after the date hereof and shall be effective upon execution by both Parties. Modifications to the Services described in an Order Form shall be set forth in an additional Order Form or a Change Order executed by both Parties.

2.2. Access to Services. Subject to the terms and conditions of this Agreement, Enervee hereby grants to Partner a non-exclusive, non-transferable, non-sublicensable right to permit access to the Services for the term specified in the applicable Order Form.

2.3. Access to Partner Data. Subject to the terms and conditions of this Agreement, Partner hereby grants Enervee a worldwide, fully-paid non-exclusive, non-transferable (subject to Section 6), non-sublicensable, royalty-free license to (i) use, reproduce, adapt, modify, translate and distribute the Partner Data as set forth in this Agreement, including in order to perform the Services; and (ii) use the Aggregated Data for purposes of operating Enervee’s business, including in marketing and promoting the Services.

2.4. Brand Licenses. The Parties shall cooperate with each other to develop a mutually agreeable strategy for branding the Services, as described in an Order Form. Upon approval by Partner (i) Enervee may use the Partner Brand as described in an Order Form in order to provide the Services; (ii) Enervee may identify Partner as an Enervee customer and may further publicly disclose generalized details regarding the Services provided to Partner for marketing purposes; and (iii) Enervee may include reference to the Enervee Brand in the Services, including a statement such as “runs on Enervee” and reasonable indicia of Enervee’s copyrights and other intellectual property rights therein. Except as expressly permitted above, each Party shall have a written right of approval over the use of its Brand by the other Party, not to be unreasonably withheld.

2.5. Usage Restrictions. Except as otherwise explicitly provided in this Agreement or as may be expressly permitted by applicable law, Partner will not, and will not permit or authorize third parties to: (a) rent, lease, or otherwise permit third parties to use any Enervee Content, other than Customers; (b) use any Enervee Content to provide services to third parties, other than Customers (e.g., as a service bureau); (c) circumvent or disable any security or other technological features or measures of any Services; (d) create improvements, modifications or derivative works of, or reverse engineer or otherwise attempt to discover any source code of or trade secrets embodied in, the Enervee Content (including, without limitation, any Services or any software or technology used to provide the Services); (e) use the Services in a manner not authorized under the Documentation or in violation of any applicable law, rule or regulation, including any export/import laws; (f) knowingly interfere with or disrupt the integrity or performance of the Services or the data contained therein, or unreasonably burdens the infrastructure utilized to deliver the Services; and (g) attempting to gain unauthorized access to the Services or its related systems or networks.

2.6. Retained Rights; Ownership.

(i) Subject to the rights granted in this Agreement, Partner retains all right, title and interest in and to the Partner Brand and Partner Data, and Enervee acknowledges that it neither owns nor acquires and hereby disclaims any rights in and to the Partner Brand and Partner Data not expressly granted by this Agreement. Partner shall further own the Program Result Reports, provided that Enervee (a) retains ownership in the design, look and feel of such reports and any other intellectual property therein and (b) may use such reports for its internal business purposes.

(ii) Subject to the rights granted in this Agreement, Enervee retains all right, title and interest in and to the Services and Documentation, including all Enervee Intellectual Property and further including all improvements and modifications to the Services and Documentation that arise out of Enervee's performance of the Services. Partner acknowledges that it neither owns nor acquires and hereby disclaims any rights in and to the foregoing not expressly granted herein.

3. ENERVEE OBLIGATIONS.

3.1. Performance of Services. Enervee shall perform the Services in accordance with the terms and conditions of this Agreement (including each applicable Order Form) and the Documentation.

3.2. Data Protection and Disaster Recovery. Enervee shall use commercially reasonable efforts to maintain appropriate managerial, operational, and technical safeguards designed to preserve the integrity and security of the Partner Data while in its possession and control hereunder. Such safeguards shall be at least as stringent as those set forth in Exhibit B (Data Protection and Disaster Recovery). Enervee shall notify Partner within twenty-four (24) hours if it knows of any breach of this Section 3.2.

3.3. Subcontractors. Enervee is permitted to enter into an arrangement with one or more subcontractors to fulfill any of Enervee's obligations hereunder, provided Enervee gives prior Partner notice of such arrangement, provided, however, that the limitations set forth in this Section 3.3 shall not apply to the purchase of standard commercial supplies or raw materials or services purchased for the provision of services by Enervee to all of its customers generally, including without limitation general back-end and digital marketing services, so long as such subcontractors have no access to Partner Data. Enervee shall be responsible for any breach of this Agreement that is caused by a subcontractor.

3.4. Communication with Customers. As part of the provision of the Services, Enervee may need to communicate with Customers from time-to-time. Partner hereby grants Enervee the limited right to communicate with Customers as may be reasonably necessary or beneficial to provide or improve the Services, except that any

communications initiated by Enervee related to marketing activities shall be subject to Partner's approval.

3.5. Litigation Hold. In the event Partner gives Enervee written notice of a "litigation hold", then as to all data identified in such notice, Enervee shall, at no additional cost to Partner, preserve all such data pending receipt of further direction from the Partner.

3.6. Advertising. Enervee shall not refer to Partner directly or indirectly in any advertisement, news release, or publication, or use any Partner logo, seal or mark, without prior written approval from Partner.

3.7. General Indemnification. Enervee agrees to indemnify, defend, and hold harmless Partner and its elected officials, officers, directors, agents, attorneys and employees (each, an "Indemnitee") from and against any and all liabilities, damages, losses, expenses, claims, demands, suits, fines, or judgments (each, a "Claim," and collectively, the "Claims"), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, incurred by, accrued against, charged to, or recoverable from any Indemnitee, by reason of any Claim arising out of or relating to any act, error or omission, negligence, or misconduct of Enervee, its officers, directors, agents, employees, and subcontractors, during the performance of this Agreement, including, without limitation, Claims arising out of or relating to: (a) bodily injury (including death) or damage to tangible personal or real property; (b) any payment required to be paid to subcontractors, if any, of Enervee; (c) any material misrepresentation or breach of warranty of any representation or warranty set forth in this Agreement; (d) any destruction, or unauthorized access, use, or theft of Partner Data (collectively, "cyber theft"); or, (e) any material breach of any covenant set forth in this Agreement; provided, however, that the foregoing indemnity shall not apply to the extent that the applicable Claim resulted from the sole negligence or willful misconduct of an Indemnitee.

3.8. Insurance. Unless otherwise approved in writing by Partner's risk manager, Enervee shall, at its own expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts as follows, with responsible insurance carriers duly admitted and qualified in California covering the operations of Enervee, pursuant to this Agreement: commercial general liability (\$1,000,000 per occurrence, \$2,000,000 aggregate); excess liability (\$2,000,000 per occurrence, \$2,000,000 aggregate); workers' compensation (statutory limits) and employers' liability (\$500,000 per accident); cyber liability (\$5,000,000 per occurrence) providing protection against claims and liabilities arising from: (i) errors and omissions in connection with maintaining security of Partner Data; (ii) data breach including theft, destruction, and/or unauthorized use of Partner Data; (iii) identity theft; and (iv) violation of privacy rights due to a breach of Partner Data; and professional liability (\$1,000,000 per occurrence, \$1,000,000 aggregate).

The Indemnitees shall be named as additional insureds in the commercial general, cyber, and excess liability policies which shall contain standard cross liability clauses. Enervee shall cause the liability it assumed under this Agreement to be specifically insured under the contractual liability section of the liability insurance policies. The liability policies shall be primary without right of contribution from any Indemnitee, and Enervee waives all rights of subrogation with respect to said policies. Such policies shall require that Partner be given no less than thirty (30) calendar days prior written notice of any cancellation thereof or material change therein. Partner shall have the right to request an adjustment of the limits of liability for commercial general, cyber, and excess liability, and/or professional liability insurance as Enervee's exposure to Partner increases. Enervee shall provide Partner with certificates of insurance and original endorsements, evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide Partner with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) calendar days prior to the effective date of such renewal or substitution.

4. PARTNER OBLIGATIONS.

4.1. Partner Data. Partner shall provide the Partner Data to Enervee in the format and at the times specified in the Order Form. Partner shall be responsible for, and Enervee shall not be liable for, (i) ensuring that all consents have been obtained and all notices have been given, to the extent that any such consent or notice is required under applicable law, rules, regulations, agreement or Partner policies to authorize Enervee to communicate with its Customers and use Partner Data as contemplated by this Agreement and (ii) any breach of this Agreement resulting from the Partner Data, including the delivery, accuracy, completeness and consistency thereof. Partner shall make available in a timely manner at no charge to Enervee all content, graphic files, Partner Brand information and other information and resources of Partner reasonably required by Enervee for the performance of its obligations under this Agreement.

4.2. Accounts. Partner shall be responsible for the security of its Administrative Users' accounts and passwords, and shall promptly notify Enervee of any unauthorized use of any password or account or any other known or suspected breach of security. Partner shall be responsible for the acts or omissions of its Administrative Users in connection with the use of, and access to, the Services.

4.3. Feedback. Partner shall provide Enervee with prompt written notification of any comments or complaints about the Services that are made to Partner by Customers, and of any problems with the Services or their use that Partner becomes aware of during the Term. Accordingly, Enervee shall provide Partner with any feedback received by Customers and of any problems with the Services that Enervee becomes aware of during the Term.

4.4. Assistance to Enervee. Partner shall provide reasonable assistance and access to Enervee to the limited extent necessary to enable Enervee to perform its obligations under this Agreement, including any obligations with respect to an Order Form.

5. FEES AND EXPENSES; PAYMENTS.

5.1. Fees. Partner shall pay to Enervee, without offset or deduction, all fees required by each Order Form and payment schedule. Enervee shall submit invoices to Partner according to the relevant payment schedules indicated on the applicable Order Form, and each invoiced amount will be due and payable within 30 days of the invoice date. Enervee shall not suspend any part of the Services where Partner is reasonably disputing any amount due to Enervee. Any terms and conditions included in a Enervee invoice shall be deemed to be solely for the convenience of the Enervee, and no such term or condition shall be binding upon the Partner. Late payments more than 30 days past due will accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

5.2. Taxes. Partner shall be responsible for payment of any applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on Enervee's income), and any related penalties and interest for the grant of license rights hereunder, or the delivery of related services. Partner shall make all required payments to Enervee free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments to Enervee shall be Partner's sole responsibility, and Partner shall, upon Enervee's request, provide Enervee with official receipts issued by the appropriate taxing authorities, or such other evidence as Enervee may reasonably request, to establish that such taxes have been paid.

5.3. Audit. Enervee shall maintain accurate records of all fees billable to, and payments made by, Partner in a format that will permit audit by Partner for a period of no less than three (3) years from when a fee was incurred or a payment was made. The foregoing obligation of Enervee shall survive the termination of this Agreement.

5.4. Invoice Disputes. If Partner disputes in good faith any portion of an invoice or any other amount due under this Agreement, Partner shall notify Enervee in writing within 30 days after receipt of the invoice with an explanation of the nature of the dispute. Unless a written notice of a dispute as to invoiced or due amounts is received by Enervee within such 30-day period, the invoice or amount due shall be deemed correct and payable in full by Partner.

6. CONFIDENTIAL INFORMATION.

6.1. Ownership of Confidential Information. As between the Parties, all Confidential Information is and shall remain proprietary to the disclosing Party.

6.2. Mutual Confidentiality Obligations. Each Party agrees (i) to use Confidential Information disclosed by the other Party only as described herein; (ii) to protect the other Party's Confidential Information with the same standard of care it uses to protect its own Confidential Information, but in no event less than reasonable care, (iii) not to disclose the other Party's Confidential Information without its prior written consent to any third party except as provided in Section 6.3.

6.3. Permitted Disclosures. Notwithstanding the above, a Party may disclose the Confidential Information of the other Party (i) to such personnel, agents, consultants, attorneys or professional advisors of the disclosing Party or its prospective or actual investors, financiers, successors or assigns, if any, who have a bona fide need to access such information and are bound by confidentiality obligations at least as protective as those set forth in this Article 6 and (ii) to the limited extent required to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall if permitted by applicable law first have given written notice to the other Party and made a reasonable effort to seek protective treatment of the Confidential Information to be disclosed. It is understood that Partner is subject to the California Public Records Act (Gov. Code § 6250 *et seq.*). If a request under the California Public Records Act is made to view Enervee's Confidential Information, Partner shall notify Enervee of the request and the date that such records will be released to the requester unless Enervee obtains a court order enjoining that disclosure. If Enervee fails to obtain a court order enjoining that disclosure, Partner will release the requested information on the date specified.

6.4. Confidentiality Exceptions. Notwithstanding the foregoing, the provisions of Article 6 shall not apply to Confidential Information that: (i) is or becomes publicly available or enters the public domain through no fault of the recipient; (iii) is communicated to the recipient by persons not bound by confidentiality obligations with respect thereto; (iv) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; or (v) is independently developed by the recipient.

6.5. Terms of Agreement. Each Party shall be entitled to disclose to third parties the existence of this Agreement. Partner will cooperate to redact certain terms in the Statement of Work that Enervee may deem sensitive confidential information or trade secrets of Enervee, subject to Section 6.3 above.

6.6. Equitable Relief. In the event of a breach or threatened breach of this Article 6 by either Party, each Party agrees that remedies at law may not be adequate to protect the non-breaching Party and the non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief to enforce the provisions hereof and shall be entitled to recover from reasonable attorneys' fees incurred in connection therewith. Notwithstanding the foregoing, the remedies in this Section 6.6 shall not be the exclusive remedies for a breach of this Article 6.

7. REPRESENTATIONS AND WARRANTIES.

7.1. General Representations. Each Party represents and warrants that (i) it has the rights, power and authority necessary to enter into this Agreement; and (ii) this Agreement, when executed and delivered by the other Party, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms. Enervee represents and warrants that: (a) it is in the business of providing the Services; (b) the Services are fit for the ordinary purposes for which they will be used; (c) it acknowledges that Partner is relying on its representation of its experience and expert knowledge, and that any substantial misrepresentation may result in damage to Partner; (d) it knows the particular purpose for which the Services are required by Partner; (e) it is the lawful licensee or owner of the Services (excluding any Partner Data therein) and has all the necessary rights in the Services to grant the use of the Services to Partner; (f) the Services and any other work performed by Enervee hereunder shall not infringe upon any United States or foreign copyright, patent, trade secret, or other proprietary right, or misappropriate any trade secret, of any third-party, and that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Agreement; (g) it shall disclose any third-party (which shall, for purposes of this Agreement, be deemed a subcontractor) whose intellectual property is incorporated into the Services or who is necessary for the performance of the Services and it shall maintain in-force written agreements with such third-party, if any, for the term of this Agreement; (h) it has the expertise to perform the Services in a competent, workmanlike, and professional manner and in accordance with the highest professional standards; (i) it is a business duly incorporated, validly existing, and in good standing under the laws of its state of incorporation; (j) it has all requisite corporate power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement; (k) it shall comply with all applicable federal, state, local, or other laws and regulations applicable to the performance by it of its obligations under this Agreement and shall obtain all applicable permits and licenses required of it in connection with its obligations under this Agreement; and (l) there is no outstanding litigation, arbitrated matter or other dispute to which it is a party which, if decided unfavorably to it, would reasonably be expected to have a potential or actual material adverse effect on its ability to fulfill its obligations under this Agreement.

7.2. Service Warranty. Enervee represents and warrants that the Services will conform in all material respects to the requirements set forth in an Order Form, Exhibit C- Service Level Agreement, and the Documentation; provided, however, that Enervee does not warrant that the Services will be error free or will operate without interruption. Partner's exclusive remedy for any breach of this Section 7.2 shall be the discounts set forth in Exhibit C, provided, however if Enervee fails to meet the Service Levels for three (3) consecutive months, Partner may opt to terminate this Agreement, including all Order Forms in accordance with Section 10.2

8. DISCLAIMERS, EXCLUSIONS AND LIMITATIONS OF LIABILITY.

8.1. Partner Data and Third Party Data. Enervee makes no representations or warranties regarding any Partner Data or Third Party Data made available in connection with the Services. Enervee is not responsible for the accuracy, reliability, legality or validity of any Partner Data or Third Party Data.

8.2. Disclaimer. Except as expressly represented or warranted in Article 7, the Third Party Data is provided "as is," and Enervee disclaims any and all other promises, representations and warranties, whether express or implied.

8.3. Exclusions of Remedies; Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST PROFITS, LOSS OF USE, COST OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, REGARDLESS OF THE NATURE OF THE CLAIM; PROVIDED, HOWEVER, THAT ENERVEE WILL BE LIABLE FOR THE FOLLOWING COSTS AND EXPENSES INCURRED BY PARTNER IN CONNECTION WITH THIRD PARTY CLAIMS IN CONNECTION WITH A BREACH OF SECTION 3.2 OR EXHIBIT A, NOTWITHSTANDING THAT SUCH DAMAGES MAY BE CONSEQUENTIAL IN NATURE: (1) THE COST OF PREPARING AND DELIVERING NOTICES TO AFFECTED INDIVIDUALS; (2) THE COST OF PROVIDING CREDIT MONITORING SERVICES OR OTHER CREDITS OR BENEFITS EXTENDED TO AFFECTED DATA SUBJECTS; (3) REASONABLE ATTORNEYS' FEES ASSOCIATED WITH INVESTIGATION, REMEDIATION AND RESPONSE; AND (4) LIABILITY TO THIRD PARTIES THAT PARTNER INCURS IN CONNECTION WITH THE BREACH (SUCH AS AMOUNTS PAID OR FOR WHICH PARTNER IS LIABLE TO THIRD PARTIES IN TORT OR ARISING OUT OF CONTRACTS. EXCEPT IN THE CASE OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, BREACH OF CONFIDENTIALITY OBLIGATIONS, OR INTELLECTUAL PROPERTY INFRINGEMENT, THE CUMULATIVE LIABILITY OF ENERVEE TO PARTNER FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT WILL NOT EXCEED THE GREATER OF EITHER (A) TWO TIMES (2X) THE FEES PAID TO ENERVEE BY PARTNER DURING THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM OR (B) THE MAXIMUM POLICY LIMITS OF THE INSURANCE COVERAGES PROVIDED IN SECTION 3.8 IF SUCH CLAIM IS COVERED BY SUCH INSURANCE COVERAGE. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

9. INTELLECTUAL PROPERTY INFRINGEMENT

9.1. Defense of Infringement Claims. Enervee will, at its expense, either defend Partner from or settle any claim, proceeding, or suit ("Claim") brought by a third party against Partner alleging that Partner's use of the Services infringes or misappropriates any United States patent, copyright, trade secret, or trademark during the Service Term if: Partner gives Enervee prompt written notice of the Claim; Partner grants Enervee full and complete control over the defense and settlement of the Claim; Partner provides assistance in connection with the defense and settlement of the Claim as Enervee may reasonably request; and Partner complies with any settlement or court order made in connection with the Claim (e.g., relating to the future use of any infringing Services). Partner will not defend or settle any Claim relating to the Services without Enervee's prior written consent. Partner will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but Enervee will have sole control over the defense and settlement of the Claim.

9.2. Indemnification of Infringement Claims. Enervee will indemnify Partner from and pay all damages, costs, and attorneys' fees finally awarded against Partner in any Claim under Section 9.1; all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by Partner in connection with the defense of a Claim under Section 9.1 (other than attorneys' fees and costs incurred without Enervee's consent after Enervee has accepted defense of the Claim); and all amounts that Enervee agrees to pay to any third party to settle any Claim under Section 9.1.

9.3. Exclusions from Obligations. Enervee will have no obligation under this Article 9 for any infringement or misappropriation to the extent that it arises out of or is based upon use of the Services by Partner for purposes not intended or outside the scope of the limited right to use the Services granted to Partner; Partner's failure to use the Services in accordance with instructions provided by Enervee, if the infringement or misappropriation would not have occurred but for

such failure; or any modification of the Services not made or authorized in writing by Enervee where such infringement or misappropriation would not have occurred absent such modification.

9.4. Conditions to Infringement Indemnity. Enervee's infringement indemnity obligations under this Article 9 are conditioned on Partner's agreement that if the applicable Service becomes, or in Enervee's opinion is likely to become, the subject of a Claim covered by this Article 9, Partner shall permit Enervee, at Enervee's option and expense, to either procure the right for Partner to continue using the affected Service or replace or modify the same with a non-infringing functional equivalent. If the foregoing alternatives are not available to Enervee on terms that, in its judgment, are reasonable, Enervee shall have the right to require Partner to cease using the affected Service in which case Enervee shall refund to Partner that portion of the fees paid for Services not yet provided.

10. TERM AND TERMINATION.

10.1 Term. The term of this Agreement (the "Term") will commence on the Effective Date and will continue until the date on which all Services contemplated under all Order Forms have been completed, unless earlier terminated in accordance with this Article 10. Any termination of an Order Form shall not result in termination of any other Order Form(s) or this Agreement. However, any termination of this Agreement shall result in termination of all then-pending Order Form(s).

10.2 Termination for Breach. Either Party may terminate this Agreement in the event of a material breach by the other Party by providing written notice to the breaching Party, specifically identifying the breach or breaches on which such notice of termination is based. The breaching Party shall have a right to cure such breach within 30 days of receipt of such notice and this Agreement shall terminate in the event that such cure is not made within such 30-day period.

10.3 Termination without Cause. After one (1) year, Partner may terminate this Agreement and/or any Order Form(s) at any time and for any or no reason upon ninety (90) days' written notice to Enervee. In the event of such termination, Enervee shall be entitled to 20% of the unpaid fees due for the remainder of the Term if the Agreement had not been terminated.

10.4 Transition. Enervee will provide to Partner and / or to the consultant selected by Partner ("Successor Consultant") assistance reasonably requested by Partner to effect the orderly transition of the Services, in whole or in part, to Partner or to Successor Consultant ("Transition Services") following the termination of this Agreement, in whole or in part. All applicable terms and conditions of this Agreement shall apply to the Transition Services. Unless otherwise instructed by Partner, upon expiration or termination of this Agreement and/or any Order Form(s), Enervee will do the following at no additional charge: (a) within ten (10) business days, meet and confer with Partner and discuss the manner and method Enervee will return all Partner Confidential Information and Partner Data to Partner, it being agreed that such material shall be provided to Partner in human readable format unless otherwise specifically approved in advance and in writing by Partner; (b) continue to provide the Services to Partner until the effective date of such expiration or termination provided Partner continues to pay for the Services through such date; (c) wind down the Services in a professional and cost-effective manner, and (d) within thirty (30) days, refund to Partner all pre-paid, unused fees. This Section shall survive the termination of this Agreement.

10.5 Suspension of Access. Enervee may suspend access to any or all of the Services in the event any amount due under this Agreement is not received by Enervee within 30 days after it was due and Enervee has provided Partner with written notice (in addition to the original invoice) of the past due amount.

10.6 Termination Upon Bankruptcy or Insolvency. Either Party may, at its option, terminate this Agreement upon written notice to the other Party, in the event: (i) the other Party becomes insolvent or unable to pay its debts when due; (ii) the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.; or (iii) the other Party discontinues its business.

10.7 Effect of Termination. Upon any termination of this Agreement: (i) Partner shall immediately discontinue all use of the Services and any Enervee Confidential Information; (ii) Partner shall delete any Enervee Confidential Information from Partner's computer storage or any other media including, but not limited to, paper files and online and off-line libraries; (iii) Enervee shall, at Partner's direction return or delete any Partner Confidential Information and Partner Data (to the extent allowable by law) from Enervee's computer storage or any other media including, but not limited to, paper files and online and off-line libraries; (iv) each Party shall discontinue use of the other Party's Brand; and (v) Partner shall promptly pay to Enervee all amounts due and payable hereunder. This Section 10.5 shall only require each Party to delete Confidential Information from off-site physical back-up in the ordinary course of business, provided that such Confidential Information shall remain subject to the terms of Article 6.

10.8 Survival. The provisions of Articles 1, 2.3, 2.5, 2.6, 5, 6, 7, 8, 9, 10.4, 10.7, and 11 shall survive the termination of this Agreement.

11. MISCELLANEOUS.

11.1 Entire Agreement. This Agreement sets forth the entire agreement and understanding between the Parties and supersedes all prior oral and written agreements, discussions and understandings between the Parties with respect to the subject matter hereof, and neither Party shall be bound by any conditions, inducements or representations other than as expressly provided for herein. All terms of use, terms of service, end user license agreements, shrink-wrap, click-wrap and browse-wrap terms of any kind that may accompany the Service or be required to be clicked, accepted or acknowledged before a User may access or use the Service are specifically refused by Partner; accordingly, such terms are expressly excluded from and superseded by this Agreement.

11.2 Independent Contractors. In making and performing this Agreement, Partner and Enervee act and will act at all times as independent contractors, and nothing contained in this Agreement will be construed or implied to create an agency, partnership or employer and employee relationship between them. Except as expressly set forth herein, at no time will either Party make commitments or incur any charges or expenses for, or in the name of, the other Party.

11.3 Notices. All notices relating to this Agreement shall be in writing and addressed as follows:

Enervee Corporation
10000 Washington Blvd, 6th Floor
Culver City CA 90232
Attention: General Counsel
Email: legal@enervee.com

Silicon Valley Clean Energy Authority
333 W. El Camino Real, Suite 290
Sunnyvale, CA 94087
Attention: Chief Executive Officer
Email: girish@svcleanenergy.org
With CC to: don.bray@svcleanenergy.org

Notice will be deemed given upon: (i) personal delivery or delivery confirmed by an overnight courier, (ii) the second business day after

mailing by certified U.S. mail or upon confirmation of delivery by the U.S. Postal Service or (iii) recipient's acknowledgement of receipt if sent by email.

11.14 Amendments; Modifications. This Agreement may not be amended or modified except in a writing duly executed by authorized representatives of both Parties.

11.15 Assignment; Delegation. Neither party may assign its rights, duties, or obligations under this Agreement without the other party's prior written consent, which consent will not be unreasonably withheld or delayed, except that a party may assign this Agreement without the other party's consent to a successor (including a successor by way of merger, acquisition, sale of assets, or operation of law) if the successor agrees to assume and fulfill all of, or otherwise is bound by, the assigning party's obligations under this Agreement.

11.16 No Third Party Beneficiaries. The Parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the Parties, their successors and permitted assigns. Nothing herein, whether express or implied, will confer upon any person or entity, other than the Parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

11.17 Severability. If any provision of this Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision will be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability. The invalidity or unenforceability of one or more of the provisions of this Agreement will not have the effect of rendering any such provision invalid or unenforceable in any other case, circumstance or jurisdiction, or of rendering any other provisions of this Agreement invalid or unenforceable whatsoever.

11.18 Waiver. No waiver under this Agreement will be valid or binding unless confirmed in writing by the Party against whom enforcement of such waiver is sought. Any such waiver will constitute a waiver only with respect to the specific matter described therein and will in no way impair the rights of the Party granting such waiver in any other respect or at any other time. Any delay or forbearance by either Party in exercising any right hereunder will not be deemed a waiver of that right.

11.19 Force Majeure. Except with respect to payment obligations hereunder, if a Party is prevented or delayed in performance of its obligations hereunder as a result of circumstances beyond such Party's reasonable control, including, by way of example, war, acts of terror, earthquake, riot, fires, labor disturbance, floods, epidemics, failure of public utilities or public transportation systems, Internet disturbance, denial of service attacks or acts of governmental bodies, such failure or delay will not be deemed to constitute a breach of this Agreement, provided that if such Party is prevented or delayed from performing for more than 90 days, the other Party may terminate this Agreement upon 30 days' prior written notice. Without limiting the foregoing, Enervee shall not be liable for any delay in performing or failure to perform its obligations hereunder as a result of Partner's delays, acts or omissions.

11.10 Governing Law; Dispute Resolution. This Agreement will be governed by and interpreted in accordance with the laws of the State of California with venue in Santa Clara County.

