2075 Woodside Road | Redwood City, CA 94061
(650) 260-0005 | peninsulacleanenergy.com

Regular Meeting of the Board of Directors of the Peninsula Clean Energy Authority (PCEA)
AGENDA

Thursday, January 22, 2026
6:30 pm

PLEASE NOTE: This meeting will be held in a hybrid format with both in-person and Zoom participation options for members of the public; Board members shall appear in person.

In-Person Meeting Locations:
PCEA Lobby, **2075 Woodside Road, Redwood City, CA 94061**
Los Banos City Hall, Conference Room A, **520 J Street, Los Banos, CA 93635**

Zoom, **Virtual Meeting Link:** https://pencleanenergy.zoom.us/j/87496649657
Meeting ID: 874-9664-9657 **Passcode:** 2075 **Phone:** +1 (669) 444-9171

This meeting of the Board of Directors will be held at the Peninsula Clean Energy Lobby: 2075 Woodside Road, Redwood City, CA 94061 and Los Banos City Hall, Conference Room A, 520 J Street, Los Banos, CA 93635 and by teleconference pursuant to California Assembly Bill 2449 and the Ralph M. Brown Act, CA Gov't Code. Section 54950, et seq. **Members of the Board are expected to attend the meeting in person** and should reach out to General Counsel for Peninsula Clean Energy, Jennifer Stalzer, with questions or accommodation information (jstalzer@smcgov.org). For information regarding how to participate in the meeting remotely, please refer to the instructions at the end of the agenda. In addition, a video broadcast of the meeting can be viewed at https://www.peninsulacleanenergy.com/meetings-events following the meeting.

Public Participation

The PCEA Board meeting may be accessed through Zoom online at https://pencleanenergy.zoom.us/j/87496649657. The webinar ID is: 874-9664-9657 and the passcode is 2075. The meeting may also be accessed via telephone by dialing +1(669) 444-9171. Enter the webinar ID: 874-9664-9657, then press #. (Find your local number: https://pencleanenergy.zoom.us/u/kTlH1Ocod). Peninsula Clean Energy uses best efforts to ensure audio and visual clarity and connectivity. However, it cannot guarantee the connection quality.

Members of the public can also attend this meeting physically at the **Peninsula Clean Energy Lobby** at 2075 Woodside Road, Redwood City, CA 94061 or **Los Banos City Hall**, Conference Room A, 520 J Street, Los Banos, CA 93635.

Written public comments may be emailed to PCEA Board Clerk, Nelly Wogberg (nwogberg@peninsulacleanenergy.com) and such written comments should indicate the specific agenda item on which the member of the public is commenting.

Spoken public comments will be accepted during the meeting in the Board Room(s) or remotely through Zoom at the option of the speaker. Please use the "Raise Your Hand" function in the Zoom platform, or press *6 if you phoned into the meeting, to indicate that you would like to provide comment.

Please note that Peninsula Clean Energy Board of Directors meetings are a limited public forum, and all public comment must relate to something that is within the subject matter jurisdiction of the Board. If comments do not relate to the subject matter jurisdiction of the Board, we will stop the comment and move on to the next speaker. General Counsel will assist in identifying comments that are not related to the subject matter jurisdiction of the Board.

ADA Requests

Individuals who require special assistance or a disability related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting, should contact Nelly Wogberg, Board Clerk, by 10:00 a.m. on the day before the meeting at (nwogberg@peninsulacleanenergy.com). Notification in advance of the meeting will enable PCEA to make reasonable arrangements to ensure accessibility to this meeting, the materials related to it, and your ability to comment.

Closed Captioning is available for all PCEA Board meetings. While watching the video broadcast in Zoom, please enable captioning.

CALL TO ORDER / ROLL CALL / APPROVE TELECONFERENCE PARTICIPATION UNDER AB 2449

This item is reserved to approve teleconference participation request for this meeting by Director pursuant to Brown Act revisions of AB 2449 due to an emergency circumstance to be briefly described.

PUBLIC COMMENT

This item is reserved for persons wishing to address the Board on any PCEA-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. Members of the public who wish to address the Board are customarily limited to two minutes per speaker. The Board Chair may increase or decrease the time allotted to each speaker.

