

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 City of Milpitas joined the Agreement on November 27, 2017. 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 provide clean energy for our communities at a fair price. This includes study, promote, develop, conduct, operate, procure energy resources and related products and services and manage energy and energy-related climate change programs for all residents and businesses within its jurisdiction, 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

NOMINATING COMMITTEE

In December, the Vice Chair may designate three Directors to serve on an Ad-hoc Nominating Committee (“Nominating Committee”) to gather interest in serving as the Board Chair and Vice Chair or on the Executive Committee (“Officers”). Directors seeking to be selected for the positions of Chair, Vice Chair, and Executive Committee will submit their names to the Nominating Committee, along with any supporting documents they choose. The Nominating Committee shall consider qualifications such as meeting attendance, engagement, leadership, city size, geography, professional background and present a recommendation for appointments to the Executive Committee to the Board for consideration. The Nominating Committee shall consider it a best practice to recommend the Board Vice Chair to serve as the Chair of the Executive Committee. Final Nomination Committee recommendation for Chair, Vice Chair and Executive Committee shall be provided to the Board Clerk for consideration at the following January Board meeting. Additionally, nominations for Chair, Vice Chair, and Committees will also be permitted from the floor during the meetings in which those appointments are agendized.

ARTICLE IV

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. In the event of a contested election for the Chair or Vice-Chair, Directors will vote in a randomized order, with randomization performed for each new vote. Minimum Board service shall be two years for Chair, and one year for Vice Chair. 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 or a Committee thereof at any time for any reason by a majority vote of the entire Board or the Committee respectively.

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

- a. For removal from the Board, 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 their 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. For removal from a Committee, absences from three meetings of that Committee in a 12-month period regardless of whether they are excused or consecutive.
- c. For removal from any governing body of the Agency, 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.
- d. For removal from any governing body of the Agency, 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. A simple majority of members of a Committee may remove another member of their Committee for cause (excluding the Director subject to removal).

Following any removal of a Director from the Board, their Alternate, may serve in their place until the governing body of the subject Director appoints a replacement. Following any removal of a Committee member, the Chair will work with the Board Clerk to agendize the appointment of a replacement Committee member by the Board of Directors at a regular or special meeting.

Section 6. Reimbursement of Expenses. Directors may be reimbursed for travel and meeting expenses in the same manner as Authority staff. The Chief Executive Officer (“CEO”) shall be responsible for authorizing all Director reimbursements.

Section 7. Board of Directors Best Practices. The following best practices are provided to support the efficient and effective operation of the Board of Directors and the Authority:

- a. Directors and Alternates treat Authority staff, fellow Directors, and the public with respect and courtesy.
- b. Director and Alternate requests for information or support from the staff are directed to and managed by the CEO.
- c. The CEO will inform the Board Chair of any concerns with a Director’s or Alternate’s actions or requests.
- d. Directors and Alternates are well-prepared for meetings, taking care to review materials and develop a working understanding of the proposals ahead of the meeting. The CEO will be available to support Directors and Alternates with their preparation.
- e. Directors and Alternates communicate as early as possible, ideally two weeks prior to the meeting, regarding attendance at Board meetings. This includes arranging for and supporting the preparation of their Alternates to participate as substitutes and communicating any expected absences or necessary alternative meeting locations (e.g. remote participation) to the Board Clerk.
- f. In appointing Directors and Alternates, member communities are encouraged to appoint their representatives to serve for consecutive years. This will help the Board of Directors retain expertise related to the highly technical nature of the Authority’s work.

ARTICLE V

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. Directors serving as Committee Chairs are expected to attend a high percentage of planned meetings in person.

The Executive Committee members shall be appointed at the annual meeting in January in accordance with Section 2 with all other standing Committee members appointed in February. In the event of a contested election for Committee appointments, Directors will vote in a randomized order, with randomization performed for each new vote. There are no limits on the number of terms that a Director may serve on a Committee. If for any reason, the appointment of standing 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 up to six Board members. The Board Chair and Vice Chair shall be offered membership on the Executive Committee. Minimum Board service prior to serving on the Executive Committee shall be one year, except when there are fewer than five qualified and willing Directors. 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.

Section 3. Finance and Administration Committee. The Board of Directors appoints the Finance and Administration Committee to primarily provide financial oversight for SVCE and recommend to the Board the approval of budgets, financial plans, reserve policies and certain financial, accounting, internal controls and accountability, administrative and information technology related policies and plans, monitoring adherence to the budget, and present financial reports to the Board of Director. Specific task areas will include budgeting and financial planning, financial reporting and the creation and monitoring of internal controls and accounting policies and investments.

The Finance and Administration Committee shall consist of no fewer than three members and no greater than six members, appointed annually by the Board of Directors. Eligible Members shall be Board members, Alternate Board members, and Member Agency Staff. Committee Membership shall prohibit the appointment of Alternate Finance and Administration Committee Members. No more than one eligible Committee Member shall represent their respective

Member Agency. The Finance and Administration Committee shall designate a chairperson. It is a best practice for new Directors to serve on the Finance and Administration Committee.

The Finance and Administration Committee shall meet no fewer than three times per year. The Finance and Administration Committee will be a Brown-Acted meeting.

Section 4. Audit Committee. The Board of Directors appoints the Audit Committee to, among other things, select an independent auditor, oversee and review the accounting and financial reporting process and the audit of the Agency's financial statements by the independent auditor, recommend the results of the audit for approval by the Board of Directors, review the annual report for consistency with the audited financial statements, and monitor compliance with SVCE's Conflict of Interest Code. Each member shall be free of any relationship that, in the opinion of the Board of Directors, would interfere with his or her individual exercise of independent judgement.

The Audit Committee shall consist of no fewer than three members and no greater than six members, appointed annually by the Board of Directors. Eligible Members shall be Board members, Alternate Board members, and Member Agency Staff. Committee Membership shall prohibit the appointment of Alternate Audit Committee Members. No more than one eligible Audit Committee Member shall represent their respective Member Agency. The Audit Committee shall designate the chairperson.

The Audit Committee shall meet as often as it determines necessary or appropriate to fulfill its responsibilities, but no fewer than twice annually – once to review the audit plan and once to review the audited financials, and related documents, and to review the audit engagement, special investigations, financial irregularities and internal control failures. The Audit Committee will be a Brown-Acted meeting.

The Audit Committee is not responsible for planning or conducting audits. The independent auditor is responsible for planning and conducting audits. Neither is the Audit Committee responsible for preparing and presenting SVCE's financial statements in accordance with generally accepted accounting principles; maintaining effective internal control over financial reporting; nor ensuring SVCE is in compliance with applicable laws, regulations, and other requirements. These are responsibilities of the Authority, and the independent auditor and the Audit Committee have independent and complementary oversight responsibilities for determining that the related objectives of management's responsibilities, as described, are achieved.

ARTICLE VI

MEETINGS

Section 1. Regular Meetings. The regular meetings of the Board of Directors of Authority shall be fixed by resolution or ordinance of the Board. In the event that the regular meeting location 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 CEO and Board Clerk 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.). The Authority will follow Rosenberg's Rules of Order for parliamentary procedure.

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 VII

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.