11.11 Conflict Of Interest. Enervee 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 violate any conflict of interest statutes of the State of California applicable to Enervee's services under this Agreement, including the Political Reform Act (Gov. Code § 81000 *et seq.*) and Government Code Section 1090. Enervee shall incorporate a clause substantially similar to this section into any material subcontract that Enervee executes during the Term in connection with any subcontractors furnishing services primarily for the performance

of this Agreement (and excluding any subcontractors or vendors that furnish services for Enervee and its customers in general). Enervee understands that it may be required to fill out a conflict of interest form if the services provided under this Agreement require Enervee to make certain governmental decisions or serve in a staff capacity, as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

11.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original and all of which when taken together will constitute one Agreement. A copy of this Agreement delivered by email or other electronic means shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

11.13 Interpretation. The headings in this Agreement are inserted merely for the purpose of convenience and will not affect the meaning or interpretation of this Agreement. The terms "include", "includes" and "including" shall be deemed followed by the words "without limitation," and the term "or" is not exclusive. The words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

11.14 Attorneys' Fees and Costs. In any litigation, or other proceeding, informal or formal, by which one party either seeks to enforce this Agreement or seeks a declaration of any rights or obligations under this Agreement, the non-prevailing party shall pay the prevailing party's costs and expenses, including but not limited to, reasonable attorneys' fees.

11.15 Cooperation. Where agreement, approval, acceptance, consent or similar action by either Party hereto is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld. Each Party will cooperate with the other by, among other things, making available, as reasonably requested by the other, management decisions, information, approvals, and acceptances in order that each Party may properly accomplish its obligations and responsibilities hereunder. Enervee will cooperate with any Partner consultant performing services, and all parties supplying hardware, software, communication services, and other services and products to Partner.

11.16 Time is of the Essence. Time is of the essence in every provision of this Agreement in which time for performance is a factor.

11.17 Cumulative Remedies. All rights and remedies of Partner herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance against Enervee for the enforcement of this Agreement, and temporary and permanent injunctive relief.

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

11.19 Non-Discrimination. In the performance of this Agreement, Enervee 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.

11.20 Final Payment Acceptance Constitutes Release. The acceptance by Enervee of the final payment made under this Agreement shall operate as and be a release of Partner from all claims and liabilities for compensation to Enervee for anything done, furnished or relating to Enervee's work or services. Acceptance of payment shall be any negotiation of Partner'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 Partner shall not constitute, nor be deemed, a release of the responsibility and liability of Enervee, 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 Partner for any defect or error in the work prepared by Enervee, its employees, subcontractors and agents.

11.21 Partner's Rights to Employ Other Consultants. Partner reserves the right to employ other consultants in connection with the subject matter of the Services.

11.22 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.

11.23 Successors and Assigns. The terms and conditions of this Agreement shall be binding on the successors and assigns of the parties to this Agreement.

11.24 Inclusion of Non-Participating Agencies. Enervee agrees to extend the terms of this Agreement, inclusive of a non-profit discount on license fees, to other interested community choice energy programs, with such non-profit discounts subject to the scope of services (including but not limited to duration of contract, modules, marketing campaigns, etc.) requested by such non-profit entities. While this clause in no way commits these agencies to contract with Enervee, nor does it guarantee any additional orders will result, it may allow other agencies, at their discretion, to make use of Partner's competitive process (provided said process satisfies their own procurement guidelines) and enter into a contract directly with Enervee. All contracts entered into by other agencies shall be understood to be transactions between that agency and Enervee; Partner shall not be responsible or liable in any manner for any such contracts.

[End of terms.]

SIGNATURES ON FOLLOWING PAGE

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

Recommended for Approval:

CLIENT

DocuSigned by:
Signature: Don Bray
25AB666D5413484...

Name: Don Bray

Title: Director of Account Services &
Community Relations

Date: 4/14/2020

Recommended for Approval:

CLIENT

DocuSigned by:
Signature: Don Eckert
10C84C9C59134BD...

Name: Don Eckert

Title: Director of Finance & Administration

Date: 4/14/2020

Approved

ENERVEE

DocuSigned by:
Signature: [Signature]
CB474A9B796A46B...

Name: Luis I Castro

Title: Director of Growth

Date: 4/15/2020

Approved

AUTHORITY

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

Name: Girish Balachandran

Title: Chief Executive Officer

Date: 4/15/2020

APPROVED AS TO FORM

COUNSEL FOR AUTHORITY

DocuSigned by:
Signature: Gregory W. Stepanicich
9E728D9E914F493...

ATTEST:

AUTHORITY CLERK

DocuSigned by:
Signature: Andrea Pizano
D0029733BB994BA...

EXHIBIT A**Data Protection and Disaster Recovery**

This Exhibit A sets forth the safeguards that Enverree has in place in order to protect the confidentiality and integrity of Partner Data held by Enverree. Enverree shall maintain data protection and disaster recovery standards at least as stringent as this Exhibit A during the term of the Agreement.

A. DATA PROTECTION AND SECURITY:

Enverree shall have in place information security safeguards that are designed to conform to or exceed industry standard practices regarding the protection of the confidentiality, integrity and availability of Partner and customer information. These information security safeguards (the “**Information Security Program**”) shall be materially consistent with, or more stringent than, the safeguards described in this Exhibit.

Overview. Enverree uses a defense-in-depth strategy designed to secure Personal Information and usage and billing data received from Partner or its Customers (“**Customer Data**”). This is achieved by reference to the National Institute of Standards and Technology (NIST) Risk Management Framework (to include the recently released NISTIR 7628 Guidelines for Smart Grid Cyber Security) as the foundation of our Information Security Program. Managerial, operational, and technical, security controls are implemented by Enverree to protect the confidentiality, integrity, and availability of Partner and customer data are derived from the NIST SP 800-53 and NISTIR 7628 control families.

Compliance with Personal Information Laws. Enverree shall process Personal Information disclosed by Partner to Enverree in connection with the Services (“**Partner Personal Information**”) in compliance with Personal Information Laws and shall not (1) sell, as that term has been defined in the CCPA, Partner Personal Information, or (2) retain, use or disclose Partner Personal Information (i) for any purpose other than for the specific purpose of performing the Services, or (ii) outside of the direct business relationship between Enverree and Partner, Enverree hereby certifies that Enverree understands the restrictions set out in this Exhibit A regarding Partner Personal Information and will comply with them.

Data Storage. Customer data is stored at independently verified SSAE-16 / SOC I Type II certified Tier-III data centers. The data centers’ physical and environmental security includes industry-leading network hardening and active monitoring, digital security video surveillance, 24/365 on-site security staff, and biometric access control.

Role-Based Logical Access Control. Enverree employs role-based access controls to servers containing Customer Data. Authorized employees must use individual account and authentication credentials to gain access to Customer Data. Enverree controls access to back end servers through authentication handled with key-based SSH sessions. Authorization is done on a least privilege model.

Information Classification and Handling. Enverree classifies information assets using specific sensitivity labels and handling procedures so that appropriate security controls are applied to Customer Data.

Secure Data Transfer. Enverree requires that all Customer Data containing Personal Information transmitted to or from the Enverree information system use approved secure transfer processes such as Enverree’s secure file transfer protocol (SFTP) and Enverree’s Data Transfer Specification. Data traversing the SFTP connection is authenticated and encrypted during transmission.

Secure Web Communications. Enverree’s Website Portal and Customer Service Application utilize HTTPS for securing web server to web browser communications using a Transport Layer Security (TLS) encrypted 256-bit certificate signed by an approved Certificate Authority. This establishes the encryption of the session, designed to protect the transmitted data between the end-user and the application.

Network and Security Monitoring. Enverree’s infrastructure incorporates firewalls, intrusion detection systems, intrusion prevention systems, Enverree Master Service Agreement January 2019
NYACTIVE-18510279.1

vulnerability management tools and other technologies designed to monitor for network security events.

Vulnerability Assessments. Enverree performs periodic internal and external web application and network vulnerability assessments that include the use of independent third-party assessors as part of its continuous monitoring program to assess the application and operation of its security controls. The scope of these audits includes assessment of compliance with Open Web Application Security Project (OWASP) Top 10 Web Vulnerabilities (www.owasp.org). Enverree will use commercially reasonable efforts to promptly install applicable security patches and updates.

Website Portal Security Controls and Procedures:

User Authentication. Access to the Enverree Website Portal and Customer Service Application requires a valid unique user ID and password combination, along with 2 factor authentication, which are encrypted via TLS while in transmission.

Security Controls: The Enverree Website Portal and Customer Service Application include the following security controls:

- Unique user IDs so that activities can be attributed to the responsible individual.
- User lock-out controls after consecutive failed login attempts.
- Controls to terminate a User session after a period of inactivity.
- Password complexity requirements.

Security Procedures, Policies and Logging: The Enverree Website Portal and Customer Service Application are operated in accordance with the following procedures to enhance security:

- User access log entries will be logged
- Logging will be kept for a minimum of 90 days.
- Logging will be kept in a secure area to prevent tampering.
- Passwords are reset to a random value (which must be changed on first use) and delivered automatically via a secure delivery method to the requesting user.

Viruses: The Enverree Platform has been designed to detect and quarantine viruses on both employee computers and servers.; All email attachments are scanned for viruses. Employee computers are scanned daily for viruses. All Linux servers are scanned weekly for viruses.

Incident Response. In the event of a security breach, Enverree’s System Administration Team and Security Team will perform a risk-based assessment of the situation and develop appropriate mitigating strategies in accordance with Enverree incident response procedures, which include contacting the Partner.

Security Plan Changes. Enverree periodically updates and implements enhancements to the Information Security Program, and may add or modify security controls, procedures, policies and features. These additions and modifications will not make the Information Security Program less protective than it was on the effective date of the Agreement in any material respect.

Hosted Services. The Enverree Platform utilizes industry-leading hosted storage and application services, such as Amazon Web Services, that

employ security practices that meet or exceed the practices described in this exhibit. For more information on Amazon Web Services security practices, see <http://aws.amazon.com/security/security-resources>.

B. DISASTER RECOVERY:

Production Site Recovery Methodology:

Overview: Enervee's Primary data centers provide production services for the Enervee Platform and geographically separate disaster recovery ("DR") data center(s) provide(s) recovery services if needed as a result of a disaster. All data received from Partner or Customers for purposes of the Enervee Platform is maintained in both the primary data centers and the DR data center(s).

Hardware: All data centers utilize carrier-grade components designed to support high level of availability and performance. Extensive use of high availability servers and network technologies, combined with multicarrier and carrier-neutral network strategy, mitigate the risk of single points of failure and provide a highly resilient environment.

Data Replication / Backups: Enervee performs remote data replication of all production data to a geographically remote DR site.

Specifically, nightly backups are performed at all the production data centers and backups are made at Enervee's remote DR data center as follows:

- Disk Backup Schedule- Weekly Full/Nightly Incremental
- Site to Site Backup Schedule – Nightly

Should there be a catastrophic failure at a primary data center or another type of disaster affecting that facility, Enervee would initiate its disaster recovery process. Recovery would be performed at Enervee's primary data centers if the recovery could be completed within Enervee's recovery time objective ("RTO") and recovery point objective ("RPO"). If recovery could not be completed at Enervee's primary data center within the RTO and RPO, recovery would be performed at Enervee's remote DR data center(s).

Data Center Recovery Planning Progress:

As a part of developing a viable disaster recovery plan and program for the production environment and platforms, Enervee conducts periodic disaster recovery exercises.

The scope of the disaster recovery exercise is to validate the ability to recover production data from a primary data center to the DR data center utilizing developed operational and disaster recovery procedures and documentation. Key elements of proof currently include:

- Network access
- Hardware and / or server component accessibility.
- Application accessibility
- Data currency (RPO)
- Plan elements are reviewed and updated
- Task, script and procedures remain current

Data Center Facilities:

Enervee services run from enterprise-grade data centers. Cameras provide interior and exterior surveillance, monitored by onsite security guards around the clock. Various combinations of Card-key access, PIN-based & bio-metric system restrict access to and within the data center. Electrical power, telecommunications, and environmental systems (cooling, fire suppression, etc.) are redundant with uninterruptible power supply units, generators, and water supplies available for emergency use. Heat, smoke, fire detection and suppression systems are strategically located throughout the facility. Building logic control systems monitor temperature, humidity, and other environmental conditions. Notification via email/paging mechanisms and onscreen dashboards display all critical functions and any alarm conditions.

Power:

Enervee's solution is designed to offer an uninterrupted power supply while the load is being transitioned to emergency/generator power in the case of a utility outage. Both the primary and the DR data centers have power capacity to support the load for the entire facility for a minimum of 48 hours on emergency generator power with multiple vendors to supply fuel as required. In the event of a critical data center facility service impacting failure or disaster, Enervee has the ability to transition to a data replicated, geographically diverse DR data center.

EXHIBIT B:
SERVICE LEVEL AGREEMENTService Availability

Enervee will maintain a Monthly Uptime Percentage of at least 99% during each month. Here “Monthly Uptime Percentage” is calculated by subtracting from 100% the percentage of minutes in which the Enervee Platform was unavailable, not including any Enervee scheduled or emergency maintenance periods. In the event that Enervee does not meet this service level commitment, Partner will receive a discount for that billing cycle according to the rules below. These discounts will constitute Partner’s sole remedy, and Enervee’s sole liability for any failure to meet Enervee’s service level commitment.

Less than 99% but equal to or greater than 97.0% monthly uptime:

3% discount

Less than 97.0% monthly uptime:

5% discount



EXHIBIT C:
SOW ENERVEE APPLIANCES CHOICE ENGINE

1. Appliances Choice Engine

The Appliances Choice Engine is a custom, fully automated appliance and product recommendation platform. Appliances brings together all the data Customers need to make an informed decision - pricing, features, efficiency, popularity and user reviews - into the single most comprehensive selection of products and information available online.

Appliances is designed to help Customers quickly and easily find the most efficient and therefore cost-saving appliances that meet their unique requirements. It drives continuous engagement and positions the Partner as a trusted advisor in the consumer's appliance purchase decision. Appliances leverages the data pulled from the largest online retailers and manufacturers each day and compiles this information into a simple product card displaying the most important shopping information for consumers in a mobile friendly way.

Enervee will create, operate and manage a geo-targeted, Partner-branded version of the Choice Engine platform that has a fully responsive and mobile-first design. The Choice Engine will be hosted by Enervee's hosting service (provided by Amazon Web Services) and will be available on the efficientchoice.com domain.

Consumer-facing information and services on the site will include:

- Products, in the selected categories by Partner, for sale through online retailers updated daily. During implementation SVCE can choose which categories to include from Enervee's catalog.
- An "Enervee Score" rating the energy efficiency for every product derived according to Enervee's scoring system.
 - Enervee commits to working with SVCE and other Enervee customers to incorporate additional environmental attributes into the Enervee Platform, including factoring in the carbon intensity of the appliance's energy source (electricity or natural gas), and the ability of the appliance to be networked and utilize utility-provided information such as time of use rates, dynamic pricing, and demand response signals.
- Online sales offers, with pricing, and user reviews from Amazon.com, Best Buy, Home Depot, Sears, Lowe's and many others.
- User reviews are aggregated across all participating retailer into a single 5-star score.
- "CLEARCOST" which adds estimated energy consumption costs to the lowest online listed purchase price for every product. Clear Cost is based on average Client residential rates as provided by Client.
- "YOUSAVE" which estimates the lifetime energy cost savings of a product compared to the baseline model of that size class.
- Leverage an SVCE-owned and provided URL at an extra cost. The included standard URL is partner.efficientchoice.com/org



- Leverage an SVCE-provided marketplace name
- Apply branding leveraging SVCE brand guidelines following the platform configuration options defined in the implementation workbook
- Manage an appliance and equipment catalog including a variety of large and small appliances; Enervee may offer additional product categories in the future that SVCE can decide to add to the Marketplace Application.
 - All product categories, including additions and deletions, to be approved by SVCE
 - New categories will be offered to SVCE as they become available, as optional categories to be included in the SVCE platform. These new categories will have an implementation fee that shall be agreed upon as the categories are requested by SVCE.
- Provide option for customers to received quotes from local installers through HomeAdvisor with Contractor add on
- Enable referral purchase capabilities for products and services, with communication of SVCE rebates and incentives available and how to redeem them. SVCE must provide rebate criteria in the implementation workbook. New rebate setup requests after launch incur fees.
- Coordinate with other SVCE vendors/partners to allow for integration between solutions and applications, as appropriate and mutually agreed to (e.g., embedding links to other websites, creating site content, sending customer communications, etc.). Some requests may require additional fees. In that case any fees will be identified and approved in writing by SVCE before the work is done.

DELIVERABLES	DESCRIPTION
Service	Enervee will set up and customize a geo-targeted, Partner-branded version of Enervee Appliances.
ENERVEE APPLIANCES PLATFORM	
Mobile First Design	Mobile first design with product cards. Each card gives the visitor key information on the price, user reviews and efficiency of a product.
Features and Functions	Favorite a product, save a search, sort and filter product listing, click to retailer offer, view product specifications, view product reviews, FAQs
Enervee Score®	Enervee Appliances provides a unique scoring system from 0-100, the Enervee Score, for electronics, appliances and lighting. The dynamic scoring is designed to help shoppers make a better decision when it comes to choosing their next appliance by comparing the energy efficiency between comparable models. (https://enervee.com/score/)
CLEARCOST	CLEARCOST shows the projected total costs of owning an appliance over its useful lifetime based on purchase price, Partner energy rates and usage profile.



Accessibility	Enervee builds its products in accordance with ADA requirements and shall maintain website in a manner accessible to persons with disabilities.
New Categories	As new categories become available for the Appliances Choice Engine, Partner will be able to add those categories to their Appliances Choice Engine. Adding new categories generate additional costs to the original scope of the platform, which result in a \$7,500 (non-profit pricing) implementation fee and a \$5,000 (non-profit pricing) annual fee.
SET UP AND CUSTOMIZATION	
Standard branding and configuration options for Enervee Appliances are outlined through an Implementation Workbook (EXHIBIT G). High-level considerations are outlined below:	
Branding	Enervee incorporates branding elements throughout Homepage and other Enervee Appliances pages to ensure branding alignment including name, logos, color palette, images, default Enervee Appliances elements and copy. Partner provides brand guidelines.
Technical	Set up platform, platform data management and profile data management Quality testing before deployment
Hosting	Enervee hosts the Appliances site at a custom URL. i.e. partnername.efficientchoice.com.
Tracking	Set up tracking of user activities on Enervee Appliances. Partner integrates re-marketing pixel.
Region, Language, Currency	Partner Region, US English, US Dollar



EXHIBIT D:
SOW ENERVEE CHECKOUT

1. Checkout

Selling directly to customers can make sense when consumers want to make a quick decision, or the utility wants to supply the product. For these situations, there's Enervee Checkout - an integrated direct-sales application. The Checkout API extension allows the fastest and most convenient way to purchase products with rebates instantly through the Appliances Choice Engine. The Checkout functionality allows active and validated customers to purchase Partner-approved products with an instant rebate discount applied at the time of purchase.

- Source, secure, and manage all participating product and service suppliers, manufacturers, and distributors
 - Identify, contract, price, and manage any order fulfillment logistics and related system functionalities as required
 - Enable inclusion of products sourced and fulfilled via SVCE as mutually agreed. New and non-existing categories requested to be sold via Checkout, might incur additional fees, depending on the type of category.
- Source, secure, and manage product fulfillment vendor(s) for direct-purchase products and services
 - Act as an affiliate referrer for certain products or services
 - Send all order confirmations via email to customers with branding as approved by SVCE
- Enable access to available manufacturer promotions as mutually agreed
- Track and monitor rebates issued to customers

DELIVERABLES	DESCRIPTION
Service	Enervee will set up and customize a geo-targeted, Partner-branded version of Enervee Checkout
ENERVEE CHECKOUT	
Setup	Enervee will send a product list of energy-star certified products that will be available for purchase for approval. Any changes to the initial set up are defined as change requests and will be charged separately based on efforts. Changes only happen with SVCE's approval of scope and costs. Efforts are defined as the number of hours required to make any changes, new requests or additional software development. Enervee's hourly rate for changes, requests or software development is \$200/hr.



Categories	<p>The initial set-up will include up to three categories with products available to purchase: Thermostats, Lightbulbs and Power strips. Other categories may be added at a later date by Enervee with SVCE's approval. The lightbulbs category will consist of minimum 15 energy star light bulbs products available for purchase. The thermostats category will consist of minimum 8 energy star thermostats. The Power strips category will consist of a minimum of 2 energy star brands.</p> <p>This is all dependent on the utilities rebate requirements. Any changes to the initial set up like additional categories are defined as change requests and will be charged separately based on efforts. Changes only happen with SVCE's approval of scope and costs. Efforts are defined as the number of hours required to make any changes, new requests or additional software development. Enervee's hourly rate for changes, requests or software development is \$200/hr.</p>
Products	<p>Enervee maintains the product catalog including price updates. Adding products or taking products out are defined as change requests and will be charged separately based on efforts. SVCE is able to define the products to be included in the marketplace before the platform's launch at no costs. Any other changes to product catalog shall be charged based on effort. Changes only happen with SVCE's approval of scope and costs. Efforts are defined as the number of hours required to make any changes, new requests or additional software development. Enervee's hourly rate for changes, requests or software development is \$200/hr.</p>
Shopping Experience	<p>Through the Checkout API, items added to the cart from Enervee Appliances Choice Engine are transferred to a co-branded Checkout page hosted by one of our distributors. The entire shopping experience remains seamless and efficient.</p>
Order Experience	<p>Customers will add items to their cart on Enervee Appliances Choice Engine. The customer will then proceed to Checkout and must complete a verification to be eligible for the instant rebate. If eligible, they will receive the rebate instantly, if not, they can continue to purchase at full cost. Our distribution partner will receive and fulfill these orders from the Enervee Appliances Choice Engine via the API.</p>
Handling of Returns	<p>Customers will contact the order support phone number (at an extra cost) and/or email listed on the Checkout page, Support page, and/or order packing slip with any inquiries regarding their order. The customer is responsible for all costs associated with returning orders not related to warehouse errors, damaged-in-shipment products, or defective items. These costs include restocking and/or shipping fees.</p>
Rebate Invoicing	<p>Enervee will invoice Partner at the beginning of every month for all rebates paid via Checkout. Enervee's invoice will come with an attached report of every transaction made through Checkout, with detailed information of which products were sold and to whom those products were sold to.</p>

**SET UP AND CUSTOMIZATION**

High-level considerations are outlined below:

Technical	Set up platform, platform data management quality testing before deployment
Customer Validation	<p>Enervee and Partner agree to kick-off Customer Validation via zip code matching.</p> <p>Enervee and Partner will work together to implement flat-file integration for customer validation. Enervee needs to have a database of previous claimed rebates to prevent double dipping. The claim validation process will also be agreed upon and defined jointly by Enervee and Partner to prevent duplicate rebate payments and enforce rebate business rules.</p> <p>Other Customer Validation forms may be agreed upon at a later date.</p>
Hosting	Enervee hosts the Checkout functionality under a custom URL i.e. <code>efficient.partnername.com</code>
Tracking	Set up tracking of user activities during the Checkout process.
Region, Currency and Language	Partner Region, US English, US Dollar



EXHIBIT E: IMPLEMENTATION RESPONSIBILITIES

1. Implementation Responsibilities Enervee

During Enervee Appliances implementation, Enervee will:

- a) Provide Partner with Enervee team necessary to successfully implement Appliances platform as defined.
 - Develop a detailed project schedule along with SVCE staff and contractors
 - Hold or participate in weekly check in meetings on project progress
 - Develop scripts and provide data for user acceptance testing
 - Fix all reported bugs impacting site performance within five (5) working days or as quickly as possible
 - Perform testing with an automated and manual process, followed by a regression test that gets run prior to each release (using Rainforest QA)
 - Provide access to the Enervee Partner Portal and online dashboard
- b) Implement services defined for Partner
- c.) Provide Choice Engine Implementation Workbook
- d) Discuss and finalize Partner's design and implementation details
- e) Guide Partner through program branding and content considerations
- f) Set up Enervee's Engage Program (if service is included)

The Enervee team roles and descriptions are listed here for reference. An individual may assume one or more roles.

Customer Success Manager

Primary point of contact for all pre-implementation activities and after Enervee Appliances Launch. Focused on ensuring our Partners achieve their desired outcomes. Responsible for day to day contact, marketing decisions, platform performance tracking and optimization, Enervee impact surveys and Enervee support for independent impact assessment and strategic planning. Also responsible for implementing Enervee Appliances scope, project scheduling, resource management, technical dependency management, engineering coordination and test coordination. After Program launch, the Customer Success Manager will deliver results reports, drive ongoing optimization efforts, and closely monitor key milestones.

Customer Service Manager

Primary point of contact for customer support functions

Engage Program Manager

Primary point to advise and manage Enervee Engage Program (if service is included)

2 Implementation Responsibilities Partner

During Enervee Appliances implementation, Utility partner will:

- a) Provide Enervee with Partner team as described below
- b) Provide Enervee with all necessary information
- c) Make decisions regarding corporate branding and content strategies associated with Enervee



—
solution

Partner is required to provide the resources to work on the implementation with the Enervee team. The responsibilities of these roles are defined in the table below. An individual may assume one or more roles. Partner must identify the individuals to assume these roles and communicate this information within 30 days of the execution of the SOWs.

d) Engage a third-party evaluation company prior to the launch of the Appliances site. The evaluator will quantify the efficient purchases influenced by the Appliances platform and the resulting gross and net energy savings resulting from those purchases, using a method consistent with regulatory requirements.

e) Conduct any regulator outreach that may be required to obtain regulatory approval to claim market-based savings post-pilot.

Project Owner

Primary point of contact for Enervee Appliances. Responsible for general communication, pilot/control selection, measurement and verification. Will have the authority to grant all approvals, assemble Partner's implementation team, execute all documents and take all actions relating to the program on behalf of Partner.

Marketing Manager

Primary point of contact for Enervee Appliances with regard to marketing activities and needs. Responsible for making all content and branding decisions for the Partner.

Technical Manager

Primary point of contact for Enervee Appliances with regard to technical activities and needs. Responsible for technical decisions and actions required to integrate Enervee Appliances with Partner's existing website.



EXHIBIT F: IMPLEMENTATION TIMELINES

Implementation Timelines

Enervee is using a phased approach for developing Choice Engine platforms. Each phase will have clearly defined objectives and deliverables. To ensure that all participating stakeholders at Partner and Enervee are in synch with the work stream for each phase of the project, we will have status calls at least once per week during customization of the platform.

1. TIMELINE APPLIANCES

Week 1-2, following contract signing

KICK OFF

Define Goals & Timing

Provide Content & Branding Guidelines

Partner delivers all Configuration Workbook responses

MILESTONE I: Configuration Workbook

Week 3-6, following contract signing

CUSTOMIZATION PHASE

Customize Design and Branding

Integration of electric and gas rates

Set up Testing Environment

FAQs, Terms & Conditions, Privacy Policy

MILESTONE II: Completed development of Partner Choice Engine in test environment

Week 7-8, following contract signing

TESTING

Use Cases

Content & branding check

Fixing of any identified bugs

MILESTONE III: Sign off on launch

Week 9, following contract signing

MILESTONE IV: Go live

2. TIMELINE CHECKOUT

KICK OFF, Week 1-2, following contract signing

Define Goals & Timing

Partner delivers Customer Flat File list

Rebate invoicing scheduling

MILESTONE I: Deliverables sent to Enervee

CUSTOMIZATION PHASE

Set up Testing Environment



—
MILESTONE II: Completed development of Partner Choice Engine in test environment by *Week 3-6, following contract signing*

TESTING

Use Cases

Content & branding check

Fixing of any identified bugs

MILESTONE III: Sign off on launch by *Week 7-8, following contract signing*

MILESTONE IV: Go live by *Week 9, following contract signing*



**EXHIBIT G:
OPERATIONS AND MAINTENANCE**

DELIVERABLES	DESCRIPTION
Partner Choice Engine	Enervee will operate and manage the customized version of the Enervee Appliances platform after its deployment. All model, brand and price information, data sources and the Enervee Score will be continuously updated.
Surveys	Enervee will conduct online surveys to Customers who have visited Enervee Appliances. The surveys will ask questions about the customer shopping journey and what impact Enervee Appliances had on his/her purchase decision. Survey results will be shared with Partner.
Data Management	Regular quality testing, updates to Enervee Score and updating of new appliance models
Technical Support	Regular performance checks; issues related to technical support and maintenance are defined in EXHIBIT A, Data Protection and Disaster Recovery
Hosting	Hosting of Enervee Appliances platform and Enervee Appliances data
Dashboard Reporting	Enervee provides access to an online reporting dashboard with a number of detailed performance data elements as part of the SaaS agreement. Key metrics are tracked around site traffic and engagement. Enervee's Customer Success Manager will do quarterly business reviews (QBRs) with Partner to discuss progress and results of the platform and surveys.
Software Upgrades	Standard upgrades of the Choice Engine software (e.g. new functionality, etc) are included. Custom functionality may have additional costs.
Supported browser versions	For both desktop and mobile browsers, Enervee supports the latest two version of all major browsers (Chrome, Safari, Firefox & Edge) and up to IE11 for Internet Explorer.