ACTION TO SET AGENDA AND TO APPROVE CONSENT AGENDA ITEMS

1. Approval of an Amendment to Increase the Comprehensive Agreement with Keyes & Fox LLP by $60,000 for an Amount Not-to-Exceed $411,000 through May 22, 2026

2. Authorize Program Spending in an Amount Not-to-Exceed $750,000 in Customer Incentives with ChargeLink as part of PCE's EV Ready Program

3. Approval of the Establishment of a Purchasing Agent for Peninsula Clean Energy Pursuant to Government Code Section 25500, Delegation of Purchasing Agent Authority to the Chief Executive Officer, and Amendments to Policy 14 to Reflect the Same

4. Approval of the 2026 Legislative and Regulatory Policy Platform

5. Approval of Minutes from the December 18, 2025 Board of Directors Meeting

REGULAR AGENDA

6. Chair Report (Discussion)

7. CEO Report (Discussion)

8. Presentation of PCE's 2026 Agency Goals (Discussion)

9. Approval of two Resolutions Relating to California Community Power (CC Power) that:

A) Directs the Chief Executive Officer to Vote, as a Director on the CC Power Board of Directors, to Approve the Resource Adequacy and TB4 Agreement Between CC Power and GEM A-CAES LLC and any Necessary Ancillary Documents for the Willow Rock Energy Storage Center Project with a Delivery Term of Twenty (20) Years Starting at the Commercial Operation Date on or About December 31, 2030, and; B) Delegates Authority to the Chief Executive Officer to execute the Following Agreements and any Necessary Ancillary Documents, for the Willow Rock Energy Storage Center Project, in an Amount Not-to-Exceed $99 Million: i) Project Participation Share Agreement Between Peninsula Clean Energy Authority, CC Power, and Other Participating Community Choice Aggregators; and ii) Buyer Liability Pass-Through Agreement Between Peninsula Clean Energy Authority, CC Power, and GEM A-CAES LLC (Action)

10. Updates to Peninsula Clean Energy Public Meetings Under Senate Bill 707, Open Meetings: Meeting and Teleconference Requirements, and the Approval of a Resolution Authorizing Teleconferencing for the Board of Directors and Authorizing Remote Participation for Subsidiary Bodies (Action)

11. Approval of Updates to Peninsula Clean Energy's Rates (Action)

12. 2026 Marketing Update Regarding Rebrand and 10-Year Anniversary and Approval of an Agreement with Good Stuff Partners in an Amount Not-to-Exceed $788,950 with a Term Through December 31, 2026 (Action)

13. Board Members' Reports (Discussion)

INFORMATIONAL REPORTS

14. Community Energy Programs Quarterly Report

15. Marketing, Outreach Activities, and Media Relations Quarterly Report

16. January 2026 Legislative Policy Overview

17. Report on California Community Power (CCP) Joint Powers Authority

18. Acronym List

19. Social Media FAQ's

ADJOURNMENT

Public records that relate to any item on the open session agenda are available for public inspection. The records are available at the Peninsula Clean Energy offices or on PCEA Website at: https://www.peninsulacleanenergy.com.

Instructions for Joining a Zoom Meeting via Computer or Phone

Best Practices:

- Please mute your microphone when you are not speaking to minimize audio feedback
- If possible, utilize headphones or ear buds to minimize audio feedback
- If participating via videoconference, audio quality is often better if you use the dial-in option (option 2 below) rather than your computer audio

Options for Joining

- Videoconference with Computer Audio - see Option 1 below
- Videoconference with Phone Call Audio - see Option 2 below
- Calling in via Telephone/Landline - see Option 3 below

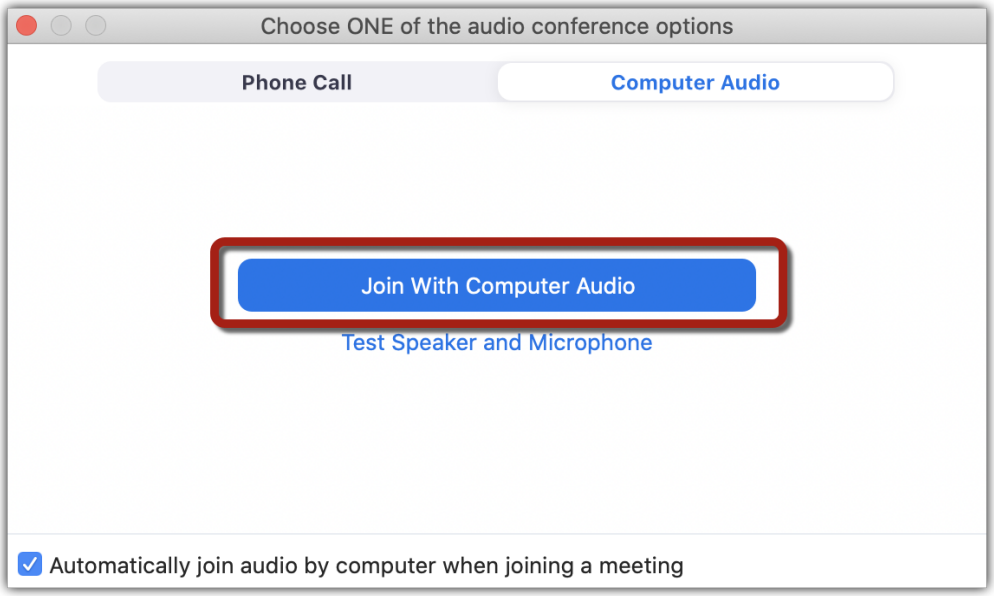
Videoconference Options:

Prior to the meeting, we recommend that you install the Zoom Meetings application on your computer by clicking here https://zoom.us/download.

If you want full capabilities for videoconferencing (audio, video, screensharing) you must download the Zoom application.

Option 1 Videoconference with Computer Audio:

- From your computer, click on the following link that is also included in the meeting calendar invitation: https://pencleanenergy.zoom.us/j/87496649657
- The Zoom application will open on its own or you will be instructed to open Zoom.
- After the application opens, the pop-up screen below will appear asking you to choose ONE of the audio conference options. Click on the Computer Audio option at the top of the pop-up screen.

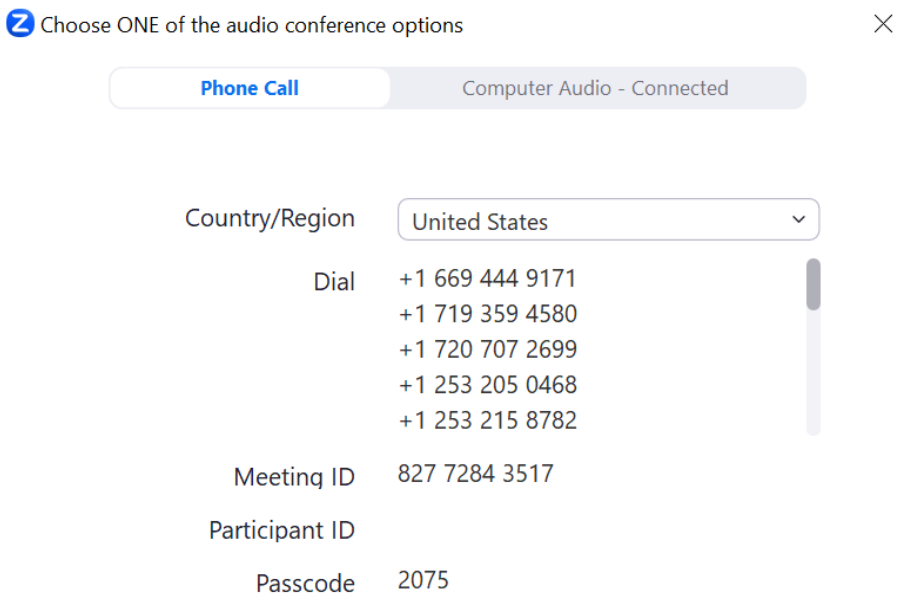


- Click the blue, "Join with Computer Audio" button.
- In order to enable video, click on "Start Video" in the bottom left-hand corner of the screen. This menu bar is also where you can mute/unmute your audio.

Option 2 Videoconference with Phone Call Audio

- From your computer, click on the following link that is also included in the meeting calendar invitation: https://pencleanenergy.zoom.us/j/87496649657
- The Zoom Application will open on its own or you will be instructed to Open Zoom.

- After the application opens, the pop-up screen below will appear asking you to choose ONE of the audio conference options. Click on the Phone Call option at the top of the pop-up screen.