3. CUSTOMER SERVICE

For Enervee, providing excellent customer service means going the extra mile in making sure a customer is happy and satisfied with a company's products or services. It also involves providing service to a customer in a timely, pleasant manner. Enervee's agents are well trained, experienced, and sitting in the same office as the Choice Engine data team for having an effective exchange of product, rebate, and platform information.

- Provide service level agreement for customer care channels to be mutually agreed upon with SVCE
- Handle all customer inquiries, via email or phone, that relate to the operation of the Marketplace Platform, including website and webpage assistance, product and service inquiries, fulfillment, charges, and any other inquiries directly relating to the Marketplace Application



i.—Redirect any non-Marketplace-Platform-related calls or emails to SVCE, or the appropriate party

ii.—Manage all customer inquiries related to the Marketplace Platform redirected from SVCE to Enervee customer support service

- Operate call center for Marketplace Platform, including live chat and email support, from 9 am – 5 pm Pacific Standard Time, Monday through Friday
- Handle all customer inquiries relating to product installation or features and redirect to product manufacturer's or other third-party affiliates on an as needed and as determined basis
- Handle all product returns and product return customer communications via Enervee's fulfillment partner.
- Upon Client request, provide training to SVCE customer service staff or contractors so they are capable of addressing customer questions, including:
 - One (1) free training session that includes how to use the Marketplace Platform
 - One (1) free training session that includes customer service training to both promote the program and assist with common inquiries

3.1 PHONE SUPPORT SERVICE (OPTIONAL AT EXTRA COST)

Enervee offers optional live phone support center, which takes inbound calls for questions on products, assisting with rebate applications, or regarding the Choice Engine functionality.

3.2 LIVE PHONE SUPPORT & VOICEMAIL

- Enervee guarantees live phone support for all business days in the year with an unlimited number of minutes per month.
- Enervee will need thirty (30) days to set-up phone support, which includes training sessions for support agents, the set-up of the system with a dedicated number and the development/approval process for phone scripts and/or guides.
- Customers can call the dedicated toll-free number from 9:00 AM to 5:00 PM Pacific Time (on request 9:00 AM to 5:00 PM Mountain Time or 12:00 PM to 8:00 PM Eastern Time), excluding major holidays, to speak directly to a rebate and Choice Engine support agent during business hours. Extended business hours can be set up on demand.
- The toll-free number will include a voicemail line for customers to call and leave a message during non-business hours and major holidays. All voice messages from customers will be returned within 72 hours, excluding major holidays or weekends.
- The Partner will need to notify Enervee of any changes to the phone support set-up, specifically if there is expected to be an increasing volume of phone support minutes, with twenty (20) business days advance notice.



- Enervee will track monthly minutes from all incoming calls to the toll-free number and any outbound phone calls to customers. Enervee agents will use judgement case by case on when it is a better customer experience to call or email.
- Enervee stores MP3 recordings of the last six (6) months of call data.
- Enervee can provide the MP3 call recording(s) upon request by The Partner. If the Partner's request is for a specific call and not for a time frame, it requires a full 10-digit phone number to be supplied to Enervee which Enervee will use to search for a recorded phone call.
- While Enervee can search by the phone number provided by the customer on the claim itself, Enervee cannot guarantee we can find that recording as the customer may have called Enervee from an alternate phone number.

MP3 recordings are delivered to The Partner using Enervee's SFTP server within fourteen (14) days. Enervee will delete the files from our SFTP server thirty (30) days after they have been uploaded. The Partner must request the recording(s) fourteen (14) days in advance.

3.1 EMAIL SUPPORT

Enervee guarantees email support on all business days in the year, excluding the major holidays. Customers can ask questions by using a dedicated support email address. Enervee has a target to respond to all personal communication with platform users within 24 hours but in some cases of high volume it may take up to 72 hours after initial contact.

3.2 MAJOR HOLIDAYS

- | | |
|--------------------------------------|--------------------------------------|
| ○— <i>New Years Day</i> | ○— <i>Labor Day</i> |
| ○— <i>Martin Luther King Jr. Day</i> | ○— <i>Veterans Day</i> |
| ○— <i>Presidents Day</i> | ○— <i>Thanksgiving Day</i> |
| ○— <i>Memorial Day</i> | ○— <i>Day After Thanksgiving Day</i> |
| ○— <i>Independence Day</i> | |
| ○— <i>(Black Friday)</i> | ○— <i>Christmas</i> |

4. REPORTING

4.1 Standard Platform Reporting

Enervee provides Partner with Dashboard. Key metrics are tracked around site traffic and engagement. Additional metrics or views can be added at an additional cost through Professional Services.

Enervee commits to schedule meetings with SVCE:

- Meetings may include the following topics: marketing, customer engagement strategies, development of project scopes and timelines, reviews of reports, application change requests, and program schedules.
- Host quarterly or as mutually agreed meeting to review Enervee roadmap and discuss SVCE-requested Marketplace Platform enhancements.



4.2 Engage Acquisition Reporting

Enervee will provide a self-serve Partner reporting dashboard with these metrics:

- Total Ad Impressions (If applicable)
- Total Sessions
- Total Users
- Total Page Views
- Average Page per Session
- Active Session rate
- Total Active Users
- Active User Rate

4.3 Customer Service Reporting

Email Conversations

Enervee provides The Partner the number of conversation threads, the average thread size, and the approximate number of emails sent per quarter.

Customer Satisfaction/Customer Service Feedback Surveys (CSAT)

Enervee provides the Partner the average satisfaction rating (1-5), number of surveys sent, number of ratings received, and number of comments received of email conversations per quarter.

4.4 Checkout Reporting

TYPE OF REPORT	DESCRIPTION
Total Checkout Visitors	Number of visits that visit the checkout product categories and pages
Total Sold Products	Amount of product sold per category
Returns	Number of products returned per category
Net Revenue Report	The following fields are included: Order Number, Order Date, Order Status, Utility Name, Customer Name, Customer Email, Shipping Address, City, State, Postal Code, Product Category, Product Name, Product SKU, Product Choice Engine Price, Product Quantity, Gross Sales, Promotional Discounts, Total Rebate Amount, Shipping Cost Paid By Customer, Net Sales, Product Cost of Sal, Fulfillment Cost, Net Revenue, Utility Revenue Share
Incentives Claims Report	Enervee will provide Partner with a monthly CSV data feed for settled incentives, which will include the following data fields: email, status, category, claim date, claim id, first name, last name, street number, route, unit, account, city,



	state, postal code, payment method, amount, model number, purchase date, price, product id, incentive id, store name, redemption date, payment date, adjustment date, adjustment status, adjustment amount.
--	---

- Provide monthly reports by the 15th of each month for activity for the prior month, related to:
 - Product purchases summary
 - Customer information
 - Product information
 - Rebates summary
 - Customer Satisfaction (CSAT)

Reports will be provided via secure SFTP.

- Provide additional reporting and measurements on KPIs upon request, as mutually agreed upon. Additional fees may incur for special non-standard reports.
- SVCE reserves the right to conduct CSAT studies on the solution, in addition to any reporting Enervee produces.

Performance Metrics

- In the case that CSAT is below a 4 (in a 1 – 5 scale) in a given month, work with SVCE to identify and resolve any issues in the customer experience, technical or otherwise, as soon as possible.
- Work with SVCE to identify other jointly beneficial metrics



EXHIBIT H:
PROFESSIONAL SERVICES

—

Enervee offers Professional Services for Enervee Choice Engine customization based on Partner's needs. All material requests that are not related to bug fixes on the Enervee product roadmap will be scoped and a proposal detailing hours, timeline and deliverables will be provided to Partner for review and approval.

Enervee releases new software product upgrades and new developments including change requests in six release days per year. Partner and Enervee are planning Professional Services and Change Requests efforts for the upcoming half year in a roadmap development meeting at the beginning of each quarter. This enables Enervee to secure resources and synchronize the new developments with the software releases, Engage Program and/or the Partner marketing activities.

Following list is a non-exhaustive sample of product request examples that would be considered "out of scope", and that would require Professional Services engagements:

- Requests for addition of non-standard products and/or categories
- Requests for integration with dealers/retailers that Enervee does not have already built
- Requests for additional features or functions
- Requests for customized event tracking or analytics



EXHIBIT I:
CHOICE ENGINE SERVICES PACKAGES

DELIVERABLES	DESCRIPTION
Partner Promotions <i>Optional</i>	Product promotion possibilities on Enervee Choice Engine: up of a text and image native ad, separate ad for home page and for each category, tracking of clicks
Contractor Option <i>Included with no revenue share</i>	Includes an integrated Contractor module to connect Partner customers with pre-screened local service professionals. Leveraging HomeAdvisor's proven vetting system and methodologies, customers answer a few simple questions and are contacted immediately with a quote for the services they need. These services include installation of home EV chargers (including Level 2 chargers), HVAC upgrades and other appliance installations.

**EXHIBIT J:****PARTNER PROMOTION RESPONSIBILITIES**

Partner confirms that it will endeavor to meet the requirements specified below for channels as applicable, making all necessary resources available.

CHANNEL	FREQUENCY	REQUIREMENT
Partner Website	Ongoing	Featured on Partner Homepage as menu option. Promotion of Choice Engines and Checkout on Homepage main carousel. Appliances promoted on Partner energy efficiency related pages. All links go directly to the platforms.
Partner Website	Ongoing	Enervee provided remarketing pixel placed
Email	Monthly	Partner Choice Engines only emails sent to all residential customers
Facebook Posts	Weekly	Partner Choice Engines specific posts linking directly to platforms



EXHIBIT K: ENGAGE PROGRAM

1. Enervee Engage Program

Enervee Engage provides a turnkey digital service solution that complements Partner's existing marketing services. Our Engage Program leverages unique capabilities to enhance the effectiveness, efficiency and reach of Partner marketing efforts.

Enervee Engage Program recognizes the distinction between 1., bringing high quality visitors to Enervee Appliances Choice Engine and Checkout (Engage Acquisition) and then 2. engaging Customers with email services that drive continued engagement on Enervee Appliances/Checkout (Engage Activation).

Engage Program Objectives

Engage objectives are linked to the overall Partner strategy i.e. increase market-based savings, selling more products via Checkout. In each instance, Engage builds and constantly optimizes traffic to meet these strategic objectives. Based on Enervee Appliances strategy options, Engage objectives are agreed in the kick-off Engage Strategy Workshop.

1.1 Engage Acquisition Program

Engage Acquisition Program is Enervee's powerful, data-driven marketing service that identifies and segments potential in-market electronic and appliance shoppers, and engages them continuously through a variety of channels, driving high quality traffic to Appliances. Enervee's Data Engine uses efficiency data and product/model information to build out long-tail keywords, create dynamic advertisements, inform budgeting and bids and otherwise drive dynamic, data-driven engagement activities. Enervee has developed specific and unique capabilities to maximize return on investment through each program channel.

1.2 Deliverables Engage Acquisition

- Digital marketing program to capture shoppers in market
- Find Active Shoppers for Appliances in market; delivers visits per month
- Focus on search engines; optimize on Engage Program objectives
- Project management and quarterly reporting
- Online dashboard reporting

2. Engage Activation Program

Enervee email services provide the most cost-effective channel for large scale traffic and reach of Partner's customers to drive awareness, actions, product sales and engagement to Enervee Choice Engines and Checkout. Engage Activation offers full-service promotional email and data management including email template design and coding, enterprise email list management, audience segmentation, campaign setup and sends, analysis and performance reporting.

2.1 Deliverables Engage Activation

- Email Development incl. creation, text
- Email List mgt, Email campaign set up, tracking and maintenance



- Project management and quarterly reporting
- Online dashboard reporting

Part 1 Email Development <i>optional</i>	<ul style="list-style-type: none"> ●— Development of all kinds HTML emails (promotional, editorial, reminder, etc.). ●— Creation: Design and text ●— Production /Coding ●— Project Management ●— A/B testing of subject line, content and call-to-action buttons if Enervee has access to customer email data base and is sending out emails.
Part 2 Email List Management <i>optional</i>	<ul style="list-style-type: none"> ●— Import and segmentation of Partner provided customer email list ●— Data maintenance of 1M customer email list included in monthly fee; additional subscribers can be implemented on demand ●— Black and white listing of email accounts ●— A/B testing of subject line, content and call-to-action buttons if Enervee has access to customer email data base and is sending out emails.
Part 3 Email Campaign Setup & Management <i>optional</i>	<p>Design and setup of email marketing campaigns. Campaigns are email blasts to a select recipient list segment using structured templates.</p> <ul style="list-style-type: none"> ●— Campaign design ●— Campaign setup and implementation ●— Recipient list segmentation ●— Campaigns scheduling & send ●— A/B testing of subject line, content and call-to-action buttons if Enervee has access to customer email data base and is sending out emails.

Marketing Services

- Draft, with SVCE staff input and approval, a marketing plan
- The marketing plan may include such details as marketing methods, responsible parties, timing, branding, and other details as needed.
 - SVCE shall review and approve the timing and content of all customer marketing and media buys.
- Uses real-time product data to build out long-tail keywords, create dynamic advertisements, inform budgeting and bids and otherwise drive dynamic, data-driven marketing activities to reach hard-to-reach audiences.
- Utilize channels including, but not limited to, search, Facebook and display ad networks.



-
- Generate and target specific audiences using first and third-party data, developing lookalike audiences for marketing, and adjusting Choice Engine display elements using the data
- Develop enhanced customer targeting and personalization based on a growing understanding of behavior. Over time, as customers continually engage with the site, use this data, alongside third-party, cookie, and SVCE data sources, to create an ever-more-detailed understanding of the individual shopper, the characteristics of their household, and the programs that may be most applicable to their goals and needs. Used these insights to create precisely targeted marketing and create Audiences, where observed customer behavior allows Enervee to generate a particular set of characteristics that informs more sophisticated marketing approaches, algorithmically overlaying data from multiple sources.
- Ensure the customizable portions of any marketing aligns with SVCE brand and style guidelines.
- All digital advertising and email templates will be approved by SVCE in writing.
- Email and ad buy schedules will adhere to SVCE permissible mailing and display dates and times.
 - Enable email opt-out capabilities for emails sent from SVCE to comply with CAN-SPAM
 - Work with SVCE to identify existing and new customer touch points.
 - Utilize additional marketing methods including, but not limited to, paid advertisements, social media, public relations, and other online and offline marketing channels, if requested by SVCE
- Seek written approval from SVCE regarding the content, placement and schedule of such advertising prior to execution of any additional marketing activities
 - Use SVCE branding for the Marketplace Platform and related marketing materials
- Enable product or service promotions (discounts, sweepstakes, sales, giveaways) as mutually agreed
- Create, on occasion, promotional offers for a quantity, amount, expiration, and specific use restrictions defined by SVCE
- Enable a pop-up banner indicating to the customer the usage of cookies and their terms and conditions.

**EXHIBIT L:****SAAS SUBSCRIPTION ORDER FORM APPLIANCES**

This Order Form provides the type, quantity and payment terms for the use of SaaS Platforms and Services from Enervee.

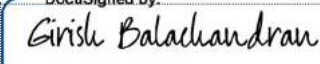
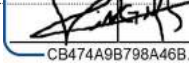
ORDER FORM I				
Partner: SILICON VALLEY CLEAN ENERGY			MSA #: 009B	
Service Start: Week 9, following contract signing		Service End: 3 years following contract signing		Subscription type: new
PRODUCT	QUANTITY	TYPE	DURATION	PRICE
Appliances Choice Engine	1	Non-Profit	36 months	\$50,000/year \$150,000/3 years
Engage Marketing Program	1	Non-Profit	36 months	\$50,000/year \$150,000/3 years
Checkout - E Commerce	1	Non-Profit	36 months	\$5 per cart*: \$30,000/year minimum \$90,000 min/3 years
Contractor	1	Non-Profit	36 months	Included With no revenue share
PRODUCT SUBTOTAL				\$390,000
Any changes or additions to the agreed scope is defined as Professional Services and will result in additional costs at a rate of \$200 per hour.				
ONE TIME SERVICES		DESCRIPTION		PRICE
Appliances Implementation		One time setup fee		\$25,000 \$12,500 if signed by 3/16/2020
Checkout - E Commerce		One time setup fee		\$25,000 \$12,500 if signed by 3/16/2020
Contractor Implementation Option		One time setup fee		Waived with no revenue share
Non-standard URL Option		One time setup fee		\$2,500
ONE TIME SERVICES SUBTOTAL				\$27,500
ORDER FORM TOTAL				\$417,500



Effective Date: April 17, 2020

INVOICING TERMS: ENERVEE WILL INVOICE THE TOTAL OF THE SET UP FEES ON THE EXECUTION OF THE ORDER FORM, AND INVOICE THE LICENSE, ENGAGE AND CHECKOUT FEES ON A YEARLY BASIS.

The signatures below confirm acceptance of this order agreement and the Master Services Agreement, as of the effective date.

PARTNER		ENERVEE CORPORATION	
By:	<small>DocuSigned by:</small>  <small>5CA64B9AC4C24C3...</small>	By:	<small>DocuSigned by:</small>  <small>CB474A9B798A46B...</small>
Name	Girish Balachandran	Name	Luis Castro
Title:	Chief Executive Officer	Title:	Director of Growth
Date:	4/15/2020	Date:	4/15/2020

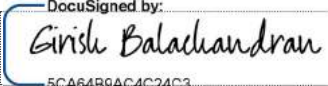
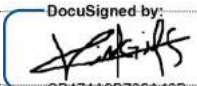
**EXHIBIT M:****SAAS SUBSCRIPTION ORDER FORM OPTIONAL SERVICES**

This Order Form provides the type, quantity and payment terms for the use of SaaS Platforms and Services from Enervee.

ORDER FORM IV				
Partner: Silicon Valley Clean Energy			MSA #: 009B	
Service Start: Week 9, following contract signing		Service End: 3 years following contract signing		Subscription type: new
PRODUCT	QUANTITY	TYPE	DURATION	PRICE
Customer Service: Phone, Voice Mail and Email Support	1	Non-Profit	36 months	\$18,000/year \$54,000/3 years
Engage (Email) Activation Program PART 3 Email Campaign Setup & Management	1	Non-Profit	36 months	\$2,000 per email which are to be deducted from the Engage Marketing Program by request. Not charged separately
PRODUCT SUBTOTAL				\$54,000
Any changes or additions to the agreed scope is defined as Professional Services and will result in additional costs at a rate of \$200 per hour.				
ONE TIME SERVICES		DESCRIPTION		PRICE
Customer Service		One time setup fee, \$2,500		waived
ONE TIME SERVICES SUBTOTAL				\$0.00
ORDER FORM TOTAL				\$54,000
Quote Expires:			Effective Date: April 17, 2020	



The signatures below confirm acceptance of this order agreement and the Master Services Agreement, as of the effective date.

SILICON VALLEY CLEAN ENERGY		ENERVEE CORPORATION	
By:	 5CA64B8AC4C24C3...	By:	 CB474A9B798A46B...
Name	Girish Balachandran	Name	Luis I Castro
Title:	Chief Executive Officer	Title:	Director of Growth
Date:	4/15/2020	Date:	4/15/2020

Payment Schedule:		
Invoice Date	Products	Amount
Contract signature	One time setup fees	\$27,500
9 weeks following contract signature	All products listed above	\$148,000
One year following contract signature	All products listed above	\$148,000
Two years following contract signature	All products listed above	\$148,000



EXHIBIT N:
CHANGE REQUEST ORDER FORM

Required changes (from Partner) in the scope of a SOW, including any and all modifications, required changes and/or additions to the System, will only be performed when authorized by a Change Form signed by both Parties.

CHANGE REQUEST ORDER FORM				
Partner: SILICON VALLEY CLEAN ENERGY			MSA #:	
Product/Service:	Partner Contact: Andrea		Customer Success Contact:	
Date:			Change Request #: 01	
CHANGE CATEGORY - Mark all that apply				
SCHEDULE	SCOPE	QUALITY	DURATION	OTHER (pls describe)
DESCRIPTION CHANGE REQUEST				
REASONS FOR CHANGE				
			Recurring	Yes No
			Package Price	Yes No
Start Date:			End Date:	
			HOURS	PRICE
			0	\$0.00
Billing Frequency: once		Billing Time:		Billing Currency:
Payment Terms: 30 days		Payment Method:		Contact Enervee Finance:
Quote Expires:			Effective Date:	



—
The signatures below confirm acceptance of this order agreement and the Master Services Agreement, as of the effective date.

PARTNER		ENERVEE CORPORATION	
By:	_____	By:	_____
Name	Girish Balachandran	Name	_____
Title:	Chief Executive Officer	Title:	_____
Date:	_____	Date:	_____



—

EXHIBIT O:
PRODUCT CATEGORIES AVAILABLE AT LAUNCH

Partner may select any or all of the Product Categories to be accessible to SVCE customers at time of launch or following launch. No additional cost to Partner for inclusion or deletion of any Product Category on this list at any time.

Product Category

Air Conditioner
Air Purifier
Dehumidifier
Dishwasher
Dryer
Electric Water Heater
Freezer
Light Bulb
Monitor
Pool Pump
Projector
Refrigerator
Sound Bar
Tablet
Television
Video Game Console
Washer
Connected Home
Connected Home Application
EV Charger
Evaporative Cooler
Lawn Mower
Pool Heater
Portable Power Station
Power Strip
Thermostat



Staff Report – Item 1i

Item 1i: Executive Committee Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Tina Walia, Executive Committee Chair

Date: 5/10/2023

The Executive Committee met April 28, 2023 and received an update on the Budget Trailer Bill and AB 1373, received a recommendation from staff to authorize a request for an extension to comply with Load Management Standards, heard information on the Enterprise Risk Management framework, received information on the results of a stress test analyses, and received a programs snapshot presentation on expanding charging incentives to new affordable housing.

Bena Chang, Senior Government Affairs Manager, presented information on the Governor’s Budget Trailer Bill/AB 1373. Key provisions identified for both proposals were 1) Central Procurement, 2) Expanded CPUC Authority, and 3) Capacity Payments. Senior Government Affairs Manager Chang noted staff is working closely with CalCCA on developing both strategy and policy in response to the two proposals.

Adam Selvin, Director of Energy Services and Community Relations, and Citlalli Sandoval, Senior Regulatory Advisor, presented a request for the Executive Committee to recommend the SVCE Board of Directors authorize a request for an extension to comply with Load Management Standards (LMS). Staff explained revisions to LMS were driven by CEC’s conclusion that demand programs, while effective at reducing power use, do not encourage use to shift to nonpeak hours, and that revisions require all large IOUs, CCAs and POUs to populate a newly created California-wide online database (Market Informed Demand Automation Server, or MIDAS) with time-dependent rates by July 1, 2023. Staff noted the discussion was administrative and typically would not be brought to the Board of Directors, however CalCCA recommends requesting Board approval to seek an extension for LMS deliverables given staff does not believe that the 7/1/23 requirements can be met. The Executive Committee voted to support the staff’s recommendation, and supported including the request on the Consent Calendar for the May Board meeting.

CFO and Director of Administrative Services Amrit Singh presented two items: 1) Enterprise Risk Management (ERM) framework, and 2) Stress Test Analyses. CFO Singh presented the Enterprise Risk Management framework, timeline, a review of last year’s stress tests, and the distinction between ERM and the stress test. For the stress test analyses presentation, CFO Singh provided the description of the 2023 stress test scenarios, an overview of modeled price collapse, results and implied reserve targets, and requested discussion on if the reserve target threshold should be removed and if no action should be required once the target is reached. Committee members provided feedback that keeping a target was preferred, and staff noted the feedback would be incorporated into planning for the FY 2023- 2024 budget.

Lastly, Hannah Gustafson, Senior Programs Specialist, presented an informational item on a programs snapshot highlighting expanding charging incentives to new affordable housing.

Materials from this meeting can be found on SVCE’s website: [SVCE Executive Committee Meeting, April 28, 2023](#)

Agenda Item: 1i**Agenda Date: 5/10/2023**

The next meeting of the Executive Committee is scheduled for May 26, 2023 at 10:00 a.m.; materials will be posted no later than 72 hours in advance of the meeting.

**Staff Report – Item 1j**

Item 1j: California Community Power Report

To: Silicon Valley Clean Energy Board of Directors

From: Girish Balachandran, CEO

Date: 5/10/2023

Per direction from the SVCE Board on December 9, 2020 for the CEO to provide a report of the ongoing activities of California Community Power (CC Power) after each of its meetings, this is to report CC Power held a regular board meeting on Wednesday, April 19, 2023.

Attached is a summary report from General Manager Alex Morris; materials from the April board meeting can be found here on the CC Power website: [CC Power Meeting, 4/19/23](#)

The next meeting of the board will be May 17, 2023 at 1:00 p.m.; meeting materials can be found on the CC Power website: <https://cacomunitypower.org/meetings/>

ATTACHMENTS:

1. CA Community Power Board Meeting Summary from General Manager Alex Morris, April 19, 2023

California Community Power

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

TO: CC Power Board of Directors and Alternates **DATE:** 4/19/2023
FROM: Alex Morris – General Manager
SUBJECT: **Report on CC Power Regular Board of Directors Meeting – April 19, 2023**

The CC Power Board of Directors held its regularly scheduled meeting on Wednesday, April 19, 2023, via Zoom. Details on the Board packet, presentation materials, and public comment letters can be found under the Meetings tab at the CC Power website: <https://cacommunitypower.org>

Highlights of the meeting included the following:

- **Matters subsequent to posting the Agenda.** None.
- **Public Comment.** None.
- **Consent Calendar** - The Board approved the following items:
 - Minutes of the Regular Board Meeting held on March 15, 2023.
- **Discussion of Offshore Wind Development** – The Board was updated regarding the scope, schedule, goals, and structure for the Request for Information (RFI) on Offshore Wind. The RFI was directed by the Board in February, 2023. The RFI will collect information on expected or potential projects, barriers, challenges and other related matters that may inform offshore wind development and related potential CC power actions. The board took no action.
- **Approval of 2023-2024 Fiscal Year Budget** – The Board adopted a budget for Fiscal Year 2023-2024. The budget reflects a workplan that follows from the Board-approved Strategic Plan (Dec, 2022), and will further enable the achievement of CC Power’s vision and mission.
- **Other items**
 - The May 17, 2023 CC Power Board Meeting will be cancelled, and the next meeting will occur on June 21, 2023.

A Joint Powers Agency whose members are:

Central Coast Community Energy | CleanPowerSF | East Bay Community Energy | MCE | Peninsula Clean Energy |
Redwood Coast Energy Authority | San José Clean Energy | Silicon Valley Clean Energy | Sonoma Clean Power |
Valley Clean Energy

**Staff Report – Item 1k**

Item 1k: Additional Committee Reports

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 5/10/2023

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

The next meeting of the Finance and Administration Committee will be Friday, May 12, 2023 at noon; meeting dates for the Audit Committee and Legislative Response to Industry Transition 2023 Ad Hoc Committee will be scheduled based on member availability.



Staff Report – Item 2

Item 2: CEO Report

To: Silicon Valley Clean Energy Board of Directors

Prepared by: Girish Balachandran, CEO

Date: 5/10/2023

REPORT

Staff Updates

Jesse Park joined SVCE April 17, 2023 as Power Data Analyst working on a range of projects including data analysis, CAISO market analysis, and administering complex settlements and billing processes. Jesse comes to SVCE after spending time at Shell, Constellation and Energy Data Management Systems working on a range of commodity market activities including operations, origination, scheduling, and settlements. He has an MBA and a BA in Quantitative Economics with Minors in Behavioral Psychology and Third World Studies.

Eric Scheier joined SVCE April 24, 2023 as Senior Power Analyst working on Resource Valuation, Portfolio Modeling, and 24/7-hourly match modeling. Eric comes to SVCE after spending time at DOE's Solar Energy Innovators Program, Enel, and as an independent consultant where he worked on a variety of things such as distributed energy resource adoption, wholesale energy market analysis, and resource valuation. He has a Master of Science in Ecology from UNC and a Bachelor of Science in Environmental Science and Economics.