- Please dial +1 (669) 444-9171.
- You will be instructed to enter the meeting ID: **874-9664-9657 followed by #**.
- You will be instructed to enter in your participant ID. Your participant ID is unique to you and is what connects your phone number to your Zoom account.
- After a few seconds, your phone audio should be connected to the Zoom application on your computer.
- In order to enable video, click on "Start Video" in the bottom left-hand corner of the screen. This menu bar is also where you can mute/unmute your audio.

Audio Only Options:

Please note that if you call in/use the audio only option, you will not be able to see the speakers or any presentation materials in real time.

Option 3: Calling in via Telephone/Landline:

- Please dial +1 (669) 444-9171.
- You will be instructed to enter the meeting ID: **874-9664-9657 followed by #**.
- You will be instructed to enter your **Participant ID** followed by #. If you do not have a participant ID or do not know it, you can press # to stay on the line.
- You will be instructed to enter the meeting passcode **2075 followed by #.**

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: December 12, 2023
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Jeremy Waen, Senior Director of Regulatory Policy

SUBJECT: Approval of an Amendment to Increase the Comprehensive Agreement with Keyes & Fox LLP by $60,000 for an Amount Not-to-Exceed $411,000 through May 22, 2026

RECOMMENDATION

Approval of amendment to increase the Comprehensive Agreement with Keyes & Fox by $61,000 for a a total amount not-to-exceed $411,000 through May 22, 2026.

BACKGROUND

Since 2016, PCE has worked with Keyes & Fox, a Bay Area law firm that specializes in energy-related matters and has experience in the CCA and utility industry. Keyes & Fox currently provides PCE with legal support for the Regulatory, Programs, and Innovation Strategy teams, all governed under a single comprehensive agreement adopted by the Board on May 22, 2025, with an not-to-exceed (NTE) amount of $351,000 for ongoing legal services through May 22, 2026.

DISCUSSION

Staff seeks to amend the Keyes & Fox agreement to further increase the NTE by $60,000 to a total of $411,000 for the remainder of the originally contemplated term through May 22, 2026. The additional requested funds would be allotted to Regulatory Matters (Task 1). These funds are necessary for continued legal support of PCE's application to the CPUC to administer ratepayer funds to operate a multi-year portfolio of energy efficiency programs within PCE's service area. Keyes & Fox continues to provide vital support to both the preparation of this application and the consideration of ongoing regulations that may impact the scope and nature of this application.

FISCAL IMPACT

Additional legal services spend in FY 2026 of up to $60,000.

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

APPROVAL OF AN AMENDMENT TO INCREASE THE COMPREHENSIVE AGREEMENT WITH KEYES & FOX LLP BY $60,000 FOR AN AMOUNT NOT-TO-EXCEED $411,000 THROUGH MAY 22, 2026

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, and the City of Los Banos, State of California ("Peninsula Clean Energy" or "PCE"), that

WHEREAS, PCE's Regulatory, Programs, and Innovation Strategy teams require specialized legal assistance from Keyes and Fox LLP; and

WHEREAS, PCE has entered into a Comprehensive Legal Services Agreement with Keyes and Fox LLP in the amount of $351,000 for the Term of May 22, 2025, through May 22, 2026, for Regulatory Matters (Task 1), GovPV/Local Government Solar, Storage & Electrification (Task 2), and Advanced Energy Initiatives (Task 3); and

WHEREAS, staff requests $60,000 in additional requested funds to be allotted to Regulatory Matters (Task 1) in support of PCE's application to the CPUC to administer ratepayer funds to operate a multi-year portfolio of energy efficiency programs within PCE's service area; and

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board delegates to the Chief Executive Officer authority to amend the Comprehensive Legal Services Agreement with Keyes and Fox, LLP in the amount of $60,000 in a form approved by the General Counsel for a total not to exceed amount of $411,000 for the term of May 22, 2025 to May 22, 2026.

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PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 12, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Melanie Jasper, Associate Programs Manager, Transportation

SUBJECT: Authorize Program Spending in an Amount Not-to-Exceed $750,000 in Customer Incentives with ChargeLink as part of PCE's EV Ready Program

RECOMMENDATION

Authorize program spending in an amount not to exceed $750,000 in total customer incentives with ChargeLink, as part of the EV Ready program, to install EV charging infrastructure in San Mateo County.

BACKGROUND

In December 2018, the Board approved PCE's EV charging infrastructure program intended to accelerate EV adoption in San Mateo County. The program, later named the "EV Ready Program," provides incentives and no-cost technical assistance to eligible property types, which include: 1) affordable housing, 2) multi-unit dwellings (such as apartments and condominiums), 3) employee charging, including fleet, and 4) all publicly accessible, non-residential locations. The program provides incentives for several different EV charging types, as part of the programs "right-sizing" strategy to install cost-effective charging options, depending on the use case. These incentivized charging options include: 1) Level 1 or Level 2 outlets, 2) Level 2 EV charging stations, 3) make-ready parking spaces, to encourage future-proofing, and 4) panel updates for multi-family property sites. These incentives range from $1,000 to $5,500 per charger, depending on property type, retrofit vs. new build projects, and charging type.

Customers apply for EV Ready incentives online and applications are reviewed and approved by Peninsula Clean Energy staff. Once approved, a Fund Reservation Agreement, which outlines the EV Ready Program standards and requirements, is executed using digital signatures by the customer and the Peninsula Clean Energy CEO or, if under $250,000, the COO. Fund Reservation Agreements are presented to the Board of Directors prior to execution by PCE's CEO when cumulative spending exceeds $250,000 in a fiscal year for a single customer.

Additionally, EV Ready program guidelines allow project developers to act as a 'designated applicant' to manage the incentive process on behalf of property owners who are installing

chargers in the EV Ready program.

ChargeLink serves as a project developer and has been a PCE program partner since 2023. Chargelink is responsible for installing over 60 charging ports in the PCE EV Ready program thus far. The Discussion section below provides further detail on the requested approvals by the Board for EV Ready Fund Reservation Agreements with ChargeLink, including delegation of approval to the CEO for additional Agreements expected this fiscal year.

DISCUSSION

Peninsula Clean Energy has received several EV Ready program funding applications from ChargeLink this fiscal year, in excess $250,000 in cumulative value for FY26, and we expect additional applications by the end of this fiscal year. Five applications from ChargeLink have already been received in FY 2026 for a total of $354,000 in customer incentives and are included for the Board's review and approval. These agreements are listed in the table below.

Because Peninsula Clean Energy staff expects additional applications from ChargeLink this fiscal year, staff is seeking Board authorization in an amount not to exceed $750,000 in cumulative contract spending with ChargeLink for the remainder of FY 26. This additional request will allow the CEO to quickly execute Fund Reservation Agreements with ChargeLink without the need to return to the Board for individual approval as these future applications are submitted. Should Peninsula Clean Energy receive additional EV Ready applications from ChargeLink that exceed $750,000 in cumulative contract value for FY 26, staff will return to the Board for additional spending authorization.

Fund Reservation Agreements Received in FY 26 by ChargeLink:

Project	**Total Requested Funds**	**Total Charging Ports**
ChargeLink - 8425 Cabrillo Hwy.	$50,000	10
ChargeLink - 1113 Airport Blvd.	$100,000	20
ChargeLink - 851 Burlway Rd.	$120,000	30
ChargeLink - 1690 Broadway	$50,000	13
ChargeLink - 730 Polhemus Rd.	$34,000	8
Total	**$354,000**	**81**

Following approval by the Board of Directors, these projects' Fund Reservation Agreements will be executed by PCE's CEO and the customers will proceed to install their EV charging infrastructure and file for reimbursement upon completion in the future, subject to the EV Ready program standards and requirements. Additional applications from ChargeLink beyond these initial 5 applications will also be subject to EV Ready program standards and requirements.

FISCAL IMPACT

Funding for this project is included in the Board-approved EV Ready Program for fiscal year 2026.