Personnel Officer Update

SVCE hosted a successful quarterly retreat on April 13th and 14th, focused on level-setting and shared-visioning around supply-demand matching (aka VPP - virtual power plants). Staff heard from various departments about the past and present of VPP, then spent an afternoon developing ideas and proposals for innovative offerings to customers. In terms of staffing, two new staff will be introduced this evening, with another joining the Finance and Administration team in late May. This leaves four remaining vacancies in various stages of recruitment. Staff is beginning its annual review of salaries and benefits and will present more in the coming months as part of the annual budget process.

CEO Agreements Executed

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

- 1) Santa Clara County Fire District, Amendment: Community Resilience Program – Capital Projects Agreement
- 2) City of Los Altos, Agreement: Decarbonization Grant Program Agreement, not to exceed \$200,684, expires 12/31/24
- 3) Keyes & Fox, Amendment: Legislative Support & Legal Representation, expires 12/31/23
- 4) Pisenti & Brinker, Amendment: Financial Audit Services, not to exceed \$180,450, expires 9/30/27, approval provided at the 4/12/23 Board of Directors meeting



CEO Power Supply Agreements Executed

Counterparty Name	Execution/Effective Date	Transaction Type	Product	Start Date	End Date	Notional Value
MCE	3/28/2023	Sale	Resource Adequacy	6/1/2023	6/30/2023	\$141,000
Elk Hills Power	4/10/2023	Purchase	Resource Adequacy	5/1/2023	10/31/2023	\$23,100,000
3CE	4/7/2023	Sale	Resource Adequacy	6/1/2023	6/30/2023	\$684,750
3CE	4/7/2023	Purchase	Resource Adequacy	6/1/2023	6/30/2023	\$660,000
BETM	4/7/2023	Amendment	Resource Adequacy	6/1/2023	6/30/2023	\$0.00
MSCG	4/4/2023	Purchase	RPS PCC-1	4/4/2023	12/31/2023	\$1,350,000

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

**Presentations & Relevant Meetings Attended by CEO**

- Participated in CalCCA Monthly board, executive, and legislative meetings;
- CC Power Board Meeting, April 19, 2023 (attendance by CFO Amrit Singh), report included on the Consent Calendar
- CCCFA Meeting, April 27, 2023 (attendance by Zak Liske)
- California Clean Energy Procurement Summit, 5/3 & 5/4, Panelist: CCAs and Clean Energy Procurement: Plans, Needs, Challenges, Perspectives

ATTACHMENTS

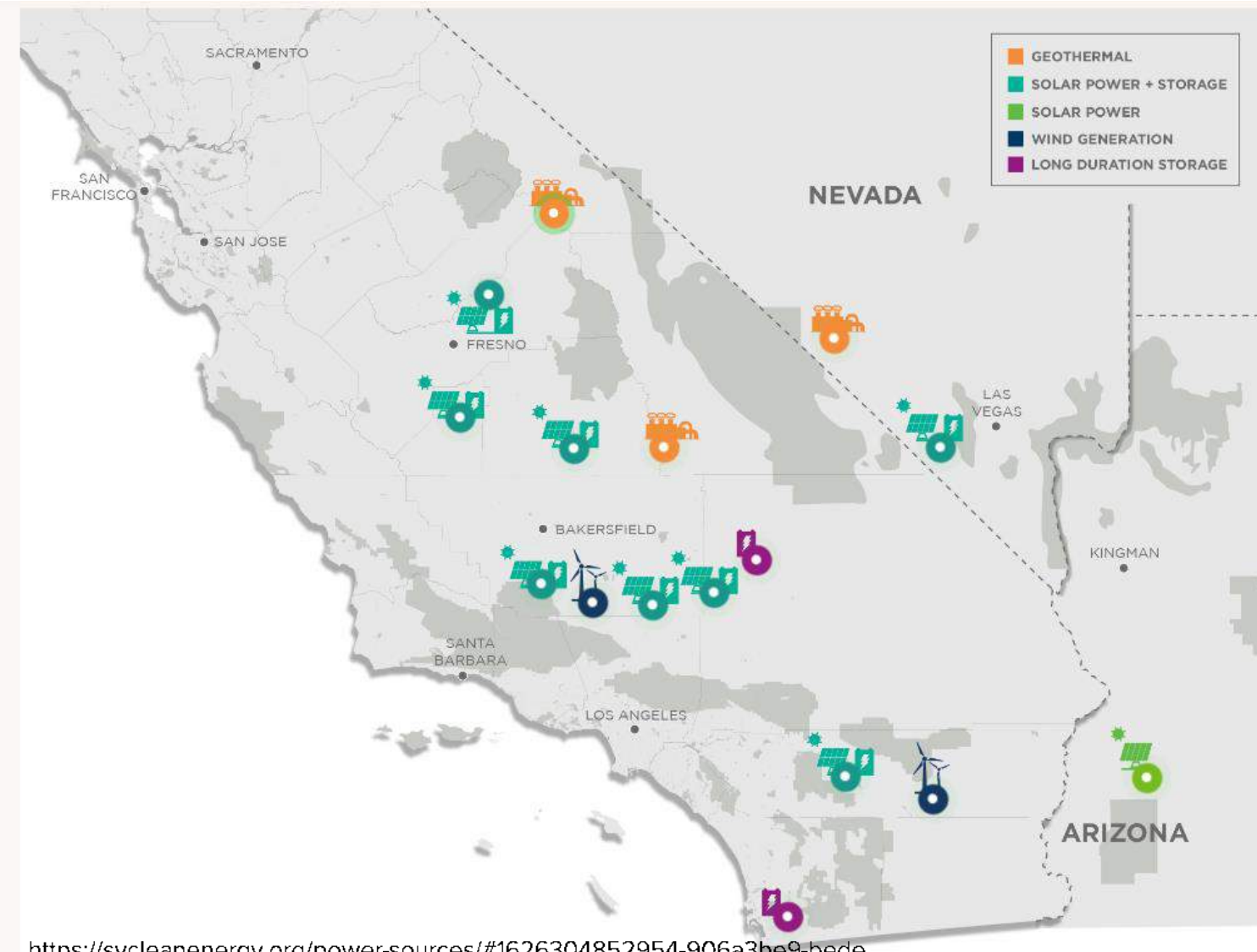
1. Clean Power Update, May 2023
2. Decarb Programs & Policy Update, May 2023
3. Energy Services & Community Relations Update, May 2023
4. Regulatory and Legislative Update, May 2023
5. Agenda Look Ahead, May – September 2023

CEO Report Clean Power Update

SVCE Board Meeting
May 10, 2023



Clean Long-term Power Agreements



- \$2B+ in commitments
- 16 PPAs signed
 - 13 new build projects
- 676 MW of Renewable Power
- 151 MW lithium-ion storage paired with 445 MW of Solar PV
- 30 MW of Long-duration storage

6 Projects now delivering to SVCE meeting ~29% of energy needs:

- COSO geothermal - January 2022
- Slate Solar + Storage – January 2022
- Casa Diablo geothermal – September 2022
- Mountain View wind – July 2022
- Rabbitbrush Solar + Storage – October 2022
- Terra-Gen Wind – January 2023



SVCE Long-Term Clean Energy Contracts

	Seller	Project Name	Technology	Generation MW	Storage MW	Approximate % of Annual load in 2025	Term (years)	Lifetime Not to Exceed Authority (MM\$)	SVCE Board Approval	Status
1	MN8	Slate	Solar + Storage	93.0	46.5	6.7%	17	\$198	Oct-18	Online
2	Ormat	Casa Diablo	Geothermal	7.0		1.4%	10	\$43	Feb-20	Online
3	Atlantica	Coso	Geothermal	43.8		9.6%	15	\$331	Mar-20	Online
4	Leeward	Rabbitbrush	Solar + Storage	40.0	8	3.0%	15	\$64	Apr-20	Online
5	NextEra	Yellow Pine	Solar + Storage	50.0	26	4.1%	20	\$128	May-20	Construction
6	Avantus	Aratina	Solar + Storage	80.0	20	6.6%	20	\$174	Jun-20	Pre-construction
7	174 Power Global	Atlas	Solar	50.0	0	3.8%	10	\$27	Jan-21	Pre-construction
8	SB Energy	Angela	Solar + Storage	20.0	10	1.4%	15	\$35	Mar-21	Pre-construction
9	AES	Mountain View	Wind	33.3		3%	20	\$128	Apr-21	Online
10	Origis	San Luis West	Solar + Storage	62.5	15.625	4%	15	\$74	Apr-21	Pre-construction
11	Clearway	Victory Pass	Solar + Storage	100.0	25	8%	15	\$149	May-21	Construction
12	Terra-Gen	Cameron Crest	Wind	77.7		5%	15	\$150	May-21	Online
13	Rev Renewables	Tumbleweed	Long Duration Storage		15.9375	n/a	15	\$100	Feb-22	Pre-construction
14	Onward	Goal Line	Long Duration Storage		14.2	n/a	15	\$100	Mar-22	Pre-construction
15	Ormat	Geothermal Portfolio	Geothermal	16.75		3.3%	20	\$256	Jun-22	Pre-construction
16	OME	Fish Lake	Geothermal	1.82		0.4%	20	\$30	Clean Power Update, May 2023 Jun-22	In-development



Clean Energy Resources On-line Progress

as of 4/27/2023

2023 – Q2

- Angela Solar + Storage – **Pre-construction – delayed**
- Aratina Solar + Storage – **Pre-construction – delayed**

2023 – Q3

- Yellow Pine Solar + Storage – **Construction mode – project has started commissioning and CAISO testing**

2023 – Q4

- San Luis West Solar + Storage - **Pre-construction – delayed**

2024 – Q1

- Victory Pass Solar + Storage – **Construction mode – delayed**

2024 – Q2

- FCR: Fish Lake Geothermal – Pre-construction

2025+

- FCR: Ormat Geothermal - **Pre-construction**
- LDS: Goal Line and Tumbleweed - **Pre-construction**
- Atlas Solar – **Pre-construction - delayed**



Upcoming Projects

Item 2
Attachment 1

Yellow Pine: 50 MW PV, 26 MW BESS

- COD in June/July 2023

Victory Pass: 100 MW PV, 25 MW BESS

- COD in March 2024



Yellow Pine Solar + Storage

THANK YOU!



DECARBONIZATION PROGRAMS AT A GLANCE

[Click for More Information](#)

● Active

● In Development

● Complete

POWER SUPPLY	<ul style="list-style-type: none"> ● C&I Clean Power Offerings
BUILT ENVIRONMENT	<ul style="list-style-type: none"> ● FutureFit Fundamentals ● FutureFit Heat Pump Water Heater ● Permit Simplification Effort ● Resilience at Community Facilities ● Medical Baseline Battery Program ● CRCR Bill Relief ● Reach Codes ● Electric Showcase Awards ● Accessible Financing ● Feasibility Assessment - Natural Gas Phase Out By 2045 ● FutureFit Homes & Buildings ● Existing Building Policy Experimentation ● Regional Coordination ● SV Building Electrification Clearinghouse (SVBEC)
MOBILITY	<ul style="list-style-type: none"> ● CA Electric Vehicle Infrastructure Project (CALeVIP) ● Future Fit Assist ● Multifamily EV Charging Installation Incentive Program ● Priority Zone DCFC ● SV Transportation Electrification Clearinghouse (SVTEC) ● Fleet Electrification Program
GRID INTEGRATION	<ul style="list-style-type: none"> ● GridShift EV Charging ● Lights On Silicon Valley ● Other Virtual Power Plant
EDUCATION & OUTREACH	<ul style="list-style-type: none"> ● Customer Resource Center (eHub) ● Data Hive ● Building Decarbonization Demonstration Grants ● Decarbonization Engagement Grants
INNOVATION	<ul style="list-style-type: none"> ● Innovation Onramp Pilots



DECARBONIZATION PROGRAMS UPDATE

APRIL HIGHLIGHTS



Upgrade Your Yard Care Routine and Get \$50 Off

Spring is finally here, and with it comes time to start thinking about your yard care routine. If you are tired of dealing with gas fumes and loud machinery, perhaps it's time to upgrade your yard care equipment and go electric. Right now, Silicon Valley Clean Energy (SVCE) customers can get \$50 off electric lawn mowers and leaf blowers through the [Appliances Assistant](#).

When you upgrade your traditional gas-powered yard care equipment to electric, you are choosing the cleaner, more efficient solution. Upgrade your yard care routine and experience the many benefits of electric yard care for yourself at <https://svcleanenergy.org/electric-home/#electric-yard-care>.



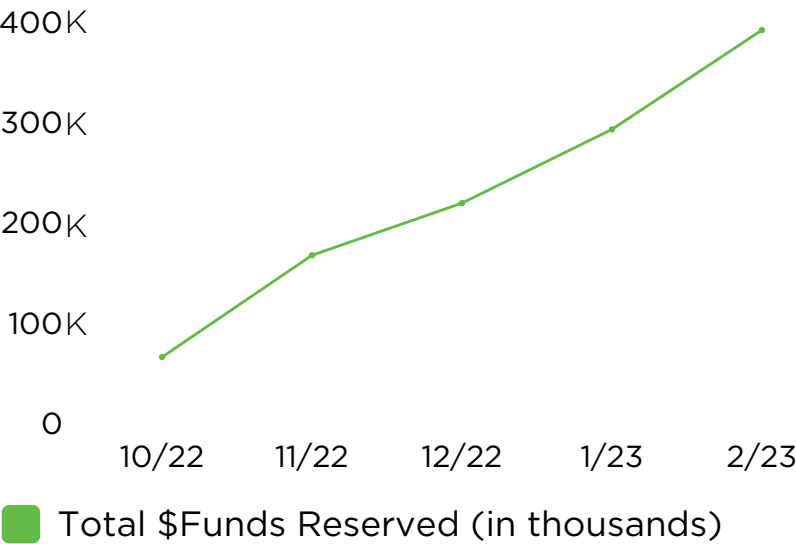
Updates to our Multifamily EV Charging Installation Incentive Program

New SVCE incentives are now available to fund the incremental EV charging costs associated with new EV codes for new construction affordable housing. Additionally, existing multifamily buildings seeking to install EV charging can now access higher incentives aimed to address rising material and labor costs. Since this program launched last June, we have seen high interest and approved hundreds of projects.

You can learn more about these incentives and [apply here](#).

Future Fit Homes

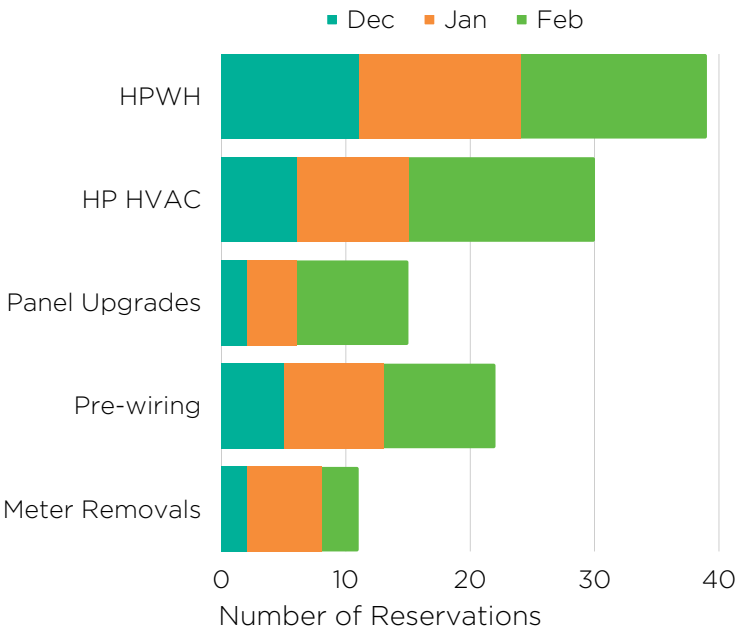
Provide incentives to residents for electric heat pump water heaters (HPWH), heat pump HVAC systems, service panel upgrades, and pre-wiring upgrades to replace gas appliances



Rebates claimed*: \$1.06M

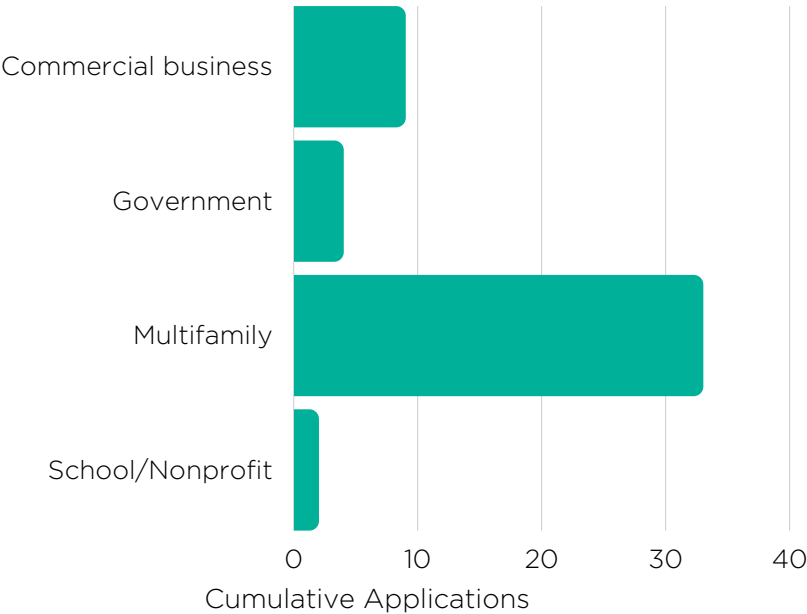
Rebates reserved: \$392.5K

*Under old program FY20** -2022



Future Fit Assist

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



Charging Installation Incentive Program

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

Funds Reserved: \$707K

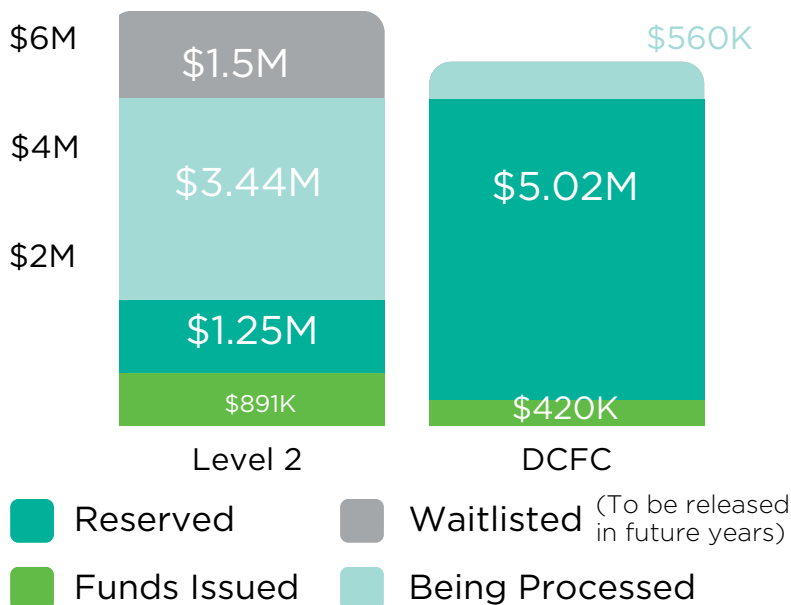
Approved Reservations: 17

Goal: 35 Sites, 150 ports



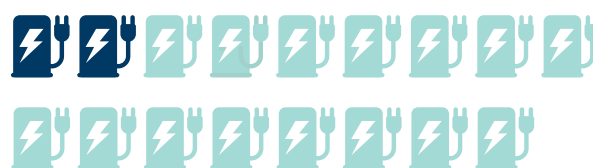
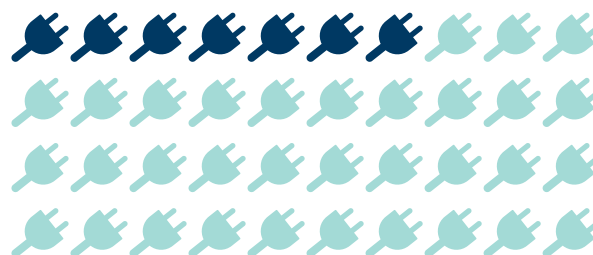
CALeVIP

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



Funding: \$11.58M

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

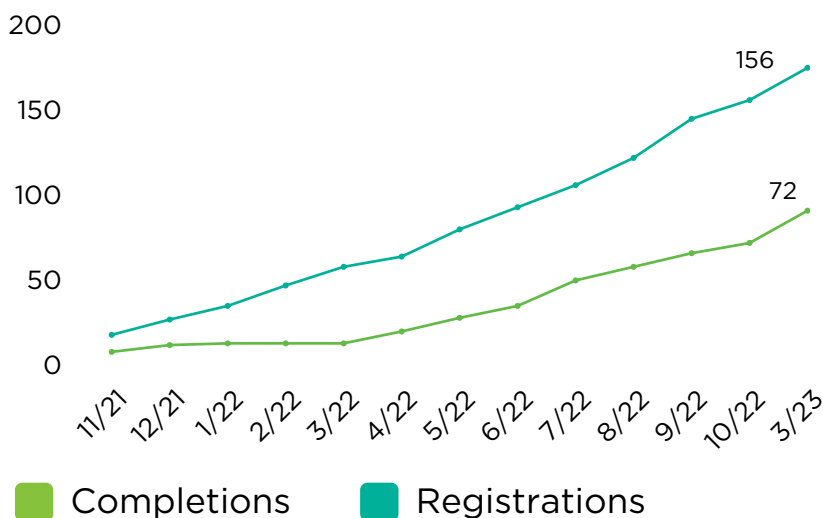


= 25 Level 2 Installations

= 5 DCFC Installations

FutureFit Fundamentals

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



Funding: \$1.5M

Goal: 150 Participants Complete the Course (Phase 1)



= 5 Participants Complete Course

1. Outreach Events & Sponsorships

Date	Sponsorship	Location
5/6/2023	Morgan Hill Senior Resource Fair 10:00 a.m. – 1 p.m. <i>Tabling</i>	Morgan Hill Community and Cultural Center 17000 Monterey Road Morgan Hill, CA 95037
5/27/2023	Morgan Hill Mushroom Festival 4:30p.m. - 10:00 p.m. <i>Sponsorship</i>	Downtown Morgan Hill Amphitheater 17000 Monterey Road Morgan Hill, CA 95037
May 2023	Gilroy Gardens Natural Science Days <i>Branding Sponsorship</i>	Gilroy Gardens 3050 Hecker Pass Hwy, Gilroy, CA 95020
May 2023	Sunnyvale Music & Dining Nights Branding Sponsorship	Downtown Sunnyvale Murphy Avenue

2. Out in the Community for Earth Day

SVCE participated in 13 Earth Day events throughout our service territory.



Los Gatos Spring Into Green

Saratoga Elementary School Earth Day



Milpitas Earth Day

Cupertino Earth Day



3. Customer Participation

	Participation Rate	Overall Participation Rate
Residential	96.30%	96.34%
Commercial	96.74%	

4. Member Agency Working Group – April Update

The recent MAWG meeting was held in person on April 27, 2023 and was attended by 8 different agencies and organizations with a total of 28 participants.

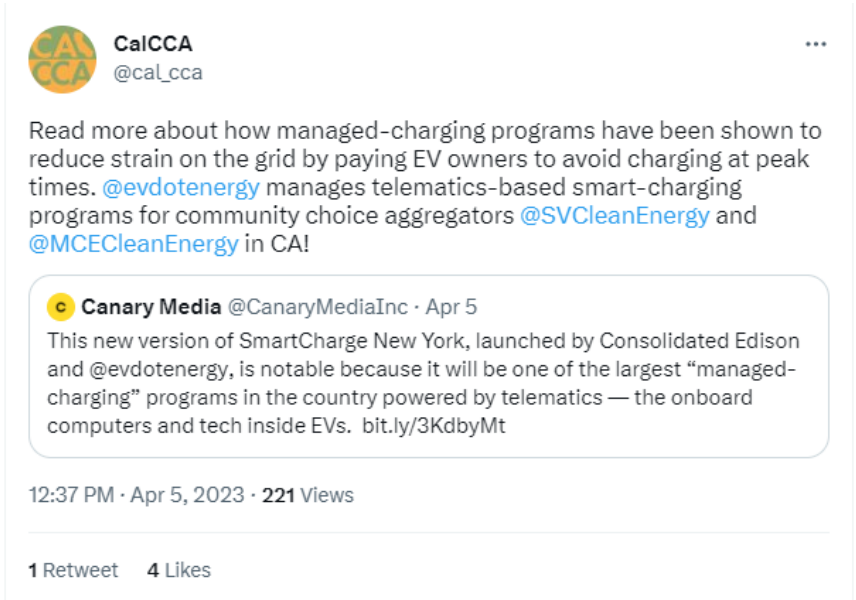
The following agenda items were presented and discussed:

- SVCE's Energy Storage Projects
- Retrofitting Existing Buildings with 100-Amp Panel
- Building Codes News
- E-ELEC Discount Rate
- Financial Assistance for EV Chargers at New Affordable Housing

5. Press & Media

Media

- [Campbell receives \\$5.2 million in grants for new library](#), Cupertino Today, 03-30-23
- [The iPhone is staging a quiet revolution in how we charge our devices](#), Yahoo!News, 03-14-23
- [NYC's grid is stressed. A 'smart' EV charging program aims to help](#), Canary Media, 04-05-23
- [Clearway Energy Group Closes Financing on Two California Solar and Storage Projects](#), Utility Dive, 04-06-23
- [Latshaw: The future is in Sunnyvale](#), San Jose Spotlight, 04-19-23



SVCE Legislative and Regulatory Update

May 10, 2023



Policy Updates

Regulatory Update:

1. Load Management Standards

Legislative Update:

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



Regulatory Update



Key Regulatory Proceedings

Proceeding	Purpose	Status
Demand Flexibility (R. 22-07-005)	To advance demand flexibility through electric rates.	Track A of the Demand Flexibility proceeding will establish an income graduated fixed charge for the residential customers of investor-owned utilities. The adoption of an income graduated fixed charge was required by AB 205 (Stats. 2022, ch. 61). The fixed charge is not expected to be adopted until the end of Q1 2024. At the moment, stakeholders engaged in Track A of the proceeding are evaluating different proposals for how the income graduated fixed charge should be implemented. There is no agreement yet amongst stakeholders on the specific types of cost components that should or should not be included in the fixed charge. SVCE staff continues to follow the proceeding and is currently evaluating different proposals for how to calculate the fixed charge and apply it based on differing income levels.



Legislative Update



Governor's Budget Trailer Bill/AB 1373

Two vehicles for energy policy discussion. Both proposals share major provisions:

Key Provisions

- 1) Central Procurement:** Would allow the CPUC to direct the IOUs or Dept. of Water Resources to centrally procure resources.
Challenge: Very broad CPUC authority to order central procurement of any resources.
- 2) Expanded CPUC Authority:** Broad expansion of CPUC's authority over CCAs.
Challenge: Infringes on CCA Board governance.
- 3) Capacity Payments:** Additional payment on top of CPUC's RA penalties and CAISO backstop payments for when state back-up resources are used for reliability.
Challenge: Additional penalty doesn't change behavior - impacts affordability.



SVCE Positions

Status of the bills that SVCE has taken positions on

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



Key State Legislative Milestones

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

MAY 2023	June 2023	July 2023	August 2023	September 2023
Board of Directors, May 10: 	Board of Directors, June 14: Consent: Minutes April 2023 Treasurer Report Program Portfolio Management software contract FFH Concierge Contract FF Assist Contract Committee Reports Water Heater Loaner Contract Regular Calendar: Stress Test Analysis Strategic Plan Update Introduction to Budget Framework	Board of Directors, Cancelled	Board of Directors, August 9: Consent: Minutes May 2023 Treasurer Report SVCE 2022 Annual Power Source Disclosure Report Attestation Committee Reports Regular Calendar: Budget Preview	Board of Directors, September 13: Consent: Minutes June 2023 Treasurer Report Committee Reports Regular Calendar: Budget approval Update on Strategic Plan and Adopt Strategic Focus Areas
Finance & Administration Committee, May 12: Stress Test Analyses Budget Framework	Executive Committee, June 23: Insurance Coverage Program Snapshot	Executive Committee, Cancelled	Executive Committee, August 25: TBD Program Snapshot	Executive Committee, September 22: TBD Program Snapshot
Executive Committee, May 26: Intro to 2024 Strategic Plan/Focus Areas Program Snapshot			Finance & Administration Committee, TBD: Budget Preview	



Staff Report – Item 3

Item 3: Appoint Sixth Member to SVCE's 2023 Executive Committee

From: Girish Balachandran, CEO

Prepared by: Andrea Pizano, Board Clerk/Executive Assistant

Date: 5/10/2023

RECOMMENDATION

Staff recommends that the Board consider selecting and appointing a sixth member to SVCE's Executive Committee for 2023.