STRATEGIC PLAN

NA

ATTACHMENTS:
2026.01.22 BOD Programs - EVRP_FundReservationAgmt_Chargelink v2.docx

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

AUTHORIZE PROGRAM SPENDING IN AN AMOUNT NOT-TO-EXCEED $750,000 IN CUSTOMER INCENTIVES WITH CHARGELINK AS PART OF PCE'S EV READY PROGRAM

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, State of California, that

WHEREAS, Peninsula Clean Energy was formed on February 29, 2016; and

WHEREAS, expanding access to charging in increases adoption of electric vehicles to reduce greenhouse gasses is part of Peninsula Clean Energy's program roadmap approved by the Board; and

WHEREAS, in December 2018, the Peninsula Clean Energy Board of Directors approved the EV charging infrastructure program, which came to be called the "EV Ready" program; and

WHEREAS, eligible applicants are approved for EV Ready program incentives, subject to the EV Ready Program Standards & Requirements; and

WHEREAS, approved applicants in the EV Ready program are required to execute a Fund Reservation Agreement to secure their financial incentives; and

WHEREAS, per Peninsula Clean Energy policy, Agreements valued at or above $250,000 in cumulative spending per fiscal year require approval by the Peninsula Clean Energy Board of Directors; and

WHEREAS, multiple EV Ready incentive applications were received by Peninsula Clean Energy recently from ChargeLink, a EV charging developer whose total incentive value will exceed $250,000 in cumulative contract value this fiscal year; and

WHEREAS, staff expect additional EV Ready incentive applications for additional projects from ChargeLink for fiscal year 26; and

WHEREAS, the Board wishes to delegate to the Chief Executive Officer authority to finalize and execute multiple Fund Reservation Agreements received in the EV Ready program to provide incentives; and

WHEREAS, the Board wishes to delegate approval to the Chief Executive Officer authority to finalize and execute additional Fund Reservation Agreements received in the EV Ready

program by ChargeLink for fiscal year 2026 in a total amount not to exceed $750,000, inclusive of Fund Reservation Agreements already received in fiscal year 2026.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board delegates authority to the Chief Executive Officer to finalize and execute Fund Reservation Agreements in the EV Ready program with ChargeLink to provide incentives for a total not to exceed $750,000 for fiscal year 2026, and in a form approved by the General Counsel.

Peninsula Clean Energy
Electric Vehicle Ready Program
Fund Reservation Agreement

Applicant First Name	Anatoly
Applicant Last Name	Corp
Title	CEO
Organization	ChargeLink
Email	(Redacted)
Phone Number	(Redacted)
Proposed Site Address	(Various)
City	(Various)
Zip Code	(Various)
Service Agreement ID	(Various)
Project ID	(Various)

EV Charging Infrastructure Project Description:

Project Type	Various Publicly Accessible Non-Residential Locations

	Level 1 Outlets	Level 2 Outlets	Level 2 Charge Ports	Make Ready Ports
Submitted # Ports	0	0	64	17
Reserved Funds	$0	$0	$320,000	$34,000

Panel Upgrade	$0

Total Reserved Funds	$354,000
Notes	

Peninsula Clean Energy Authority ("PCEA") cannot guarantee rebate funds beyond what was reserved nor can rebate funds exceed 100% of the total project costs. Final projects with less ports than projected will only receive rebates for installed ports, up to the amount reserved.

By signing below, the site owner ("Site Owner") or, if the property is owned by a commercial or corporate entity, the representative of the ownership entity ("Owner Representative") agrees to the "Electric Vehicle (EV) Ready Program" ("Program") Terms & Conditions. If neither Site Owner nor Owner Representative executes the Agreement, the applicant ("Applicant") certifies that a

Designated Applicant Assignment form was completed and submitted to PCEA to verify that the Site Owner or Owner Representative has designated the applicant ("Designated Applicant") authority to represent the Site Owner in the Program and execute all legal agreements as required by the Program.

The undersigned here is the: ☐ Site Owner or Owner Representative OR ☐ Designated Applicant

[DocuSign]

Applicant Signature Date

Peninsula Clean Energy Representative Signature Title Date

Peninsula Clean Energy EV Ready Program Terms and Conditions

1. **ELIGIBILITY**: Peninsula Clean Energy Authority offers a rebate to eligible PCEA customers or their designees (Applicant) installing EV Charging Infrastructure through the EV Ready Program. Applicants eligible to receive rebates under the Program must (1) abide by the terms and conditions listed herein; (2) have the EV charging port(s) metered through a PCEA account number; (3) comply with Program Standards and Requirements ("Program Requirements") in Appendix A; (4) provide PCEA with Required Installation Verification Documents as specified in the Program Requirements upon completion of the project.