BACKGROUND

The SVCE Joint Power Agreement Section 4.6 specifies that the Board may establish an executive committee consisting of a smaller number of Directors and that the Board may delegate to the executive committee such authority as the Board might otherwise exercise, subject to limitations specified in the Agreement or in the Operating Rules and Regulations.

The duties of the Executive Committee are to review and provide advice to the Chief Executive Officer and the entire Board on policy, operational and organizational matters and perform such other responsibilities, tasks or activities as delegated to it by the Board.

SVCE's 2023 Executive Committee meets the fourth Friday of the month at 10:00 a.m.

ANALYSIS & DISCUSSION

The current 2023 Executive Committee roster consists of five members:

Committee Chair Tina Walia

Committee Vice Chair Bryan Mekechuk

Director Rob Rennie

Director George Tyson

Director Yvonne Martinez Beltran

With the amendment to SVCE's Operating Rules and Regulations to allow up to six members on the Executive Committee, there is now one open seat that can be filled if desired.

STRATEGIC PLAN

The recommendation supports SVCE's overall strategic plan.

ALTERNATIVE

The Board may elect not to appoint a sixth member to the Executive Committee if there is no interest.

FISCAL IMPACT

There is no fiscal impact to the agency as a result of selecting an additional member for the 2023 Executive Committee.



Staff Report – Item 4

Item 4: Update on FY 2022-2023 Digital Engagement Initiatives

From: Girish Balachandran, CEO

Prepared by: Adam Selvin, Director of Energy Services & Community Relations
Pamela Leonard, Senior Manager of Communications

Date: 5/10/2023

RECOMMENDATION

Staff recommends the Board receive an update on the SVCE digital engagement initiatives for the 2022-2023 fiscal year.

BACKGROUND

In 2018, the SVCE Customer Program Advisory Group provided input on the Decarbonization Programs Roadmap about the need to provide residential customers with educational resources. The following year, staff started the process of building eHub, an online resource center for customers to learn more about electrification. SVCE issued an RFP to select vendor partners that could provide online tools to help customers understand the benefits of going electric and enable actions such as evaluating efficient, electric home appliances, EVs and solar and battery storage options.

In fall 2020, eHub was formally launched to customers. Staff expanded digital outreach efforts as a primary method for customer engagement. Use of digital outreach, resources and tools is a scalable, high-impact and cost-effective way to engage with customers. Staff also expanded SVCE email marketing capabilities and launched a robust digital ad campaign to drive traffic and awareness to the SVCE website and eHub resources.

With eHub, SVCE aims to support customers' electrification journeys by bringing electrification to customers' minds, providing knowledge to customers about the benefits of electrification and assisting customers with going electric. With over three years of operating eHub and advancing SVCE's digital outreach, staff has continued to aggregate various metrics and goals for website engagement, email campaigns and the online eHub promotions. Key digital engagement tools include the eHub online content and tools and the email marketing service Granicus GovDelivery.

ANALYSIS & DISCUSSION

SVCE has seen significant growth in website visits since launching eHub and its associated electrification resources in 2020. The website had 91,826 unique visits in 2022. The following high-level statistics show how SVCE has measured the impact and reach of these resources and marketing efforts. Additional details are provided in the attached presentation.

Website Updates

In 2022, SVCE worked with SMUD to deploy website user surveys and user testing to help gain a better understanding of how customers interact with the information available on the SVCE website. This study helped to inform a website navigation update that was implemented in March 2023. The intent of the updates is to help customers more easily understand what SVCE does and where they can find key information about rates, rebates and resources.

Measuring Website Traffic and Engagement

SVCE uses various tactics to direct website traffic and increase engagement to eHub resources including email marketing, online promotions and sweepstakes, digital, in-language and out-of-home advertising, member community cross-marketing and social media. Email marketing paired with online promotions and sweepstakes proves to be one of the most influential tactics in engaging customers with the website and eHub resources. The table below highlights SVCE's growth in website engagement.

FY 2020-2021 Goal:

Reach 20,000 unique users since launch



71,367 unique users engaged with the online tools and resources

FY 2021-2022 Goal:

Reach 200,000 unique users since launch



168,317 unique users engaged with the online tools and resources

FY 2022-2023 Goal:

Reach 250,000 unique users and 20,000 returning users since launch



218,117 unique users and **20,855** returning users engaged with the online tools and resources (as of March 2023)

To understand how customers are engaging with the eHub resources, SVCE evaluates the average 'time on page' for the different eHub resources, which indicates how long a web user is interacting with the specific website and webpage. All eHub resources have a 'time on page' above the industry standard for what is considered a good length of time.

Email Marketing Performance

SVCE's overall website traffic is being driven by educational email campaigns and strategies. The emails are designed to communicate the benefits of going electric at home and on the road with relevant, easy-to-digest language and calls-to-action. SVCE also maintains an above-average open rate, the percentage of emails opened by customers. Industry-standard is about 22% according to Enervee Performance benchmarks. The table below highlights the growth in SVCE's email open rate.

FY 2021-2022 Goal:

Deliver 2 million outbound emails to customers with a 30% open rate



2.5 million emails delivered with a **46%** open rate

FY 2022-2023 Goal:

Deliver 2.5 million outbound emails to customers with a 60% open rate



1.1 million emails delivered with a **50%** open rate (as of March 2023)

Online Promotions and Sweepstakes

Through the Appliances Assistant, SVCE hosts promotions for customers to receive up to \$50 off the purchase of eligible electric products, such as portable induction cooktops, air purifiers, portable batteries, and evaporative coolers, as well as electric leaf blowers and lawn mowers. From FY '21-22 and so far this year, **870** total rebates have been claimed through the Appliances Assistant. SVCE also hosts online sweepstakes to educate customers about going electric. **4,840** customers participated in the most recent online sweepstakes.

Through the Solar+Battery Assistant, customers can receive \$1,000 off of a main service panel upgrade for a battery or solar+battery installation. The Solar+Battery Assistant tool is a no-obligation, online concierge service that provides interested customers with independent, third-party assistance to identify their energy

Agenda Item: 4**Agenda Date: 5/10/2023**

needs, have a system designed, and receive quotes from multiple local contractors. Through this resource, there has been a cumulative total of **854** leads, **363** sales proposals, and **99** sales, **30** of which include a battery.

Customer Awareness Survey

After SVCE completes the 2023 paid advertising electrification campaign, SVCE will conduct its annual awareness survey to help gain insight and measure customer awareness, knowledge, and attitudes towards electrification and SVCE. This survey helps SVCE measure if there is an increase in year-over-year interest in key electrification technologies.

STRATEGIC PLAN

Digital engagement efforts were completed in alignment with the SVCE Strategic Plan, Goal #6 Measure #2: Enable customer education, engagement and action related to electrification and decarbonization, via online tools, resources and promotions.

FISCAL IMPACT

The cost of eHub administration and service fees is \$250,000 annually, as approved in the FY '22-23 programs budget. In addition, the cost of the Granicus GovDelivery email tool, ad campaign and online promotions is included in the FY '22-23 marketing budget.

Silicon Valley Clean Energy Board of Directors Meeting

May 10, 2023

Appendix A

Power Resource Contracts Executed by CEO

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Silicon Valley Clean Energy, a California joint powers authority (“Seller”) and Marin Clean Energy, a California joint powers authority (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of March 28, 2023 (the “Effective Date”), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the “Transaction”). This Transaction is governed by the WSPP Agreement dated August 26, 2022 (the “WSPP Agreement”). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the “Agreement” and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1 TRANSACTION TERMS

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B, C, and D are incorporated into this Confirmation.

☐ **Firm RA Product:**

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ **Contingent Firm RA Product:**

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

ARTICLE 2

DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

- (a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s).
- (b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.
- (c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit's SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.
- (d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.
- (e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.
- (f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the

CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

- (g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 Reductions in Contract Quantity

- (a) If Seller is providing Contingent Firm RA Product, Seller's obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller's option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser's Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.
- (b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.

2.3 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more replacement units having the same Capacity Attributes of the Unit(s) originally identified in Appendix B, including the same Resource Category and, if applicable, the Flexible Capacity Category (each such unit, a "Replacement Unit") in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

- (a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;

- (b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;
- (c) Seller shall, or shall cause the SC to submit a Supply Plan for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser's Compliance Showings;
- (d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product; and
- (e) The designation of any Replacement Unit(s) by Seller shall be subject to Purchaser's prior written approval, which shall not be unreasonably withheld.

Once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3 and Purchaser has approved such Replacement Units as consistent with this Confirmation, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month. Purchaser's approval of a Replacement Unit as to a given Showing Month shall not be construed as approval of such Replacement Unit for any subsequent Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity

- (a) If Seller fails to deliver any part of the Expected Contract Quantity as required herein for any Showing Month, Seller shall be liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word "hourly" therein.
- (b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product or a

Shown Unit's SC's failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser's Re-Sale of Product

- (a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller's obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit's SC, to follow Purchaser's instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller shall, and shall cause the Shown Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser's rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit's SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.
- (b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Notification Deadline for each Showing Month for which Purchaser has resold the Product. Purchaser shall notify Seller of any subsequent changes or further resales no later than two (2) Business Days before the Notification Deadline for the Showing Month.
- (c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3 **PAYMENTS**

3.1 Payment

In accordance with the terms of Section 9 of the WSPP Agreement, Purchaser shall make a

Monthly RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that Purchaser shall be entitled to a subsequent invoice adjustment or refund to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

- (a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.
- (b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit's SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
- (c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit's SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.
- (d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4

OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit's SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit's SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit's SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit's SC, owner, or operator for noncompliance.

4.2 Seller's and Purchaser's Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser's rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit's SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller's Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

- (a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;
- (b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;
- (c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit's Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;
- (d) if applicable, Seller has notified either the Shown Unit's SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

- (e) Seller has notified or will notify the Shown Unit's SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit's SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5 **RESERVED**

ARTICLE 6 **ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS**

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

The Parties are each organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and are each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party's debts, obligations and liabilities accruing and arising out of this Confirmation.

Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party's constituent members, or the elected officials, officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party's constituent members, in connection with this Confirmation.

6.6 Other WSPP Agreement Changes

For this Transaction, the WSPP Agreement shall be amended as follows:

- (a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

- (b) Section 22.1 is modified by inserting the following new text at the end thereof:

“(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to generally pay its debts as they become due;

(g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets.”

- (c) Section 22.2(a) is deleted in its entirety replaced with the following:

“If an Event of Default shall have occurred and be continuing, the Non- Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided,

however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”

- (d) Section 22.2(b) is amended by inserting “and is continuing” after “Event of Default occurs” in the first line thereof and deleting the second sentence therein.

- (e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):

“If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”

- (f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:

“If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary.”

- (g) Section 22.3(e) is deleted in its entirety and replaced with the following: “[Intentionally omitted]”

- (h) Section 22.3(f) is deleted in its entirety and replaced with the following:

“If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”

- (i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.
- (j) Section 30.1 is amended by inserting “or requested” after the word “required” in Section 30.1(4) and by adding the following at the end of the first sentence: “; or (8) to the Party’s and such Party’s affiliates’ lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential”.
- (k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION.”

“34.2 EXCLUSIVE JURISDICTION

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN ORANGE COUNTY, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”

- (l) The phrase “arbitration or” is deleted from the first line of Section 34.4.
- (m) 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.”

- (n) Section 37 is amended by inserting the following in the beginning of the section: “On the date of entering into this Confirmation,”.
- (o) Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:

“The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

- (i) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any section of this Agreement (including all Transactions and/or Confirmations) specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the “Mobile-Sierra” doctrine) and clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527 (2008) and *NRG Power Marketing LLC v. Maine Pub. Util. Comm’n*, 558 U.S. 165 (2010).
- (ii) The Parties, for themselves and their successors and assigns, (i) agree that this “public interest” standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the “just and reasonable” standard.”

6.7 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

6.8 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]

AGREED AS OF THE EFFECTIVE DATE:

**SILICON VALLEY CLEAN ENERGY,
a California joint powers authority**

By: 
DocuSigned by:
5CA64B9AC4C24C3...

Name: Girish Balachandran

Title: Chief Executive Officer

**MARIN CLEAN ENERGY, a California
joint powers authority**

By: 
DocuSigned by:
ACC4B8FA2E834F3...

Name: Vicken Kasarjian

Title: COO

APPENDIX A DEFINED TERMS

“Alternate Capacity” means replacement Product which Seller has elected to provide to Purchaser in accordance with the terms of Section 2.3.

“CAISO” means the California ISO or the successor organization to the functions thereof.

“Capacity Attributes” means attributes of the Shown Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Shown Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Shown Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Contingent Firm RA Product” has the meaning set forth in Article 1 herein.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“CPUC Filing Guide” is the document issued annually by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the CPUC’s resource adequacy program.

“Effective Flexible Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Expected Contract Quantity” means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“Flexible Capacity Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“Planned Outage” means, subject to and as further described in the CPUC Decisions, a CAISO-approved, planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

“Product” means RAR Attributes, Local RAR Attributes and FCR Attributes, each for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric power industry during the relevant time period in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the electric power industry in the Western United States.

“RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s RAR.

“Replacement Unit” has the meaning set forth in Section 2.3.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

“Resource Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B. A Unit or Shown Unit may not be a coal-fired generating facility.

“Unit EFC” means the lesser of the Unit’s Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means the lesser of the Unit’s Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B
PRODUCT AND UNIT INFORMATION

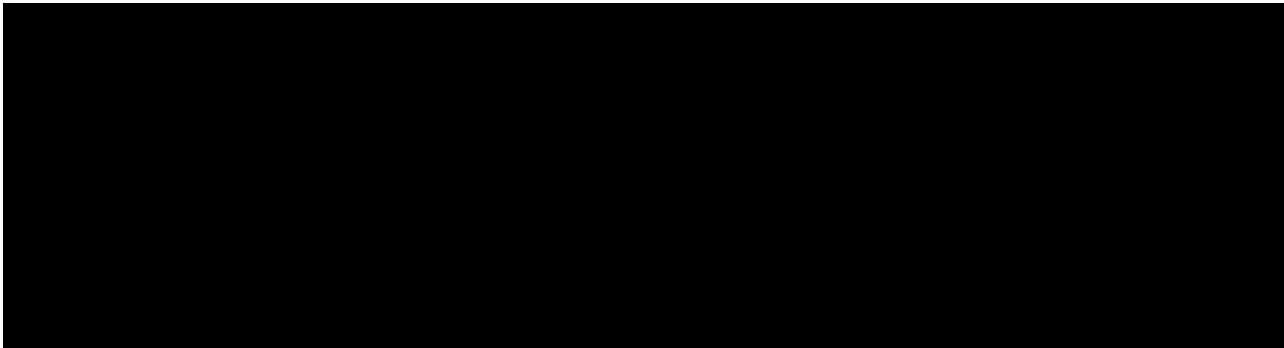
Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):

CAISO Zone: North
Resource Category (MCC Bucket): 4
CPUC Local Area (if applicable): N/A
Flexible Capacity Category (if applicable): N/A

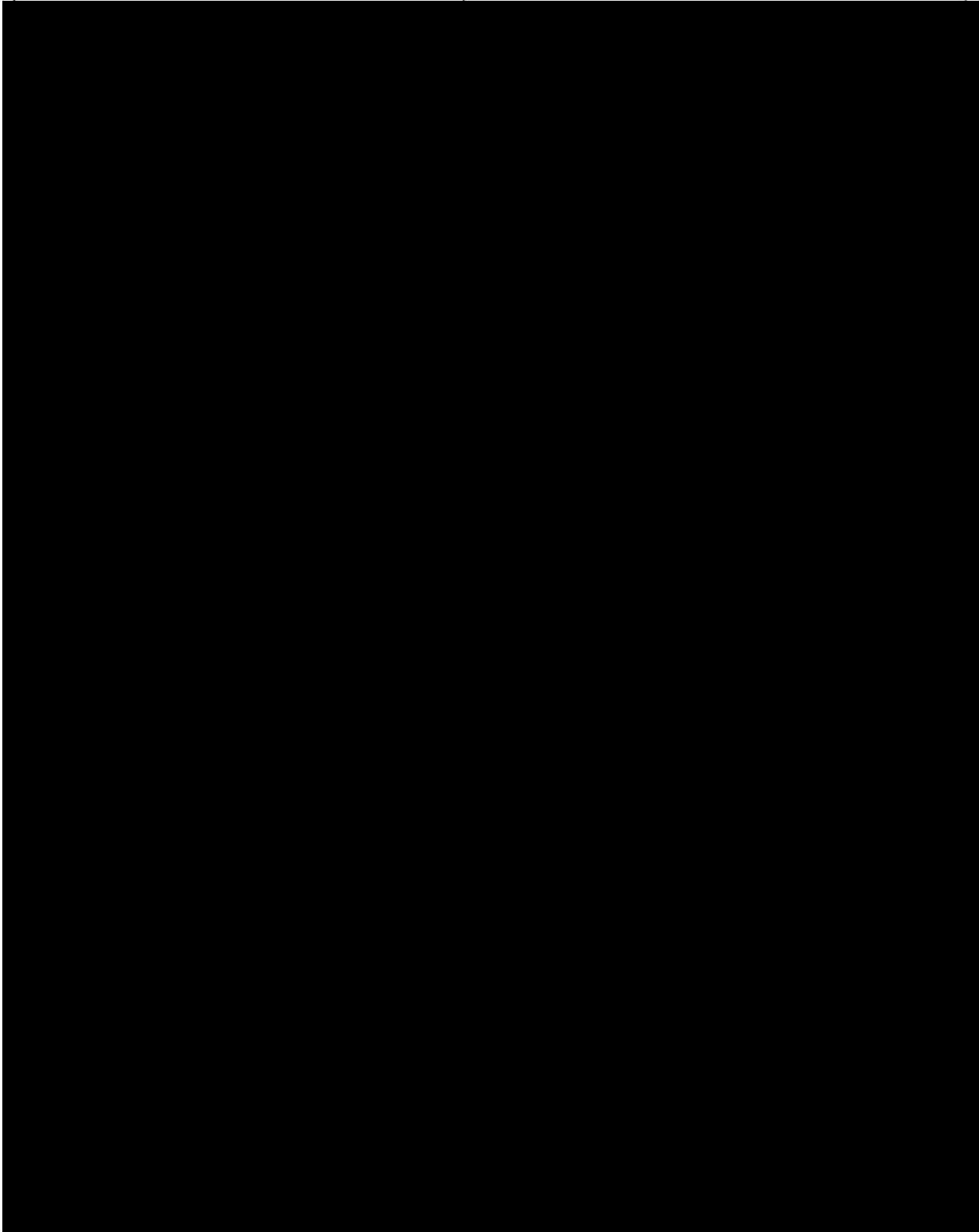


Unit 1

Unit Specific Information	
Resource Name	GEYSERS UNIT 18 (HEALDSBURG)
Physical Location	Healdsburg, CA
CAISO Resource ID	GEYS18_7_UNIT18
SCID of Resource	TBD
Unit NQC by month (e.g., Jan=50, Feb=65):	72
Unit EFC by month (e.g., Jan=30, Feb=50)	50
Resource Type (e.g., gas, hydro, solar, etc.)	Geothermal
Resource Category (1, 2, 3 or 4)	4
Flexible RAR Category (1, 2 or 3)	1
Path 26 (North or South)	North
Local Capacity Area	CAISO System
Deliverability restrictions, if any, as described in most recent CAISO	None
Run Hour Restrictions	None

APPENDIX C
NOTICE INFORMATION

Seller: Silicon Valley Clean Energy	Purchaser: Marin Clean Energy
--	--------------------------------------



**APPENDIX D
PLANNED OUTAGE SCHEDULE**

Unit Name	CAISO Resource ID	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

WSPP RESOURCE ADEQUACY CONFIRMATION

This confirmation (“Confirmation”) under the WSPP Agreement confirms the transaction between Silicon Valley Clean Energy Authority, a California joint powers authority (“Purchaser” or “SVCE”) and Elk Hills Power, LLC (“EHP” or “Seller”) dated as of April 10, 2023 (the “Effective Date”), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the “Transaction”). Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1 **TRANSACTION TERMS**

Purchaser: SVCE

Seller: EHP

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B and C are incorporated into this Confirmation.

ARTICLE 2 **DELIVERY OBLIGATIONS AND ADJUSTMENTS**

2.1 Sale and Delivery of Product

- (a) For each Showing Month of the Delivery Period, Seller will sell and deliver to Purchaser, and Purchaser will purchase and receive from Seller, the Contract Quantity of the Product from the Shown Unit(s).
- (b) Seller will deliver the Contract Quantity of Product by submitting to CAISO in its Supply Plan the Shown Unit and the characteristics of the Shown Unit and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.
- (c) Seller will cause all Supply Plans to meet and be filed in conformance with the requirements of the Tariff. Seller will submit, or cause the Unit’s SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for each day of such Showing Month will equal the Contract Quantity, less any excused deductions to the Contract Quantity in the case of Flexible RA Capacity for excused reductions in Unit EFC.
- (d) Seller may sell and deliver from a Shown Unit that meets requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. Seller will identify the Shown Unit(s) and Contract Quantity by providing Purchaser with the specific Unit information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.
- (e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Contract Quantity for the Shown Unit in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected

- Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.
- (f) The Product is delivered by Seller and received by Purchaser when either (i) the CIRA Tool shows the Supply Plan accepted for the Contract Quantity of Product from the Shown Unit by CAISO or (ii) Seller complies with Purchaser's instruction to withhold all or part of the Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 1(e) or (ii) Seller fails to submit the volume of Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Purchaser will have received the Contract Quantity if (x) Seller's Supply Plan is accepted by the CAISO for the applicable Showing Month or (y) Seller complies with Purchaser's instruction to withhold all or part of the Contract Quantity from Seller's Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.
- (g) Excused Reductions in Unit EFC: Unless the Parties have designated this Section 2.1(g) as "Not applicable", if the Product includes FCR Attributes, then Seller's failure to deliver any of the Contract Quantity of FCR Attributes during the Delivery Period will be excused if the Unit experiences a reduction in Unit EFC after the Effective Date as determined by CAISO and Seller has provided notice of such reduction to Purchaser by the Notification Deadline for the applicable Showing Month. The extent to which Seller's failure is excused will equal (i) the Contract Quantity of FCR Attributes for such day multiplied by (ii) the total amount (in MW) by which the Unit EFC was reduced since the Effective Date, divided by (iii) the Unit EFC as of the Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller may, but is not obligated to, provide the applicable part of the Contract Quantity of FCR Attributes for such day from the Shown Unit.

2.2 Purchaser's Remedies for Seller's Failure to Deliver Contract Quantity

- (a) If Seller fails to deliver any part of the Contract Quantity as required herein for any Showing Month, and such failure is not excused under the terms of this Confirmation or by Purchaser's failure to perform, then Seller shall owe Purchaser, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price.
- (b) Seller agrees to indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.3 Purchaser's Re-Sale of Product

- (a) Purchaser may re-sell all or part of the Contract Quantity of Product; provided that any such re-sale must not increase or modify Seller's obligations hereunder other than as set forth in this Section 2.3(a). For any such a resale, Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller will, or will cause the Unit's SC, to follow Purchaser's instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller will, and will cause the Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser's rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Unit's SC to comply with this Confirmation, Seller will be liable to Purchaser for the same amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.
- (b) Purchaser will notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two Business Days before the Notification Deadline for the Showing Month. Purchaser will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

ARTICLE 3 **PAYMENTS**

3.1 Payment

- (a) Purchaser shall pay for the Product as provided in Article 9 of the WSPP Agreement and this Confirmation; except that under Section 9.4 of the WSPP Agreement, in case any portion of any bill is in dispute, then only the undisputed portion of the bill shall be paid when due. The disputed portion of the bill shall be adjusted or paid upon final resolution of the dispute. Purchaser shall make a monthly payment to Seller for each Unit by the later of (i) ten (10) Calendar Days after Purchaser's receipt of Seller's invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) of the Showing Month, or if the twentieth (20th) is not a Business Day the next following Business Day ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.
- (b) Seller shall deliver invoices to the address(es) specified in Appendix C; *provided, however*, that changes to invoice, payment, wire transfer and other banking information must be made in writing and delivered via certified mail and shall include contact information for an authorized person who is available by telephone to verify the authenticity of such requested changes.

3.2 Allocation of Other Payments and Costs

- (a) Product does not confer to Purchaser any right to dispatch or receive the energy or ancillary services from a Shown Unit. Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it against any amounts owed to Purchaser under the WSPP Agreement.
- (b) Purchaser is to receive and retain all revenues associated with the Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller must promptly report receipt of any such revenues to Purchaser. Seller must pay to Purchaser any such amounts received by Seller, or a Unit's SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.
- (c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller will, or will cause the Unit's SC to, within one Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.
- (d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4 OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller must schedule or cause the Unit's SC to schedule or make available to CAISO the Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Unit's SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Nothing herein will prevent Seller from exercising any rights under the Tariff with respect to use of RA Substitute Capacity during the Delivery Period. Purchaser is not liable for, and Seller will indemnify and hold Purchaser harmless from, the failure of Seller or the Unit's SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Unit's SC, owner, or operator for noncompliance.

4.2 Seller's and Purchaser's Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Purchaser's rights to the Contract Quantity of Product for the sole benefit of Purchaser or any Subsequent Purchaser. If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to

subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller's Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

- (a) no part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;
- (b) the Unit qualifies under the Tariff for the Product, and the Unit and Seller are capable of delivering the Product;
- (c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Unit during the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;
- (d) if applicable, Seller has notified either the Unit's SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and
- (e) Seller has notified or will notify the Unit's SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

4.4 Collateral Requirements

- (a) Notwithstanding anything to the contrary contained in the WSPP Agreement, neither Purchaser nor Seller shall be required to provide Performance Assurance to the other Party during the Delivery Period.
- (b) Sections 22.1(d) of the WSPP Agreement shall not apply to either Party with respect to this Transaction.

ARTICLE 5

ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

5.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

"If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination

Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

5.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement, (i) Purchaser may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit's SC or as necessary for Supply Plans; (iii) each Party may disclose information to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser. Each Party recognizes that Purchaser is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

5.3 Joint Powers Authority

Purchaser 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 Governmental Entity separate and distinct from its members. Purchaser shall solely be responsible for all of Purchaser's debts, obligations and liabilities accruing and arising out of this Agreement, and Seller agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of Purchaser's members, or any cities or counties participating in Purchaser's community choice aggregation program, or any of Purchaser's retail customers in connection with the Transaction to which this Confirmation applies.

5.4 Dodd-Frank Act

The Parties intend this Transaction to be a "customary commercial arrangement" as described in Section II.A.1 of Commodity Futures Trading Commission, *Proposed Guidance, Certain Natural Gas and Electric Power Contracts*, 81 Fed. Reg. 20583 at 20586 (Apr. 8, 2016) and a "Forward Capacity Transaction" within the meaning of Commodity Futures Trading Commission, *Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations To Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission*, 78 Fed. Reg. 19,880 (Apr. 2, 2013).

5.5 Additional WSPP Agreement Amendments

For purposes of this Transaction only, the WSPP Agreement shall be amended as follows:

- (a) Section 4 of the WSPP Agreement is amended by:
 1. Adding "or the Friday after the United States Thanksgiving holiday" before the period at the end of the first sentence under the definition of "Business Day(s)".
 2. Adding the following new definitions:

"Governmental Entity or Public Power System" means a municipality, county, governmental board, public power authority, public utility district, joint action agency,

or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Governmental Entity or Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Governmental Entity or Public Power System’s obligations under this Agreement for the entire Period of Delivery under each Confirmation hereto.”

- (b) The first sentence of the second paragraph of Section 10 of the WSPP Agreement is amended by deleting the “or” before “(ii)” and adding to the end of such sentence “or (iii) if the Party claiming inability to perform is a Governmental Entity or Public Power System, any action taken by the Governmental Entity or Public Power System in its governmental capacity.”

- (c) Section 13.1 of the WSPP Agreement is amended to change "FERC" to "FERC or the CPUC".

- (d) Section 21.2 of the WSPP Agreement is deleted and replaced with the following:

“Any Party due monies under this Agreement, the amounts of which are not in dispute or if disputed have been the subject of a decision awarding monies, (i) shall have the right to seek payment of such monies in court in accordance with Section 34.1 and (ii) shall possess the right to seek relief directly from such court without first exercising termination and liquidation rights under Section 22.

In addition, each Party shall possess the right to seek specific performance (injunctive relief) of the non-delivery related terms of this Agreement and any Confirmation in court in accordance with Section 34.1. In seeking to enforce the terms of this Agreement, however, consistent with Section 21.1, no Party is entitled to receive or recover monetary damages except as provided in Sections 21.3 and 22.”

- (e) Section 21.3(d) of the WSPP Agreement is modified by replacing the words “After informal dispute resolution as required by Section 34.1, any remaining dispute involving the calculation of the damages shall be referred to binding dispute resolution as provided by Section 34.2 of this Agreement” with “Unless otherwise resolved informally, any dispute involving the calculation of the damages shall be resolved in accordance with Section 34.1 of this Agreement”.

- (f) Section 21 of the WSPP Agreement is modified by adding the following Section 21.4:

“No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (provided such jurisdiction is consistent with the venue provisions in Section 34.1), (c) relief by way of injunction, or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.”

- (g) Section 22.3(e)(i) of the WSPP Agreement is modified by replacing the words “Any disputes as to the methodology shall be resolved pursuant to the dispute resolution procedures in Section 34, with binding arbitration pursuant to Section 34.2 required for disputes as to the methodology if mediation is unsuccessful” with “Unless otherwise resolved informally, any disputes as to the methodology shall be resolved in accordance with Section 34.1 of this Agreement”.
- (h) Section 22.3(f) of the WSPP Agreement is modified by replacing the words “submitted to informal dispute resolution as provided in Section 34.1 of this Agreement and thereafter binding dispute resolution pursuant to Section 34.2 if the informal dispute resolution does not succeed in resolving the dispute” with “resolved in accordance with Section 34.1 of this Agreement”.
- (i) 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, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of law or contrary provisions of the WSPP Agreement, if any.”
- (j) Subsections 34.1 and 34.2 of the WSPP Agreement are deleted and replaced with the following:

“34.1

(a) Consent to Jurisdiction. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE OF CALIFORNIA, COUNTY AND CITY OF SAN FRANCISCO OR LOS ANGELES. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (a) ACCEPTS GENERALLY AND UNCONDITIONALLY THE EXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS; (b) WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. NOTHING HEREIN SHALL BE INTERPRETED AS WAIVING THE PROVISIONS OR APPLICATION OF THE CALIFORNIA TORT CLAIMS ACT.

34.2 Reserved.”
- (k) Subsection 34.3 of the WSPP Agreement is modified by deleting “The Parties shall equally divide the costs of the arbitrator or mediator and the hearing.”
- (l) Subsection 34.4 of the WSPP Agreement is deleted and replaced with:

“34.4 Reserved.”

- (m) Subsections 34.5 and 34.6 are hereby added to Section 34 of the WSPP Agreement:

“34.5 Waiver of Jury Trial. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THIS AGREEMENT.

34.6 LIMITATION OF DAMAGES. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT AND ANY CONFIRMATION SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION OF THIS AGREEMENT OR ANY CONFIRMATION FOR WHICH AN EXPRESS 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 OR IN A CONFIRMATION, THE OBLIGOR’S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION SET FORTH IN THIS AGREEMENT OR OTHERWISE. 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. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.”

- (n) Section 35 of the WSPP Agreement is modified by inserting the following paragraph between the first and second sentences:

“The Parties agree that each Party’s business consists in whole or in part of entering into forward contracts as or with merchants in capacity or energy, which is presently the subject of dealing in the forward contract trade. The Parties further agree that the transactions entered into pursuant to any Confirmations hereunder (as provided in Article 32 of the WSPP Agreement) are forward contracts involving the sale of capacity and/or energy, which are presently the subject of dealing in the forward contract trade. No Party shall assert before any court or other governmental authority either that another Party is not, or shall not be treated as, a forward contract merchant or that the transaction entered into pursuant, to any Confirmations hereunder (as provided in Article 32 of the WSPP

Agreement) are not, or shall not be treated as, forward contracts under the United States Bankruptcy Code.”

- (o) The following phrase is inserted at the beginning of Section 37 of the WSPP Agreement:

“On the date of entering into this Confirmation and throughout the Delivery Period,”

- (p) Section 37 of the WSPP Agreement is further modified by adding the following new paragraph at the end:

“Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Confirmation, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Confirmation, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures, has or will be taken and performed as required under the Joint Exercise of Powers Act of California (Government Code Section 6500 et seq.), and the Governmental Entity or Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with applicable law, (iii) entry into and performance of this Confirmation by Governmental Entity or Public Power System are for a proper public purpose within the meaning of all relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Confirmation does not extend beyond any applicable limitation imposed by relevant constitutional, organic or other governing documents and applicable law, (v) the Governmental Entity or Public Power System’s obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System’ obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Agreement and each Confirmation by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.”

- (q) Section 41 “Witness” of the WSPP Agreement shall become Section 42 and the following “Mobile Sierra” Section shall be inserted as Section 41:

“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:

To the fullest extent permitted by Applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by Applicable Law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in Applicable Law or market conditions that may occur.”

(r) Exhibit D of the WSPP Agreement is deleted and replaced with:

“Exhibit D - RESERVED”.

5.6 Counterparts

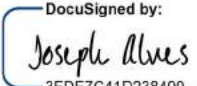
This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation as a PDF attachment to an email shall be the same as delivery of a manually executed signature page.

5.7 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.

AGREED AS OF THE EFFECTIVE DATE:

ELK HILLS POWER, LLC

By: 
DocuSigned by:
3FDE7C41D238499
 Name: Joseph Alves
 Title: Manager, Power Marketing

SILICON VALLEY CLEAN ENERGY AUTHORITY

By: 
DocuSigned by:
6C7E4B9A54C74C3
 Name: Girish Balachandran
 Title: CEO

[Signature Page to Resource Adequacy Confirmation Agreement]

APPENDIX A DEFINED TERMS

“CAISO” means the California ISO and any successor entity.

“Capacity Attributes” means attributes of the Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“FCR” means the Flexible Capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Unit, any and all resource adequacy attributes of the Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Notification Deadline” is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“Product” means RAR, Local RAR and FCR that is specified and marked applicable in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Replacement Price” means the price at which Purchaser, acting in a commercially reasonable manner, purchases a replacement for any Product specified in this Confirmation but not delivered by Seller, plus costs reasonably incurred by Purchaser in purchasing such substitute Product, or at Purchaser’s option, the market price for such Product not delivered as determined by Purchaser in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Purchaser be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Purchaser’s liability.

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit described in Appendix B and any other generating unit that is capable of supply the Contract Quantity of Product during the Delivery Period.

“Unit EFC” means Unit Effective Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means Unit Net Qualifying Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

**APPENDIX B
PRODUCT AND UNIT INFORMATION**

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

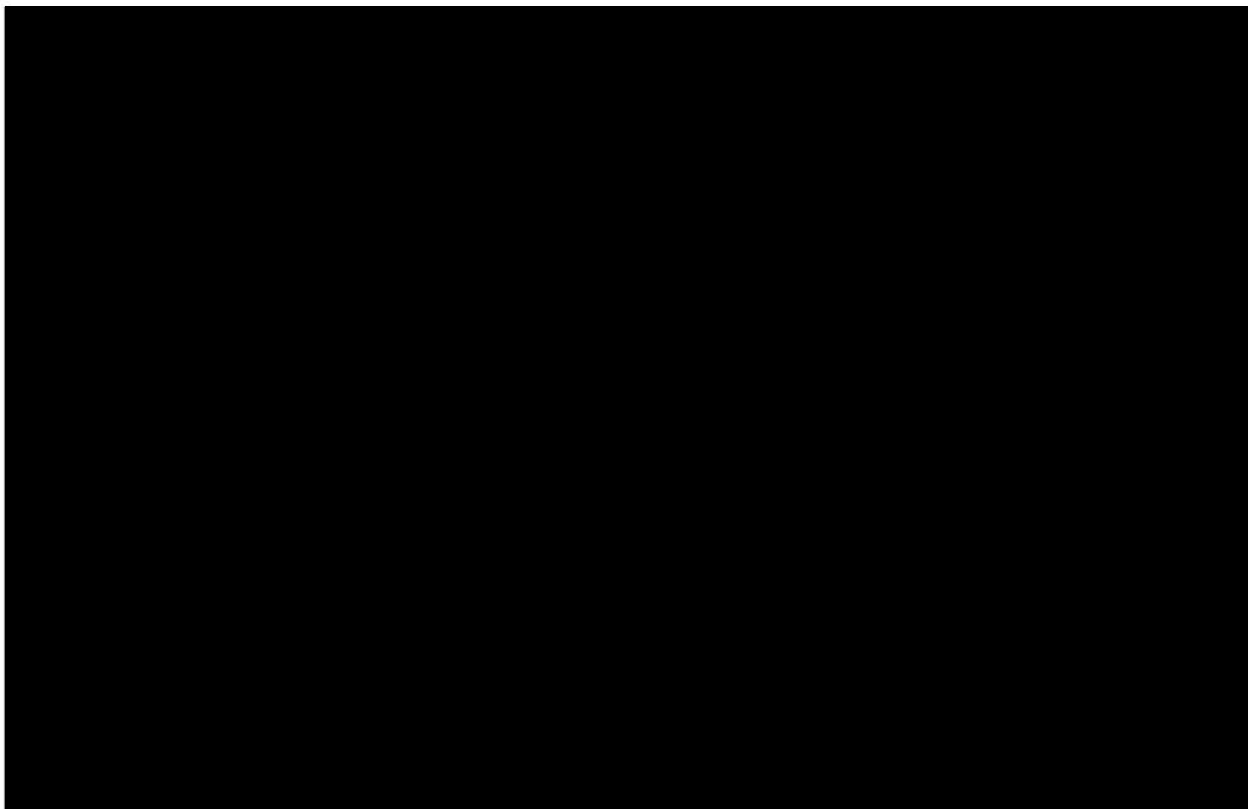
Additional Product Information (fill in all that apply):

CAISO Zone: North

MCC Bucket: 4 (All Hours – planned availability is unrestricted)

CPUC Local Area (if applicable):

Flexible Capacity Category (if applicable):

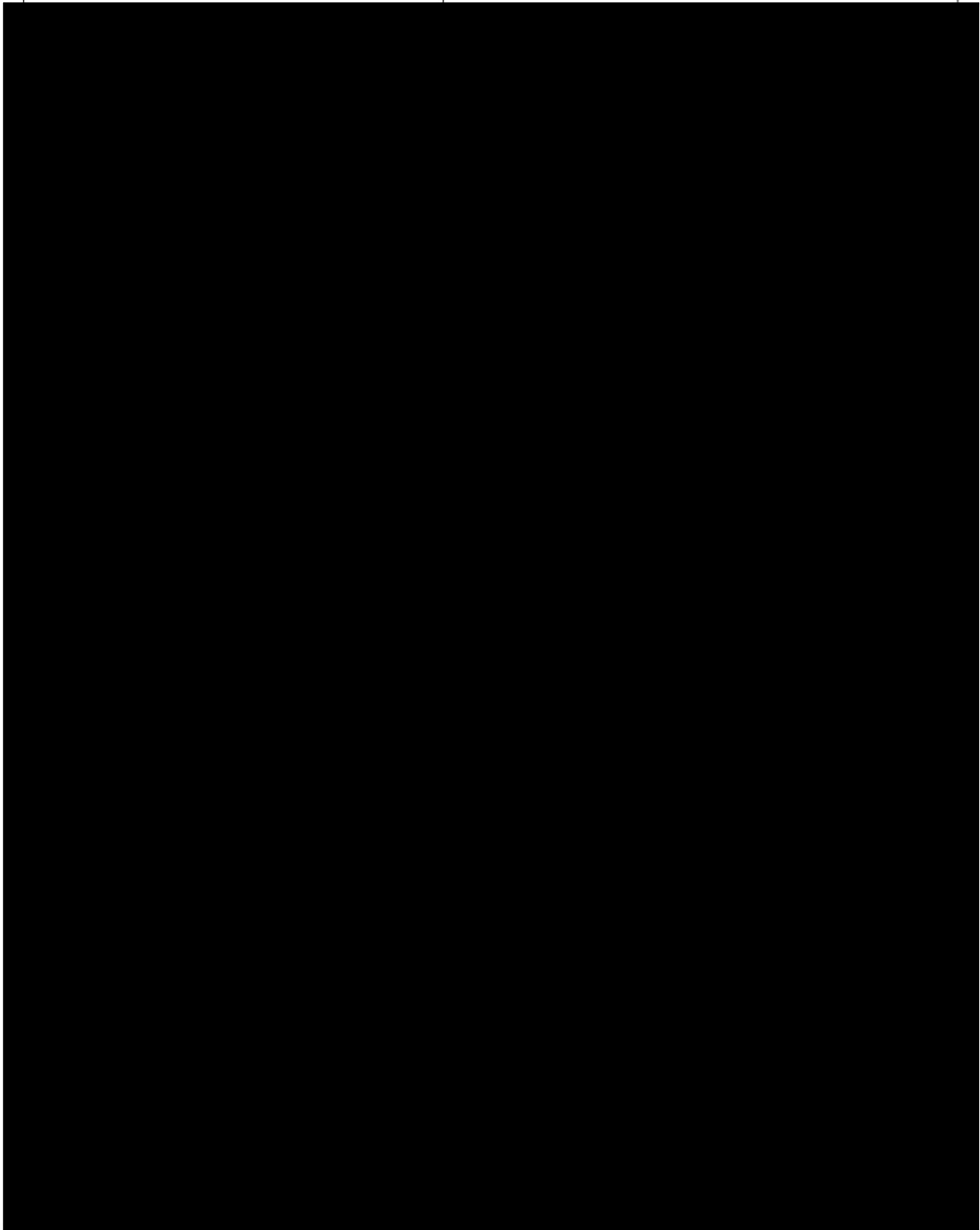


Unit 1

Unit Specific Information	
Resource Name	Elk Hills Power
Physical Location	4026 Skyline Road, Tupman, CA
CAISO Resource ID	_ ELKHIL_2_PL1X 3 _____
SCID of Resource	EMM2
Unit NQC by month (e.g., Jan=50, Feb=65):	380 MWs
Unit EFC by month (e.g., Jan=30, Feb=50)	_171 MWs _____
Resource Type (e.g., gas, hydro, solar, etc.)	Natural Gas Fired
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	_____
Prorated Percentage of Unit Flexible Factor	_____
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO North System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4 (All Hours – planned availability is unrestricted)

APPENDIX C
NOTICE INFORMATION

Seller: Elk Hills Power, LLC	Purchaser: Silicon Valley Clean Energy Authority
-------------------------------------	---



**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Central Coast Community Energy, a California joint powers authority (“Seller”) and Silicon Valley Clean Energy, a California joint powers authority (“Purchaser”), and each individually a “Party” and together the “Parties”, dated as of April 7, 2023 (the “Effective Date”), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the “Transaction”). This Transaction is governed by the WSPP Agreement dated August 26, 2022 (the “WSPP Agreement”). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the “Agreement” and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

**ARTICLE 1
TRANSACTION TERMS**

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

**ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS**

2.1 Sale and Delivery of Product

- (a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller's obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.
- (b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.
- (c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit's SC to submit, (i) monthly Supply Plans and (ii) annual Supply Plans if the Effective Date is prior to the year-ahead Compliance Showing Deadline applicable for the Showing Months specified in Appendix B, in accordance with the Tariff and CPUC requirements and no later than the initial Compliance Showing Deadline for such Showing Month, identifying and confirming the transfer of the Expected Contract Quantity of Product to Purchaser for each Showing Month. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.
- (d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.
- (e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.
- (f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

- (g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 Reductions in Contract Quantity

- (a) If Seller is providing Contingent Firm RA Product, Seller's obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller's option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser's Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.
- (b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.
- (c) ☒ ***If checked, the following provision and related definitions are applicable.***

Seller's obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller's option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the "Swap Reduction Option"); provided, however, that (i) Seller's obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than three (3) Business Days before the initial Compliance Showing Deadline for such Showing Month. Seller's rights under the Swap

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

Reduction Option are cumulative and in addition to Seller's rights under the Swap Confirmation.

2.3 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more Replacement Units in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

- (a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;
- (b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;
- (c) Seller shall, or shall cause the SC to submit a Supply Plan that includes the Replacement Units for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser's Compliance Showings; and
- (d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product.

Subject to the satisfaction of the conditions contained in subsections (a) – (c) of this Section 2.3, once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity

- (a) If Seller fails to deliver any part of the Expected Contract Quantity as required herein for any Showing Month, Seller shall be liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word "hourly" therein.
- (b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product or a Shown Unit's SC's failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs.
- (c) If Seller fails to pay the foregoing damages, penalties, fines or costs, or fails to reimburse Purchaser for those damages, penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those damages, penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser's Re-Sale of Product

- (a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller's obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit's SC, to follow Purchaser's instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller shall, and shall cause the Shown Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser's rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit's SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

- (b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Compliance Showing Deadline for each Showing Month for which Purchaser has resold the Product.
- (c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3 **PAYMENTS**

3.1 Payment

Purchaser shall make a monthly payment to Seller for the Product by the later of (i) ten (10) calendar days after Purchaser's receipt of Seller's invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) day of the Showing Month, and if such day is not a Business Day, the next following Business Day ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

- (a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.
- (b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit's SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

- (c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit's SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.
- (d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

**ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS**

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit's SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit's SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit's SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit's SC, owner, or operator for noncompliance.

4.2 Seller's and Purchaser's Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser's rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit's SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller's Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

- (a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;
- (b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;
- (c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit's Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;
- (d) if applicable, Seller has notified either the Shown Unit's SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and
- (e) Seller has notified or will notify the Shown Unit's SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit's SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

**ARTICLE 5
RESERVED**

**ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS**

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

The Parties are each organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and are each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party's debts, obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party's constituent members, or the officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party's constituent members, in connection with this Confirmation.]

6.6 Other WSPP Agreement Changes

For this Transaction, the WSPP Agreement shall be amended as follows:

- (a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

- (b) Section 22.1 is modified by inserting the following new text at the end thereof:

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

- “(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party’s admission in a writing that is unable to generally pay its debts as they become due;
 - (g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or
 - (h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets.”
- (c) Section 22.2(a) is deleted in its entirety replaced with the following:
- “If an Event of Default shall have occurred and be continuing, the Non- Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”
- (d) Section 22.2(b) is amended by inserting “and is continuing” after “Event of Default occurs” in the first line thereof and deleting the second sentence therein.
- (e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):
- “If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”
- (f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:
- “If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary.”

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

- (g) Section 22.3(e) is deleted in its entirety and replaced with the following:
 “[Intentionally omitted]”
- (h) Section 22.3(f) is deleted in its entirety and replaced with the following:
 “If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”
- (i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.
- (j) Section 30.1 is amended by inserting “or requested” after the word “required” in Section 30.1(4) and by adding the following at the end of the first sentence: “; or (8) to the Party’s and such Party’s affiliates’ lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential”.
- (k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION.”

“34.2 EXCLUSIVE JURISDICTION

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.”

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

- (l) In Section 34.4, the phrase “arbitration or” is deleted from the first line.
- (m) The following shall be inserted as a new Section 34.5:

“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.”

- (n) Section 37 is amended by inserting the following in the beginning thereof: “On the date of entering into this Confirmation,”.
- (o) Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:

“The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

- (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

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the “Mobile-Sierra” doctrine) and clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527 (2008) and *NRG Power Marketing LLC v. Maine Pub. Util. Comm’n*, 558 U.S. 165 (2010).

- (ii) The Parties, for themselves and their successors and assigns, (i) agree that this “public interest” standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the “just and reasonable” standard.”

6.7 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation as a PDF attachment to an email shall be the same as delivery of a manually executed signature page.


6.8 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.

[Signatures appear on the following page.]

AGREED AS OF THE EFFECTIVE DATE:

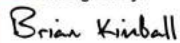
**Central Coast Community Energy, a
California joint powers authority**

By: 
Name: Robert M. Shaw
Title: Chief Executive Officer

**Silicon Valley Clean Energy, a
California joint powers authority**

By: 
Name: Girish Balachandran
Title: CEO

Approved as to form:

By: 
Name: Brian Kimball
Title: General Counsel

APPENDIX A DEFINED TERMS

“Alternate Capacity” means replacement Product which Seller has elected to provide to Purchaser in accordance with the terms of Section 2.3.

“CAISO” means the California ISO or the successor organization to the functions thereof.

“Capacity Attributes” means attributes of the Shown Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Shown Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Shown Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showing Deadline” means, for each Showing Month, the Compliance Showing plan submission due date for such Showing Month. For illustrative purposes only, as of the Effective Date, the applicable Compliance Showing plan submission due dates are as follows: (A) forty-five (45) days prior to the Showing Month covered by the Supply Plan for the monthly Supply Plan; and (B) the last Business Day of October that is prior to commencement of the year for the annual Supply Plan, such dates may be modified by the CAISO from time to time throughout the Delivery Period.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Contingent Firm RA Product” has the meaning set forth in Article 1 herein.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“CPUC Filing Guide” is the document issued annually by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the CPUC’s resource adequacy program.

“Effective Flexible Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Expected Contract Quantity” means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent

Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“Flexible Capacity Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) Business Days before the Compliance Showing Deadline.

“Planned Outage” means, subject to and as further described in the CPUC Decisions, a CAISO-approved, planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

“Product” means RAR Attributes, Local RAR Attributes and FCR Attributes, each for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric power industry during the relevant time period in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the electric power industry in the Western United States.

“RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s RAR.

“Replacement Unit” means a generating unit having the same capacity attributes as the Unit(s) originally identified in Appendix B hereof, including the same Resource Category, RAR Attributes, and, as applicable, LAR Attributes, FCR Attributes, and Flexible Capacity Category, and otherwise meeting the requirements specified Section 2.3 hereof. A Replacement Unit shall not utilize coal or coal materials as a source of fuel, must be a specific resource that is connected directly to the CAISO controlled grid, or be under the operational control of CAISO, and may not be an unspecified import.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

“Resource Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Substitute Capacity” has the meaning set forth in the Tariff for “RA Substitute Capacity”.

“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 33 MW of Product (as defined under such confirmation)] from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit(s) described in Appendix B.

“Unit EFC” means the lesser of the Unit’s Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means the lesser of the Unit’s Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

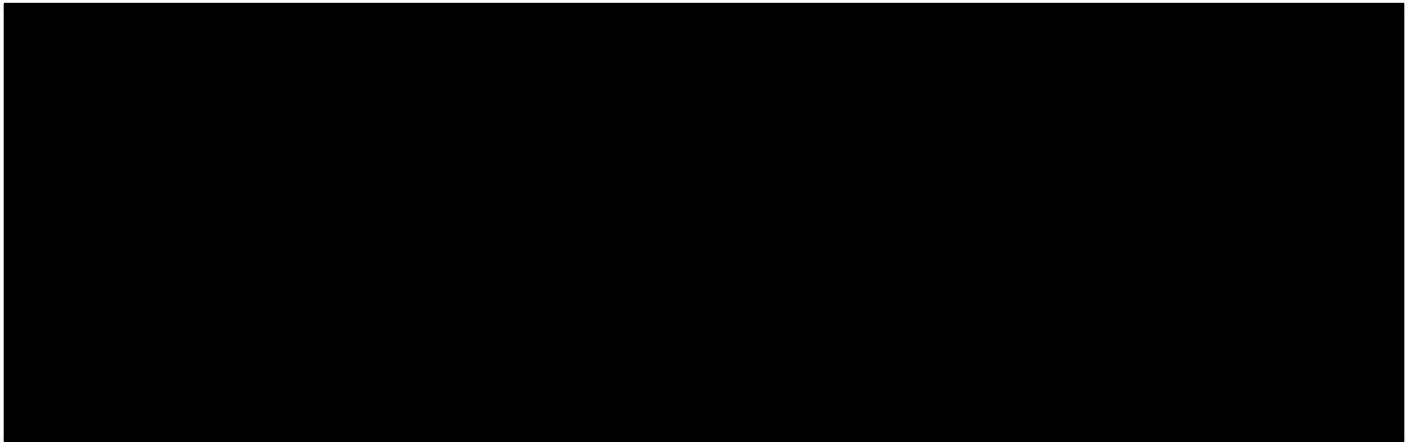
Additional Product Information (fill in all that apply):

CAISO Zone: North

Resource Category (MCC Bucket): 4

CPUC Local Area (if applicable): N/A

Flexible Capacity Category (if applicable):



Unit 1, 9MWs

Unit Specific Information	
Resource Name	Arlington Energy Center II – BESS
Physical Location	Blythe, CA
CAISO Resource ID	SUNCAT_2_A2ABT2
SCID of Resource	CPAA
Unit NQC by month (e.g., Jan=50, Feb=65):	132.00
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	LESR
Minimum Qualified Flexible Capacity	N/A
Category (Flex 1, 2 or 3)	
TAC Area (e.g., PG&E, SCE)	SCE
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4, (24/7 =No)

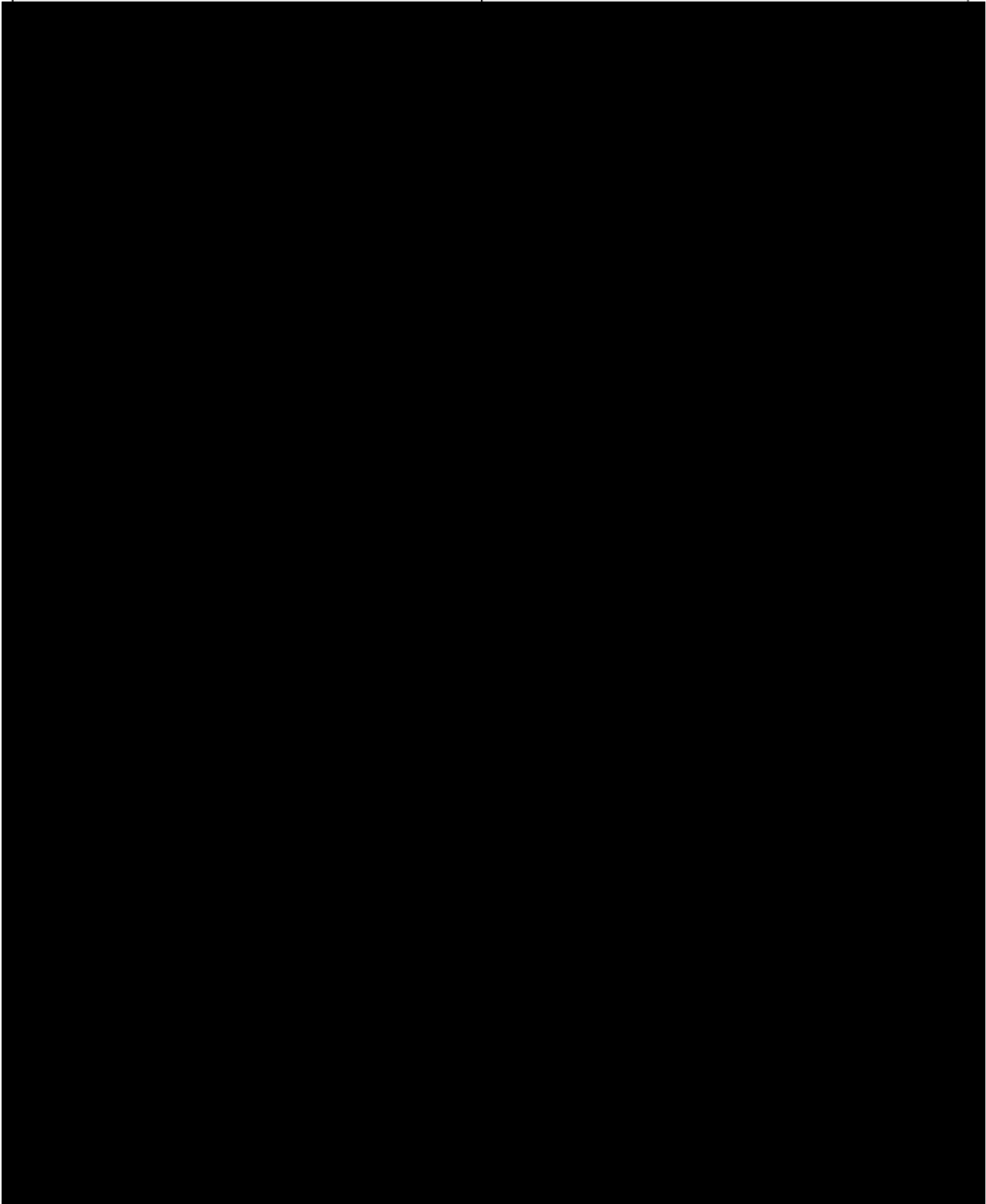
Unit 2, 24 MWs

Unit Specific Information	
Resource Name	
Physical Location	
CAISO Resource ID	ALT6DN_2_WIND7
SCID of Resource	LSCE
Unit NQC by month (e.g., Jan=50, Feb=65):	
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Wind
Minimum Qualified Flexible Capacity	N/A
Category (Flex 1, 2 or 3)	
TAC Area (e.g., PG&E, SCE)	SCE
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4, (24/7 =No)

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]

APPENDIX C
NOTICE INFORMATION

Seller: Central Coast Community Energy	Purchaser: Silicon Valley Clean Energy Authority
---	---





**APPENDIX D
PLANNED OUTAGE SCHEDULE**

Unit Name	CAISO Resource ID *	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation confirms the transaction between Central Coast Community Energy, a California joint powers authority (“Buyer”) and Silicon Valley Clean Energy, a California joint powers authority (“Seller”), and each individually a “Party” and together the “Parties”, dated as of April 7, 2023 (the “Effective Date”), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the “Transaction”). This Transaction is governed by the WSPP Agreement dated August 26, 2022 (the “WSPP Agreement”). The WSPP Agreement and this Confirmation, including any applicable appendices, exhibits or amendments thereto, shall be collectively referred to herein as the “Agreement” and will constitute a single agreement between the Parties with respect to the Transaction. Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

**ARTICLE 1
TRANSACTION TERMS**

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B, C, and D are incorporated into this Confirmation.

☐ Firm RA Product:

Seller shall provide Purchaser with the Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity for any reason, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

☒ Contingent Firm RA Product:

Seller shall provide Purchaser with Product from the Unit in the amount of the Contract Quantity. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reduction of the Contract Quantity of the Unit in accordance with Section 2.2, Seller shall have the option to notify Purchaser that either (a) Seller will not provide the portion of the Contract Quantity attributable to such reduction during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period pursuant to Section 2.3. If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than as provided in Section 2.2, then Seller shall have the option to supply Alternate Capacity pursuant to Section 2.3 to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Purchaser with the Expected Contract Quantity from the Unit and has failed to supply Alternate Capacity to fulfill the remainder of the Expected Contract Quantity during such period, then Seller shall be liable for damages and/or required to indemnify Purchaser for penalties or fines pursuant to the terms of Section 2.5.

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

**ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS**

2.1 Sale and Delivery of Product

- (a) For each Showing Month of the Delivery Period, Seller shall sell and deliver to Purchaser, and Purchaser shall purchase and receive from Seller, the Expected Contract Quantity of the Product from the Shown Unit(s). Seller's obligation to deliver the Expected Contract Quantity of Product for the Delivery Period is firm and will not be excused for any reason.
- (b) Seller shall deliver the Expected Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit(s) and the characteristics of the Shown Unit(s) and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.
- (c) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller shall submit, or cause the Shown Unit's SC to submit, (i) monthly Supply Plans and (ii) annual Supply Plans if the Effective Date is prior to the year-ahead Compliance Showing Deadline applicable for the Showing Months specified in Appendix B, in accordance with the Tariff and CPUC requirements and no later than the initial Compliance Showing Deadline for such Showing Month, identifying and confirming the transfer of the Expected Contract Quantity of Product to Purchaser for each Showing Month. The total amount of Product identified and confirmed for such Showing Month shall equal the Expected Contract Quantity.
- (d) Seller shall sell and deliver Product from a Shown Unit that meets the requirements set forth in Appendix B, including the Resource Category and, if applicable, the Flexible Capacity Category. In no event shall a Shown Unit utilize coal or coal materials as a source of fuel. A Shown Unit must be a specific resource that is connected directly to the CAISO controlled grid or be under the operational control of CAISO. A Shown Unit may not be an unspecified import. Seller shall identify the Shown Unit(s) and Expected Contract Quantity by providing Purchaser with the specific information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.
- (e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Expected Contract Quantity for the Shown Unit(s) in any Showing Month, the Parties shall confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.
- (f) The Product is delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Purchaser's instructions, including Purchaser's instructions to withhold all or part of the Expected Contract Quantity from Seller's

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Product from the Shown Unit(s) by CAISO. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Expected Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Seller will not have failed to deliver the Expected Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit(s) and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

- (g) The Shown Unit(s) must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.

2.2 Reductions in Contract Quantity

- (a) If Seller is providing Contingent Firm RA Product, Seller's obligation to deliver the Contract Quantity for each Showing Month may be reduced at Seller's option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; provided, (i) Seller notifies Purchaser by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Purchaser may include in Purchaser's Compliance Showings applicable to that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plans in accordance with the Tariff.
- (b) In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such portions of such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 2.3.
- (c) ☒ ***If checked, the following provision and related definitions are applicable.***

Seller's obligation to deliver the Contract Quantity for each day of each Showing Month may be reduced at Seller's option in the event Purchaser fails to deliver, for any reason, the contract quantity of product set forth in Appendix B of the Swap Confirmation (such option, the "Swap Reduction Option"); provided, however, that (i) Seller's obligation to deliver the Contract Quantity of Product may not be reduced by an amount greater than the contract quantity of product that Purchaser failed to deliver under the Swap Confirmation and (ii) that the Swap Reduction Option is subject to Seller providing written notice to Purchaser of such modification no later than three (3) Business Days before the initial Compliance Showing Deadline for such Showing Month. Seller's rights under the Swap

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

Reduction Option are cumulative and in addition to Seller's rights under the Swap Confirmation.

2.3 Seller's Option To Provide Alternate Capacity

If Seller is unable to provide the full Contract Quantity for a Showing Month for any reason, including, without limitation, as provided in Section 2.2, or Seller desires to provide some or all of the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Purchaser, provide Purchaser with replacement Product from one or more Replacement Units in an amount such that the total amount of Product provided to Purchaser from the Unit and any Replacement Unit(s) for each Showing Month is not more than the Contract Quantity, provided that in each case:

- (a) Seller shall notify Purchaser in writing of its intent to provide Alternate Capacity and shall identify the proposed Replacement Units from which such Alternate Capacity shall be provided no later than the Notification Deadline for Purchaser's Compliance Showings related to such Showing Month;
- (b) The proposed Replacement Units must (i) be accepted by the CAISO, and (ii) otherwise satisfy the requirements of this Agreement;
- (c) Seller shall, or shall cause the SC to submit a Supply Plan that includes the Replacement Units for each Showing Month and, if applicable, annual filing, no later than the Notification Deadline for Purchaser's Compliance Showings; and
- (d) If Seller does not comply with the requirements of Sections 2.3(a), (b) and (c) for the applicable Showing Month and, if applicable, annual filing, then any such Replacement Units shall not be deemed a Replacement Unit for purposes of this Confirmation for that Showing Month and Seller shall not receive payment for such Product.

Subject to the satisfaction of the conditions contained in subsections (a) – (c) of this Section 2.3, once Seller has identified in writing any Replacement Units that meet the requirements of this Section 2.3, then any such Replacement Units shall be deemed a Unit for purposes of this Confirmation for that Showing Month.

2.4 Planned Outages

As of the Confirmation Effective Date, Seller and Purchaser have agreed to all Planned Outages as specified in Appendix D ("Planned Outage Schedule") for all relevant Showing Months for the following calendar year, or until the end of the Delivery Period, whichever is shorter. Seller may provide Purchaser with proposed changes to the Planned Outage Schedule from time to time. Within ten (10) Business Days after Purchaser's receipt of any Seller proposed changes, Purchaser shall notify Seller in writing of any reasonable requests for modifications to such Seller proposed changes, and Seller shall, to the extent consistent with Prudent Operating Practice, accommodate

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

Purchaser's requests regarding the timing of any Seller proposed changes to the Planned Outage Schedule.

2.5 Purchaser's Remedies for Seller's Failure to Deliver Expected Contract Quantity

- (a) If Seller fails to deliver any part of the Expected Contract Quantity as required herein for any Showing Month, Seller shall be liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word "hourly" therein.
- (b) Seller shall indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product or a Shown Unit's SC's failure to timely or accurately submit Supply Plans in accordance with the Tariff and this Confirmation. The Parties shall use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs.
- (c) If Seller fails to pay the foregoing damages, penalties, fines or costs, or fails to reimburse Purchaser for those damages, penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those damages, penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.6 Purchaser's Re-Sale of Product

- (a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller's obligations hereunder other than as set forth in this Section 2.6(a). For any such a resale, the Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller shall, or shall cause the Shown Unit's SC, to follow Purchaser's instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller shall, and shall cause the Shown Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser's rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Shown Unit's SC to comply with this Confirmation, Seller will be liable to Purchaser for the amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

- (b) Purchaser shall notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two (2) Business Days before the Compliance Showing Deadline for each Showing Month for which Purchaser has resold the Product.
- (c) If CAISO or CPUC develops a centralized capacity market, Purchaser will have exclusive rights to offer, bid, or otherwise submit the Expected Contract Quantity of Product for re-sale in such market, and Purchaser shall have the right to retain and receive all revenues from such re-sale.

ARTICLE 3 **PAYMENTS**

3.1 Payment

Purchaser shall make a monthly payment to Seller for the Product by the later of (i) ten (10) calendar days after Purchaser's receipt of Seller's invoice (which may be given upon first day of the Showing Month) and (ii) the twentieth (20th) day of the Showing Month, and if such day is not a Business Day, the next following Business Day ("Monthly RA Capacity Payment"). The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Expected Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be adjusted to reflect any portion of Expected Contract Quantity for the Showing Month that was not delivered in accordance with Section 2.1 for such Showing Month.

3.2 Allocation of Other Payments and Costs

- (a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Shown Unit(s) for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it pursuant to this Section 3.2(a) against any amounts owed to Purchaser under the WSPP Agreement.
- (b) Purchaser is to receive and retain all revenues associated with the Expected Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller shall promptly report receipt of any such revenues to Purchaser. Seller shall pay to Purchaser within thirty (30) days of receipt any such amounts received by Seller, or a Shown Unit's SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

- (c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller shall, or shall cause the Shown Unit's SC to, within one (1) Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.
- (d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

**ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS**

4.1 CAISO Requirements

Seller shall schedule or cause the Shown Unit's SC to schedule or make available to CAISO the Expected Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Shown Unit's SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller shall indemnify and hold Purchaser harmless from, the failure of Seller or the Shown Unit's SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Shown Unit's SC, owner, or operator for noncompliance.

4.2 Seller's and Purchaser's Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure (a) Purchaser's rights to the Expected Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser and (b) that Purchaser may use the Expected Contract Quantity to meet its Compliance Obligations. Such commercially reasonable actions shall include, without limitation cooperating with and providing, and causing each Shown Unit's SC, owner, or operator to cooperate with and provide, requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable Compliance Obligations, including to demonstrate that the Expected Contract Quantity can be delivered to the CAISO controlled grid for the minimum hours required to satisfy the Compliance Obligations, as applicable, pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction.

If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller's Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

- (a) No part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;
- (b) The Shown Unit(s) qualify to provide the Product under the Tariff, and the Shown Unit(s) and Seller are capable of delivering the Product;
- (c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Shown Unit(s) during the Delivery Period does not exceed the Shown Unit's Net Qualifying Capacity and, if applicable, the Effective Flexible Capacity for that Shown Unit;
- (d) if applicable, Seller has notified either the Shown Unit's SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and
- (e) Seller has notified or will notify the Shown Unit's SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such Shown Unit's SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

**ARTICLE 5
RESERVED**

**ARTICLE 6
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS**

6.1 Confidentiality

Each Party to this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

6.2 Change in Law

If any action by the CPUC, CAISO or any Governmental Body having jurisdiction, or any change in applicable law, occurring after the Confirmation Effective Date results in (i) material changes to Purchaser's or Seller's obligations with regard to the Products sold hereunder, (ii) has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the performance of this Confirmation becomes impracticable, or (iii) changes the Resource Adequacy Requirements such that the Product can no longer be counted towards Purchaser's Resource Adequacy Requirements (a "Change in Law"), the Parties shall work in good faith to revise this Confirmation so that the Parties can perform their obligations regarding the purchase and sale of the Product sold hereunder in order to maintain the original intent.

6.3 Governing Law

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

Notwithstanding Section 24 of the WSPP Agreement, this Transaction and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law.

6.4 Collateral

Notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27, neither Party shall be required to post collateral or other security for this Transaction.

6.5 No Recourse to Members

The Parties are each organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and are each a public entity separate from their constituent members. Each Party will solely be responsible for all of such Party's debts, obligations and liabilities accruing and arising out of this Confirmation. Each Party agrees that it shall have no rights and shall not make any claims, take any actions or assert any remedies against any of the other Party's constituent members, or the officers, directors, advisors, contractors, consultants or employees of the other Party or the other Party's constituent members, in connection with this Confirmation.]

6.6 Other WSPP Agreement Changes

For this Transaction, the WSPP Agreement shall be amended as follows:

- (a) Section 9.4 is deleted in its entirety and replaced with the following:

“In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.”

- (b) Section 22.1 is modified by inserting the following new text at the end thereof:

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

- “(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party’s admission in a writing that is unable to generally pay its debts as they become due;
 - (g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or
 - (h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets.”
- (c) Section 22.2(a) is deleted in its entirety replaced with the following:
- “If an Event of Default shall have occurred and be continuing, the Non- Defaulting Party, upon written notice to the Defaulting Party, shall have the right to (i) suspend performance under any or all transactions under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days with respect to any single transaction, and (ii) exercise any remedy available at law or equity.”
- (d) Section 22.2(b) is amended by inserting “and is continuing” after “Event of Default occurs” in the first line thereof and deleting the second sentence therein.
- (e) Section 22.2(b) is amended by inserting the following as the penultimate paragraph in Section 22.2(b):
- “If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Expected Contract Quantity in a Compliance Showing due to Seller’s Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser’s estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained.”
- (f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following:
- “If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary.”

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

- (g) Section 22.3(e) is deleted in its entirety and replaced with the following:
 “[Intentionally omitted]”
- (h) Section 22.3(f) is deleted in its entirety and replaced with the following:
 “If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34.”
- (i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Confirmation Effective Date.
- (j) Section 30.1 is amended by inserting “or requested” after the word “required” in Section 30.1(4) and by adding the following at the end of the first sentence: “; or (8) to the Party’s and such Party’s affiliates’ lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential”.
- (k) Subsections 34.1 and 34.2 are deleted and replaced with the following:

“34.1 INFORMAL DISPUTE RESOLUTION

IN THE EVENT OF ANY DISPUTE ARISING UNDER THIS TRANSACTION, WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THIS TRANSACTION.”

“34.2 EXCLUSIVE JURISDICTION

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.”

**Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023**

- (l) In Section 34.4, the phrase “arbitration or” is deleted from the first line.
- (m) The following shall be inserted as a new Section 34.5:

“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.”

- (n) Section 37 is amended by inserting the following in the beginning thereof: “On the date of entering into this Confirmation,”.
- (o) Section 41 “Witness” shall become Section 42 and the following “Standard of Review” Section shall be substituted in its place:

“The Parties agree as follows:

From the date of entering into a Transaction under this Agreement and throughout the term of such Transaction, the Parties each warrant and covenant as follows:

- (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

Joint CCA WSPP Standard RA Confirmation
CCA to CCA RA Purchases and Sale
7 April 2023

proposed by a Party, a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the “Mobile-Sierra” doctrine) and clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527 (2008) and *NRG Power Marketing LLC v. Maine Pub. Util. Comm’n*, 558 U.S. 165 (2010).

- (ii) The Parties, for themselves and their successors and assigns, (i) agree that this “public interest” standard shall apply to any proposed changes in any other documents, instruments or other agreements executed or entered into by the Parties in connection with this Agreement and (ii) hereby expressly and irrevocably waive any rights they can or may have to the application of any other standard of review, including the “just and reasonable” standard.”

6.7 Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic, or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation as a PDF attachment to an email shall be the same as delivery of a manually executed signature page.


6.8 Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Transaction may be confirmed only through a Documentary Writing executed by both Parties, and no amendment or modification to this Transaction shall be enforceable except through a Documentary Writing executed by both Parties.


[Signatures appear on the following page.]

AGREED AS OF THE EFFECTIVE DATE:

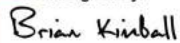
**Central Coast Community Energy, a
California joint powers authority**

DocuSigned by:

By: _____
Name: Robert M. Shaw
Title: Chief Executive Officer

**Silicon Valley Clean Energy, a
California joint powers authority**

DocuSigned by:

By: _____
Name: GIRISH Balachandran
Title: CEO

Approved as to form:

DocuSigned by:

By: _____
Name: Brian Kimball
Title: General Counsel

APPENDIX A DEFINED TERMS

“Alternate Capacity” means replacement Product which Seller has elected to provide to Purchaser in accordance with the terms of Section 2.3.

“CAISO” means the California ISO or the successor organization to the functions thereof.

“Capacity Attributes” means attributes of the Shown Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Shown Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Shown Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

“CIRA Tool” means the CAISO Customer Interface for Resource Adequacy.

“Compliance Obligations” means, as applicable, RAR, Local RAR and FCR.

“Compliance Showing Deadline” means, for each Showing Month, the Compliance Showing plan submission due date for such Showing Month. For illustrative purposes only, as of the Effective Date, the applicable Compliance Showing plan submission due dates are as follows: (A) forty-five (45) days prior to the Showing Month covered by the Supply Plan for the monthly Supply Plan; and (B) the last Business Day of October that is prior to commencement of the year for the annual Supply Plan, such dates may be modified by the CAISO from time to time throughout the Delivery Period.

“Compliance Showings” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Contingent Firm RA Product” has the meaning set forth in Article 1 herein.

“CPUC Decisions” means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

“CPUC Filing Guide” is the document issued annually by the CPUC which sets forth the guidelines, requirements and instructions for load serving entities to demonstrate compliance with the CPUC’s resource adequacy program.

“Effective Flexible Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Expected Contract Quantity” means, with respect to any Showing Month of the Delivery Period, (a) for Firm RA Product, the Contract Quantity of Product, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, and (b) for Contingent

Firm RA Product, the Contract Quantity of Product for such Showing Month, including the amount of Contract Quantity of Product that Seller has elected to provide Alternate Capacity, less any reductions to Contract Quantity consistent with Section 2.2 with respect to which Seller has not elected to provide Alternate Capacity.

“FCR” means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

“FCR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s FCR.

“Firm RA Product” has the meaning set forth in Article 1 herein.

“Flexible Capacity Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

“Local RAR” means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

“Local RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s Local RAR.

“LSE” means “Load Serving Entity” as such term is used in Section 40.9 of the Tariff.

“MW” means megawatt.

“Net Qualifying Capacity” has the meaning given in CAISO’s FERC-approved Tariff.

“Notification Deadline” is ten (10) Business Days before the Compliance Showing Deadline.

“Planned Outage” means, subject to and as further described in the CPUC Decisions, a CAISO-approved, planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

“Product” means RAR Attributes, Local RAR Attributes and FCR Attributes, each for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

“Prorated Percentage of Unit Factor” means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prorated Percentage of Unit Flexible Factor” means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric power industry during the relevant time period in the Western United States, or (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the electric power industry in the Western United States.

“RAR Attributes” means, with respect to a Shown Unit, any and all resource adequacy attributes of the Shown Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE’s RAR.

“Replacement Unit” means a generating unit having the same capacity attributes as the Unit(s) originally identified in Appendix B hereof, including the same Resource Category, RAR Attributes, and, as applicable, LAR Attributes, FCR Attributes, and Flexible Capacity Category, and otherwise meeting the requirements specified Section 2.3 hereof. A Replacement Unit shall not utilize coal or coal materials as a source of fuel, must be a specific resource that is connected directly to the CAISO controlled grid, or be under the operational control of CAISO, and may not be an unspecified import.

“Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations, not including Local RAR or FCR.

“Resource Category” shall be as described in the annual CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“SC” means Scheduling Coordinator as defined in the Tariff.

“Showing Month” means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

“Shown Unit” means the Unit, or any Replacement Unit meeting the requirements of Section 2.3 of this Confirmation and specified by Seller in a Supply Plan.

“Subsequent Purchaser” means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

“Substitute Capacity” has the meaning set forth in the Tariff for “RA Substitute Capacity”.

“Swap Confirmation” means that certain WSPP Agreement Confirmation between Seller and Purchaser dated concurrently herewith, in which Seller is purchasing 33 MW of Product (as defined under such confirmation)] from Purchaser.

“Swap Reduction Option” has the meaning specified in Section 2.2(c).

“Tariff” means the CAISO Tariff, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” in each case as amended or supplemented from time to time.

“Unit” means the generation unit(s) described in Appendix B.

“Unit EFC” means the lesser of the Unit’s Effective Flexible Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

“Unit NQC” means the lesser of the Unit’s Net Qualifying Capacity as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B PRODUCT AND UNIT INFORMATION

Product:

☒ RAR ☐ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

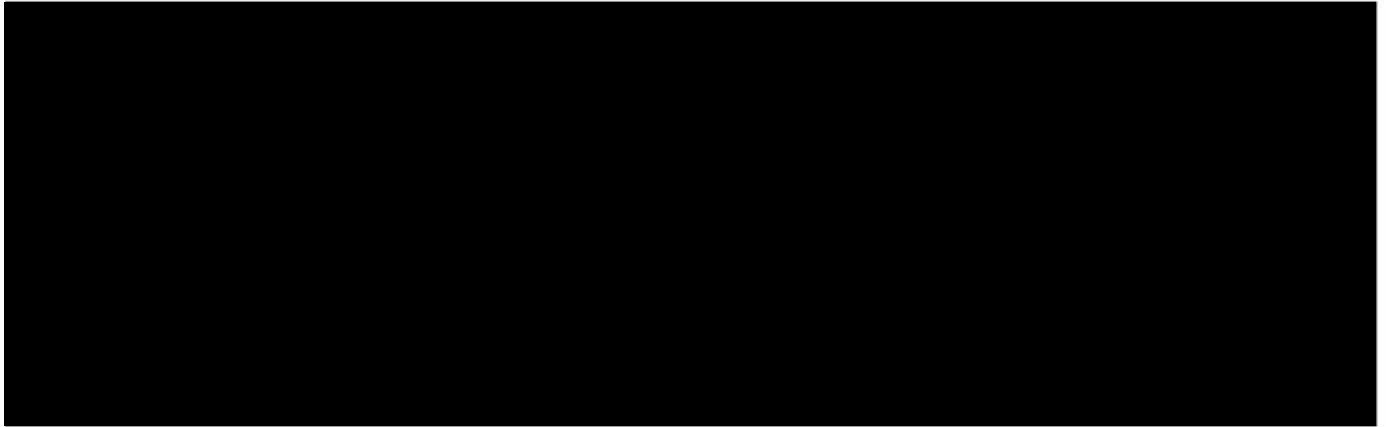
Additional Product Information (fill in all that apply):

CAISO Zone: North

Resource Category (MCC Bucket): 4

CPUC Local Area (if applicable): N/A

Flexible Capacity Category (if applicable):



Unit 1, 29 MWs

Unit Specific Information	
Resource Name	High Desert Power Project Aggregate
Physical Location	Victorville, CA
CAISO Resource ID	HIDSRT_2_UNITS
SCID of Resource	TS30
Unit NQC by month (e.g., Jan=50, Feb=65):	830
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Natural Gas
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	SCE
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4 (24/7 = Yes)

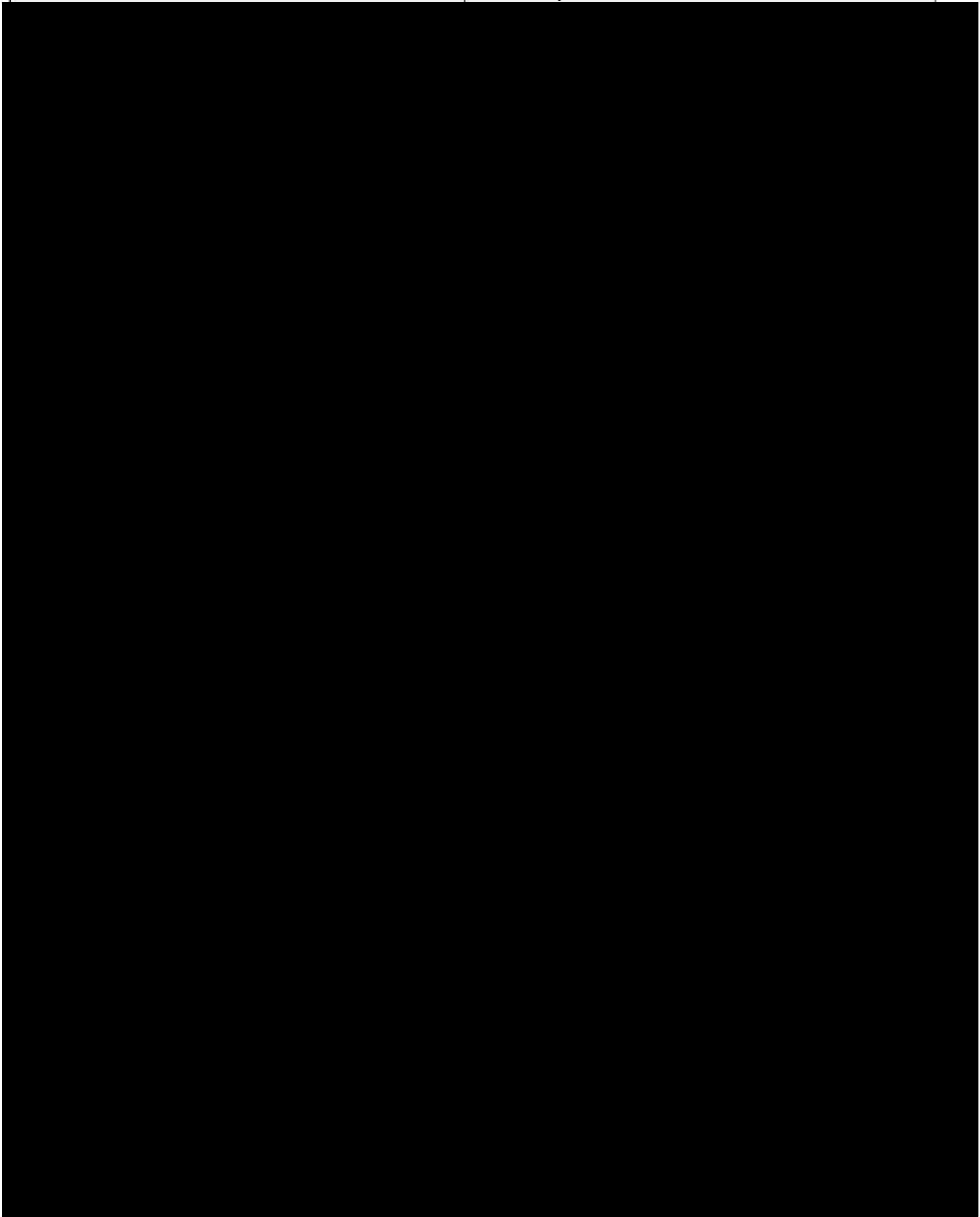
Unit 2, 4 MWs

Unit Specific Information	
Resource Name	GEYSERS UNIT 18 (HEALDSBURG)
Physical Location	Healdsburg, CA
CAISO Resource ID	GEYS18_7_UNIT18
SCID of Resource	TBD
Unit NQC by month (e.g., Jan=50, Feb=65):	72
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Geothermal
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	CAISO System
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4 (24/7 = Yes)

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]

APPENDIX C
NOTICE INFORMATION

Seller: Central Coast Community Energy	Purchaser: Silicon Valley Clean Energy Authority
---	---





**APPENDIX D
PLANNED OUTAGE SCHEDULE**

Unit Name	CAISO Resource ID *	Outage (MW)	SLIC Outage Start Date	SLIC Outage End Date
N/A	N/A	N/A	N/A	N/A

FIFTH AMENDMENT
to the
EEI RESOURCE ADEQUACY CONFIRMATION
between
BOSTON ENERGY TRADING AND MARKETING LLC
and
SILICON VALLEY CLEAN ENERGY AUTHORITY

THIS FIFTH AMENDMENT TO THE EEI RESOURCE ADEQUACY CONFIRMATION (this “Amendment”), is made and entered into as of April 7, 2023 (this “Effective Date”), by and between **Boston Energy Trading and Marketing LLC** (“BETM”) and **Silicon Valley Clean Energy Authority** (“SVCE”) (each individually as a “Party” and collectively the “Parties”).

RECITALS

WHEREAS, BETM and SVCE entered into that certain EEI Resource Adequacy Confirmation, dated as of September 15, 2020, as amended October 5, 2021, as amended July 7, 2022, as amended October 5, 2022, and as amended January 18, 2023 (the “Agreement”); and

WHEREAS, the Parties hereby represent that the Agreement is in full force and effect as of the Effective Date; and

WHEREAS, the Parties desire to modify the Agreement to document Alternate Capacity terms;

NOW THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

B. Miscellaneous:

1. **Definitions.** Capitalized terms used in this Amendment and not otherwise defined herein shall the meanings specified for such terms in the Agreement.

2. ***Entire Agreement.*** This Amendment constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto.
3. ***Restatement.*** Except for any amendment to the Agreement made pursuant to this Amendment, all terms and conditions of the Agreement will continue in full force and effect in accordance with the provisions on the date of this Amendment.
4. ***Counterparts.*** This Amendment may be executed in multiple counterparts, each of which when executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. The delivery of an executed counterpart to this Amendment by facsimile or other electronic means (including via email) shall be effective as the delivery of a manually executed counterpart.
5. ***Execution.*** Each Party agrees to provide evidence reasonably satisfactory to the other party of the authority and genuine signature of the individual signing this Amendment.
6. ***Headings.*** The headings used in this Amendment are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Amendment.
7. ***Governing Law.*** This Amendment will be governed by and construed in accordance with the laws of the State of California (without reference to choice of law doctrine).

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment as of the date and year first above written.

BOSTON ENERGY TRADING AND MARKETING LLC

By: *Reem Fahey*
Reem Fahey (Apr 10, 2023 11:15 EDT)
Name: Reem Fahey
Title: CEO

Legal Approval

Michael Blasik

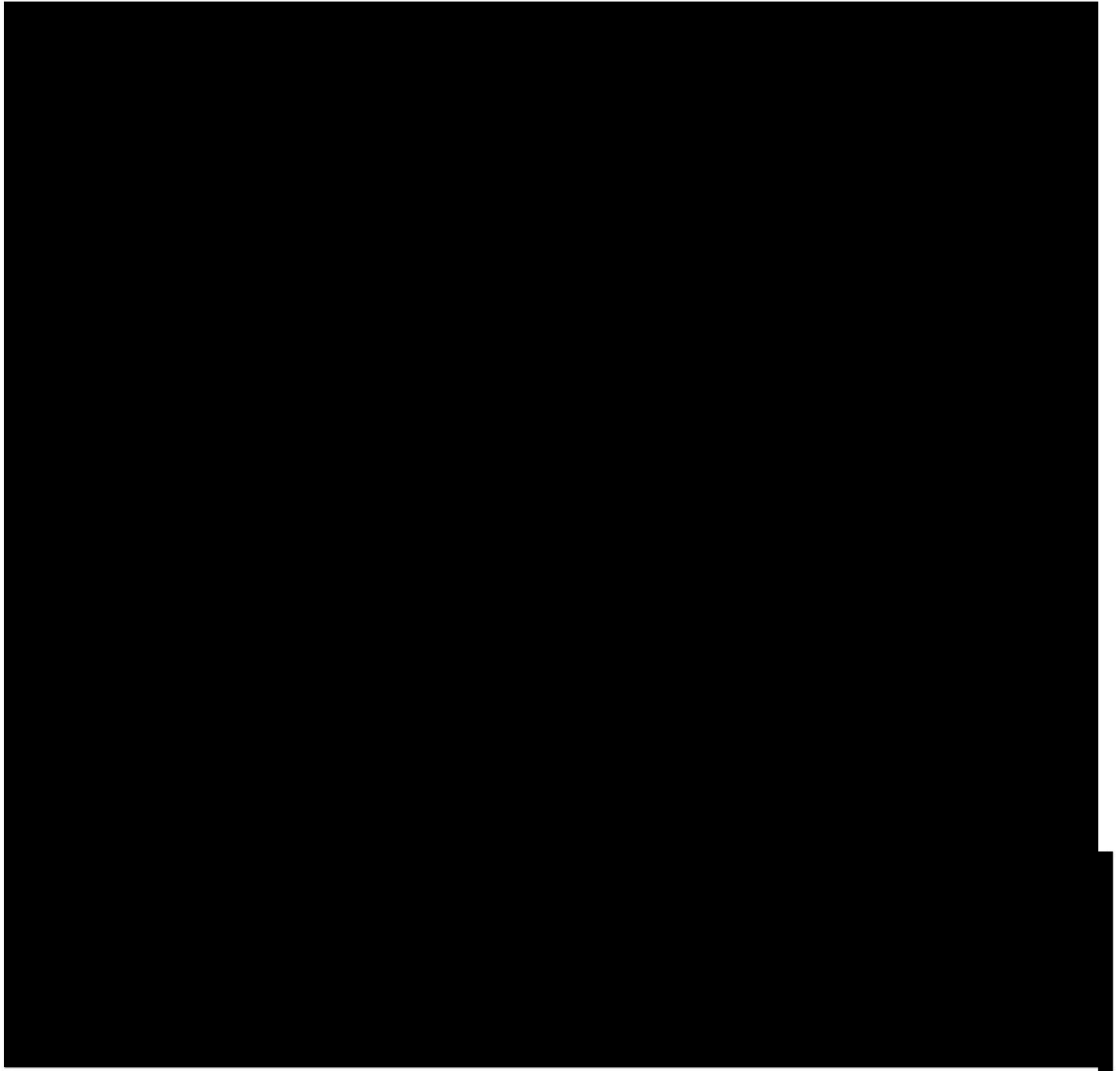
SILICON VALLEY CLEAN ENERGY AUTHORITY

By: DocuSigned by:
Girish Balachandran
Name: Girish Balachandran
Title: CEO

**ATTACHMENT 1
REPLACEMENT UNIT DESIGNATION**

Parties agree that the following table is added to APPENDIX B of the Agreement:

Designation of Alternate Capacity

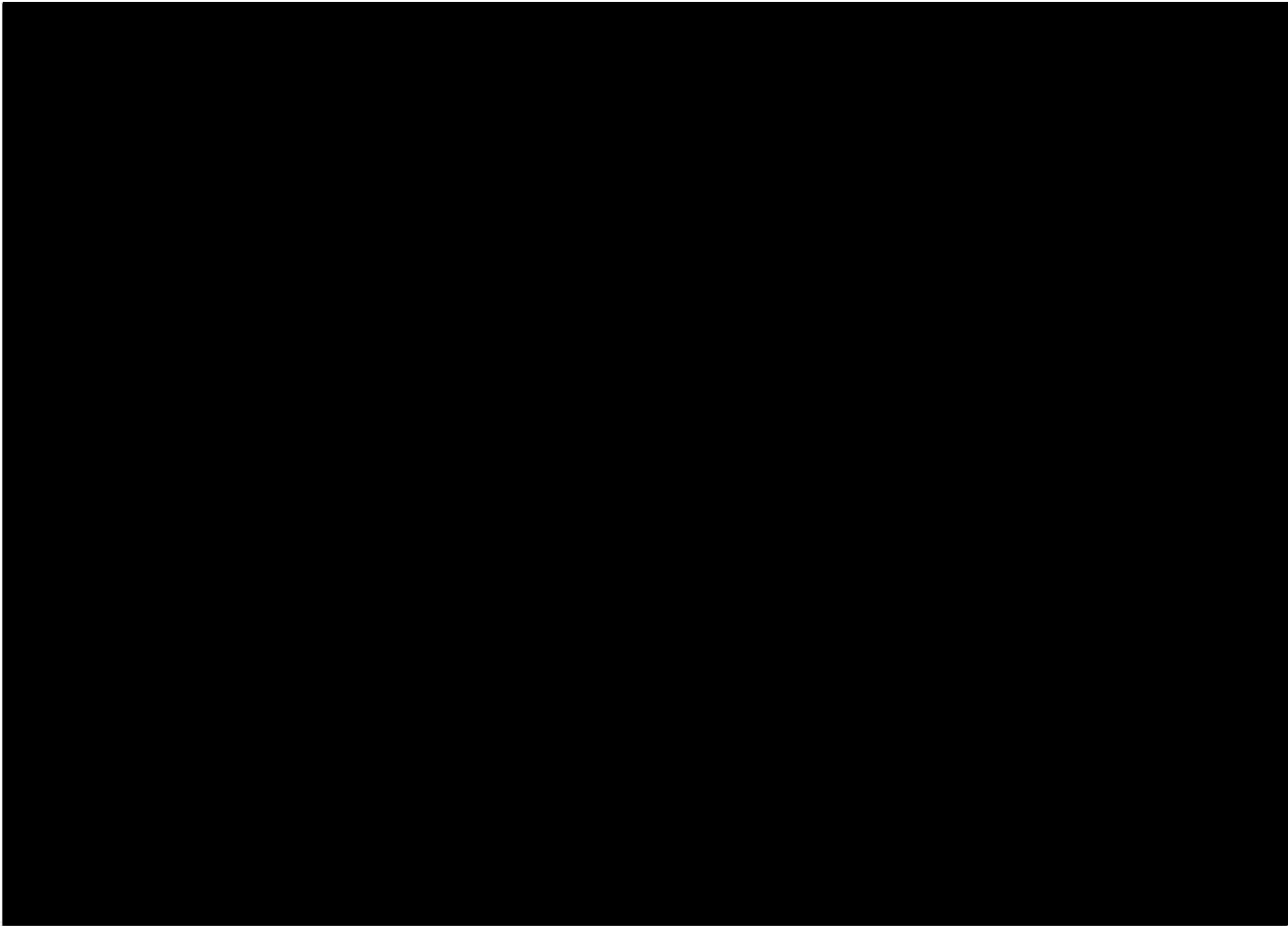


BETM SVCE Amend 5 04062023 final

Final Audit Report

2023-04-10

Created:	2023-04-10
By:	[Redacted]
Status:	Signed
Transaction ID:	[Redacted]



CONFIRMATION

Reference:
Master Power Purchase and Sale Agreement
Between Morgan Stanley Capital Group Inc. ("Seller")
And
Silicon Valley Clean Energy Authority, a California joint powers authority ("Buyer")
dated: November 23, 2016
Transaction Date: April 4, 2023 (the "Effective Date")

RECITALS:

WHEREAS, pursuant to California Public Utilities Code Sections 366.1, et. seq., Buyer has been registered as a Community Choice Aggregator (the "CCA");

WHEREAS, Buyer is a California joint powers authority, which has established Silicon Valley Clean Energy Authority for purposes of delivering CCA service to certain customers located within the County of Santa Clara;

WHEREAS, pursuant to California Public Utilities Code Section 366.2, Buyer submitted Buyer's CCA Implementation Plan and Statement of Intent ("Implementation Plan") to the CPUC;

WHEREAS, the CPUC certified the Implementation Plan on September 27, 2016;

WHEREAS, Seller and Buyer desire to set forth the terms and conditions pursuant to which Seller shall supply the Product to Buyer, and Buyer shall take and pay for such supply of Product subject to satisfaction of the conditions herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements in this Confirmation and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. **DEFINITIONS.** Any capitalized terms used in this Confirmation but not otherwise defined below shall have the meaning ascribed to such term in the Master Agreement:

"ACS" means "asset-controlling supplier" as that term is defined in the Cap and Trade Regulations.

"Applicable Law" means any statute, law, treaty, rule, tariff, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, or any binding interpretation of the foregoing, as any of them is amended or supplemented from time to time, that apply to either or both of the Parties, the Project(s), or the terms of the Agreement.

“CAISO” means the California Independent System Operator Corporation or the successor organization to the functions thereof.

“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 RPS” or “California Renewables Portfolio Standard” means the California renewables portfolio standard, as set forth in Cal. Pub. Util. Code §§ 399.11 et seq. and Cal. Pub. Res. Code §§ 25740-25751, and as administered by the CEC as set forth in the CEC RPS Eligibility Guidebook (9th Ed.), as may be subsequently modified by the CEC, and the California Public Utilities Commission (“CPUC”) as set forth in CPUC Decision (“D”) 08-08-028, D.08-04-009, D.11-01-025, D.11-12-020, D.11-12-052, D.12-06-038 and D.14-12-023, and as may be modified by subsequent decision of the CPUC or by subsequent legislation, and regulations promulgated with respect thereto.

“Cap and Trade Regulations” means the Mandatory Greenhouse Gas Emissions Reporting and California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations (California Code of Regulations Title 17, Subchapter 10, Articles 2 and 5 respectively) promulgated by the California Air Resources Board of the California Environmental Protection Agency pursuant to the California Global Warming Solutions Act of 2006.

“Category 1 Renewable” means Renewable Energy that satisfies the requirements of Section 399.16(b)(1) of the California Public Utilities Code, as applicable to the REC Vintage transferred hereunder.

“CEC” means the California Energy Commission.

“Change in Law” has the meaning set forth in Section 2.2 hereof.

“Commercially Reasonable Efforts” for the purposes of this Confirmation, “commercially reasonable efforts” or acting in a “commercially reasonable manner” shall not require a Party to undertake extraordinary or unreasonable measures.

“Compliance Obligation” has the meaning set forth by the Cap and Trade Regulations.

“CPUC” means the California Public Utilities Commission.

“Customers” means the residential, commercial, industrial, and all other retail end use customers that have not opted out of the Silicon Valley Clean Energy Program, as designated from time to time by Buyer as being served by Buyer within the jurisdictional boundaries of the County of Santa Clara.

“Delivery Period” shall be the period beginning on the Start Date and ending on the End Date, as set forth in Section 3 below.

“Delivery Point” has the meaning set forth in Section 4 hereof.

“Effective Date” has the meaning set forth in the Reference Section at the beginning of this Confirmation.

“Eligible Renewable Energy Resource” or “ERR” means an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16.

“Energy” means electrical energy, measured in MWh.

“Exhibits” shall be those certain Exhibits, which are attached hereto and made a part hereof.

“FERC” means the Federal Energy Regulatory Commission.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States.

“Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, or the CAISO or any other transmission authority, having or asserting jurisdiction over a Party or the Agreement.

“Implementation Plan” has the meaning set forth in the Recitals hereof.

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

“Mandatory Reporting Rule” means the regulations entitled Mandatory Greenhouse Gas Emissions Reporting set forth in Article 2 of Subchapter 10 of Title 17 of the California Code of Regulations.

“MW” means megawatt.

“MWh” means megawatt-hour.

“PG&E” means the Pacific Gas and Electric Company, its successors and assigns.

“Product” has the meaning set forth in Section 2.1 hereof.

“Project” shall mean the Eligible Renewable Energy Resource(s) used to provide Renewable Energy hereunder.

“Prudent Industry Practices” means any of the practices, methods, techniques and standards (including those that would be implemented and followed by a prudent operator of generating facilities similar to the Project(s) in the United States during the relevant time period) that, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result, giving due regard to manufacturers’ warranties and recommendations, contractual obligations, the requirements or guidance of Governmental Authority, including CAISO, Applicable Law(s), the requirements of insurers, good business practices, economy, efficiency, reliability, and safety. Prudent Industry Practices shall not be limited to the optimum practice, method, technique or standard to the

exclusion of all others, but rather shall be a range of possible practices, methods, techniques or standards.

“REC Vintage” means the date of Energy generation found on a WREGIS Certificate.

“Renewable Energy” means Energy and associated Renewable Energy Credits generated by an Eligible Renewable Energy Resource where the source of power is wind, solar or hydroelectric.

“Renewable Energy Contract Price” shall mean the price (\$/REC) to be paid by Buyer to Seller for Renewable Energy delivered hereunder, as set forth on Exhibit A.

“Renewable Energy Contract Quantity” shall mean the quantity of RECs to be delivered by Seller to Buyer hereunder, as set forth on Exhibit A. Such Renewable Energy Contract Quantity, shall be comprised of (i) Minimum Renewable Energy Quantity and (ii) Optional Incremental Renewable Energy Quantity, if any.

“Renewable Energy Credits” or “REC” has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision D.08-08-028, as applicable to the specific REC Vintage(s) transferred hereunder.

“RPS Adjustment” means the reduction in the Compliance Obligation of an electricity importer authorized by and calculated in accordance with section 95852 (b)(4) of the Cap and Trade Regulations and section 95111(b)(5) of the Mandatory Reporting Rule.

“Security Documents” has the meaning set forth in the Master Agreement.

“Silicon Valley Clean Energy Program” means the community choice aggregation program operated by Buyer.

“Specified Sources of Power” means electricity that is traceable to a specific generation source by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification of the power source.

“Tariff” means the tariff and protocol provisions, including any current CAISO-published “Operating Procedures” and “Business Practice Manuals,” as amended, supplemented or replaced by CAISO from time to time.

“Unspecified Sources of Power” means electricity that is not traceable to a specific generation source by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity has been sold once and only once.

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

“WREGIS Certificate” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.

“WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS.

2. PRODUCT.

2.1 Seller Delivery Obligation. Throughout the Delivery Period, Seller shall sell and deliver or make available, or cause to be sold and delivered or made available to Buyer, the “Product,” which is comprised of the quantity of Renewable Energy (Category 1 Renewable) specified in Section 7.

2.2 Change in Law.

If due to any action by the CPUC or any Governmental Authority, or any change in Applicable Law (a “Change in Law”) occurring after the Effective Date that results in material changes to Buyer’s or Seller’s obligations with regard to the Products sold hereunder and that has the effect of changing the transfer and sale procedure set forth in this Confirmation so that the implementation of this Confirmation becomes impossible or impracticable, or otherwise modifies the California RPS or language required to conform to the California RPS, 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 or Buyer’s compliance with California RPS obligations in order to maintain the original intent of the Parties under this Confirmation. In the event the Parties cannot reach agreement on any such amendments to this Confirmation within sixty (60) days following the Change in Law, to the extent practicable and lawful, Seller shall perform its obligations hereunder with regard to any Product hereunder or compliance with California RPS obligations in accordance with the Applicable Law immediately prior to the Change in Law; provided, however, that notwithstanding the foregoing or anything to the contrary herein, Seller shall not be obligated to perform any obligation hereunder to the extent that doing so would cause Seller to be materially adversely affected. These Change in Law provisions are independent of those set forth in the RPS Standard Terms and Conditions below.

2.3 RPS Standard Terms and Conditions.

STC 6: Eligibility

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

STC REC-1: Transfer of Renewable Energy Credits

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.

STC REC-2: Tracking of RECs in WREGIS

Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under this contract.

STC 17: Applicable 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.

- 2.4 Resources. For Renewable Energy delivered under this Confirmation, Seller shall use Specified Sources of Power, as further detailed in Exhibit A; provided however, Seller may designate additional Specified Sources of Power upon 5 (five) days written notice to Buyer thereof; provided further any such additional Specified Sources of Power shall meet the requirement of Renewable Energy as defined herein. No Energy delivered under this Confirmation shall be procured from unit-specific sources that are nuclear or coal-fired resources. The Energy supplied in connection with any Renewable Energy shall comply with applicable California RPS requirements for such Product.
- 2.5 Delivery of WREGIS Certificates. Throughout the Delivery Period, following generation of the Renewable Energy by the Project(s), Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with the Renewable Energy Contract Quantity are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard for Buyer.

Seller shall comply with all Applicable Law, including, without limitation, 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. The Parties acknowledge and agree that, as of the Effective Date, the WREGIS Certificates associated with the Renewable Energy Contract Quantity for a month are not available for transfer to Buyer until approximately ninety (90) days after the end of such month. Seller shall transfer such WREGIS Certificates in a timely manner after such WREGIS Certificates are available for transfer to Buyer for Buyer's sole benefit.

Upon receiving written or electronic confirmation from WREGIS that a transfer order has been initiated by Seller, Buyer shall confirm such transfer order in WREGIS within fourteen (14) days to the extent that the WREGIS Certificates included in such transfer conform to the specifications reflected in this Confirmation. In the event that certain WREGIS Certificates fail to conform to the applicable California RPS requirements or WREGIS specifications reflected in this Confirmation, Buyer shall be entitled to reject the transfer of any non-conforming WREGIS Certificates and Seller shall replace the non-conforming WREGIS Certificates with an equivalent amount of WREGIS Certificates of the same REC Vintage and that meet the applicable California RPS requirements or WREGIS specifications reflected in this Confirmation;

Upon either Party's receipt of notice from WREGIS that a transfer of WREGIS Certificates was not recognized, that Party will immediately notify the other Party, providing a copy of such notice, and both Parties will cooperate in taking such actions as are necessary and commercially reasonable to cause such transfer to be recognized and completed. Each Party agrees to provide copies of its applicable reports to the extent reasonably necessary for WREGIS to verify the accuracy of any fact, statement, charge or computation made pursuant hereto if requested by the other Party.

2.6 Retirement of RECs. Buyer agrees to retire the RECs purchased from Seller hereunder no later than four months after the year in which such RECs are produced in accordance with Title 17 CCR Section 95852(b)(3)(D) and to provide Seller with the WREGIS retirement report.

2.7. Additional Terms and Conditions

(1) Seller Representations and Warranties: Seller represents and warrants:

- (a) Seller has not sold the Product or any Program Attributes of the Product to be transferred to Buyer to any other person or entity;
- (b) For the sale of Renewable Energy, Seller receives compensation directly from the CAISO for energy imported or scheduled to the CAISO in real-time on Buyer's behalf; and

- (c) If and to the extent that the Renewable Energy sold by Seller is a resale of part or all of a contract between Seller and one or more third parties, Seller represents, warrants and covenants that the resale complies with the following conditions in (i) through (iv) below as of the Effective Date and throughout the Delivery Period:
- i. The original upstream third party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1)(A);
 - ii. This Agreement transfers only Renewable Energy that has not yet been generated prior to the later of the Effective Date or the Delivery Period;
 - iii. The Energy transferred hereunder is transferred to Buyer in real time; and
 - iv. If the Project has an agreement to dynamically transfer electricity to a California balancing authority, the transactions implemented under this Agreement are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement.

3. **DELIVERY PERIOD.** This Confirmation shall be in full force and effect as of the Effective Date. The terms set forth herein shall apply from the Start Date through the End Date, which entire period will comprise the Delivery Period. This Confirmation shall terminate on the date on which both Parties have completed the performance of their obligations hereunder, unless earlier terminated pursuant to the terms hereof.

Start Date:	End Date:
April 4, 2023	December 31, 2023

4. **DELIVERY POINT.**

Product	Delivery Point
Renewable Energy	CAISO or a California Balancing Authority inside the California State boundaries

5. **SCHEDULING.** Seller will perform all scheduling requirements applicable to the transaction(s) contemplated under this Confirmation. All scheduling shall be performed consistent with all applicable CAISO and WECC prevailing protocols. The Energy will

be scheduled to Buyer on a Day-Ahead basis using an Inter-SC Trade (IST). Unless otherwise mutually agreed between the Parties, Renewable Energy will be scheduled to the applicable delivery point without (an) IST.

6. PRICING.

Renewable Energy Contract Price and Payment. For each month during the Delivery Period, Buyer will pay Seller an amount equal to: a) the applicable Renewable Energy Contract Price as specified in Exhibit A multiplied by the portion of the Renewable Energy Contract Quantity delivered by Seller as evidenced by the quantity of WREGIS Certificates in Seller's WREGIS account that are available for transfer to Buyer. Seller shall transfer RECs associated with the applicable Renewable Energy Contract Quantity to Buyer through WREGIS within five (5) days of receipt of payment from Buyer.

7. CONTRACT QUANTITIES.

Renewable Energy. Renewable Energy Contract Quantities and Renewable Energy Contract Prices pursuant to this Confirmation relate to the quantities set forth in Exhibit A. The Renewable Energy sold by Seller to Buyer shall also include any and all Renewable Energy Credits associated with such Renewable Energy. Renewable Energy under this contract must be both (a) PCC1-eligible and (b) on the CRS attestation list for Green-E or produced by one or more renewable generating facilities that have a valid Green-E Energy Generator attestation on file (with an expiration date occurring on or after the final date of deliveries associated with the prospective transaction. Generators will be using fuel sources of either Wind or Solar as specified in Exhibit A.

8. MONTHLY BILLING SETTLEMENT.

8.1 Monthly Invoice Timeline. Seller agrees to use commercially reasonable efforts to deliver each monthly invoice to Buyer no later than the fifteenth (15th) day of each month for the previous calendar month. The Parties hereby agree that all invoices under this Confirmation shall be due and payable on the twenty-fifth (25th) day of the month following the month in which Seller delivered such invoice, 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 twenty-fifth (25th) day of the month.

9. COMPLIANCE REPORTING. Buyer shall be responsible for submitting compliance reports to the CPUC and/or other Governmental Authorities on its own behalf and will require resource information, electronic tagging information, and other documentation to be provided by Seller. Seller shall provide all reasonable information to Buyer necessary for Buyer to timely comply with periodic compliance reporting requirements and as otherwise required by Applicable Law with respect to any Product.

10. NO RESTRICTION. Nothing in this Confirmation shall limit Buyer's ability to develop its own generation facilities or prevent Buyer from purchasing Energy from other parties or prevent Seller from selling Energy to other parties; provided, however, that Buyer shall remain responsible to pay Seller for the Contract Quantities represented in Exhibit A.

11. **STANDARD OF CARE AND GOOD FAITH.** When performing its obligations hereunder, Seller shall act in good faith and shall perform all work in a manner consistent with Prudent Industry Practices.

12. **SECURITY PROVISIONS.**

12.1 **Buyer Reporting Requirements.** During the entire period this Confirmation remains in effect, Buyer shall provide Seller with the report(s) required below and shall also provide Seller with any clarifications requested regarding such report(s) and such other information that Seller reasonably requests regarding Buyer's financial performance, Buyer's performance of its obligations under this Confirmation or the ongoing viability of the CCA.

- (a) Annual Reports. The following report shall be provided by Buyer to Seller not later than 180 days following the end of Buyer's fiscal year, shall be with regard to such previous fiscal year and shall be as follows: Buyer's financial reports consisting of, at a minimum, statement of revenues, expenses and changes in fund net assets, statement of net assets, and statement of cash flows on a consolidating basis (as applicable), each as prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant.

This Confirmation is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated November 23, 2016 (the "Master Agreement") between Buyer and Seller, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement. This Confirmation and the Master Agreement, including any appendices, exhibits or amendments thereto, shall collectively be referred to as the "Agreement."

This Confirmation is subject to the Exhibits identified below and that are attached hereto:

Exhibit A – Renewable Energy Contract Quantity and Price Schedule

**MORGAN STANLEY CAPITAL GROUP
INC.**

Sign: Katie Martin

Print: Katie Martin

Title: Vice President

**SILICON VALLEY CLEAN ENERGY
AUTHORITY, a California joint powers
authority**

Sign: DocuSigned by:
Amrit Singh
A88F4DF02E8F407...

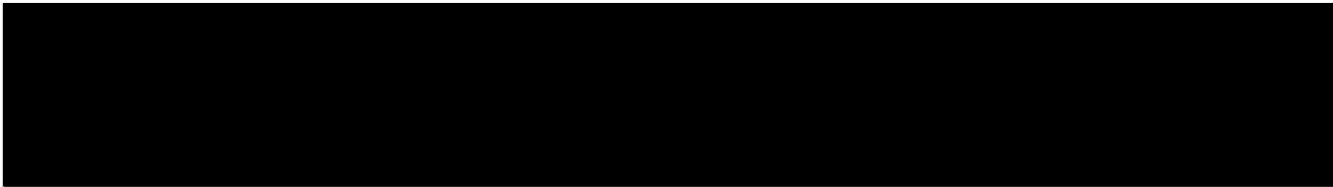
Print: Amrit Singh

Title: CFO and Director of Admin Services

Exhibit A

Renewable Energy Contract Quantity and Price Schedule and Specified Sources

Category 1 Renewable



Unit Name	State	Technology	RPS ID	EIA Code	WREGIS ID
Sagebrush Power Partners, LLC	Washington	Wind	60939A	56858	W1876
Harvest Wind Project	Washington	Wind	60857A	57152	W1306