2. **REBATE RESERVATION TERM AND AMOUNT**: The amounts of the rebates for which qualifying projects are eligible are outlined in Program Requirements. Rebate funds are reserved upon execution of this Agreement up to the maximum amount identified in the Program Requirements based on the "EV Charging Infrastructure Project Description" (hereinafter, the Project, *see* page 1 above). The funds are reserved according to the Fund Reservation Period timelines outlined in the Program Requirements and any modifications to the timelines are at the discretion of PCEA. Rebates will be paid to eligible Rebate Recipient once installation is verified as complete by PCEA. The final amount of the rebates will be the actual eligible costs of verified EV Charging Infrastructure installed or the maximum amount reserved, whichever is less.

3. **DISCRETION ON VERIFICATION**: Determinations regarding verification pursuant to paragraph (1) and paragraph (2) of these Terms and Conditions, shall be determined at PCEA's complete and exclusive discretion.

4. **REBATE RECIPIENT**: The Applicant may direct the rebate funds to any Rebate Recipient, who is a single vendor or service provider incurring costs for the Project up to the amount of documented costs incurred by that Rebate Recipient. The Rebate Recipient shall be identified in the Installation Verification Form submitted upon project completion to request disbursement of the rebate.

5. **NO GUARANTEES**: PCEA makes no guarantee, representations or warranties, expressed or implied, regarding the implementation or use of EV Charging Infrastructure and equipment purchased or installed pursuant to this PCEA Program. Customer is solely responsible for any liability, legal or otherwise, arising from the installation, operation, and maintenance of its selected EV Charging Infrastructure.

6. **EVSE PACKAGE:** Upon approval of the Funds Reservation Agreement by PCEA, customer shall install, operate and maintain the number and type of the EVSE unit(s) (defined in Program Requirements), associated equipment, and signage as selected by Customer and approved by PCEA. Customer acknowledges that:

7. **ADDITIONAL SERVICES FROM ELECTRIC VEHICLE SERVICE PROVIDER (EVSP):** Separate and apart from the Funds Reservation Agreement and PCEA's obligations under the Program, the EVSP may offer and contract directly with the Customer to provide any additional or complementary services, as long as these services do not interfere with the objectives of the Program. PCEA is not responsible for the costs of additional EVSP services or any cost related to operations

and maintenance of any additional EVSP services.

8. **INSTALLATION OF EV CHARGING INFRASTRUCTURE:** Customer is responsible for covering all upfront costs of the installation of the EV Charging Infrastructure. Upon completion of installation of the EV Charging Infrastructure, Site Owner understands it is responsible for the operation and maintenance of the EV charging port(s) installed.

9. **CONTRACTOR REQUIREMENTS**: All work performed on projects under this agreement shall be done by contractors who hold a valid California C-10 license. PCEA reserves the right to amend and change contractor requirements at any point during the program.

10. **EV DRIVERS RIGHT TO ACCESS:** Customer may limit the availability of the EV Charging Infrastructure to its employees or tenants. Under the Program, Customer may elect to make the EV Charging Infrastructure available for use by the general public. Customer shall not restrict access to use of the EV Charging Infrastructure for reasons including, but not limited to, race, color, religion, age, sex, national origin, ancestry, physical or mental disability, or any basis prohibited by applicable law.

11. **APPLICABLE LAWS**: Customer is solely responsible for ensuring that the EV Charging Infrastructure is installed and operated in compliance with all applicable local, state, and federal laws.

12. **EV CHARGING PORT(S) OPERATION AND MAINTENANCE:** Customer will pay all ongoing costs associated with the EV Charging Infrastructure. Customer shall maintain a consistent uptime for the EV Charging Port(s) installed. Customer shall maintain the common area immediately surrounding the EV Charging Infrastructure in good condition, ordinary wear and tear accepted, and will promptly notify PCEA of any problems it is aware of related to the EV Charging Infrastructure. Such maintenance by Customer of the immediately surrounding common areas shall include, but not be limited to, pavement maintenance. Customer shall promptly notify PCEA if Customer will no longer maintain the installed EV Charging Infrastructure and/or the installed EV Charging Infrastructure is being removed from Customer's site. Uninterrupted service is not guaranteed, and Pacific Gas & Electric (PG&E) may interrupt service and access to the EV Charging Infrastructure when necessary to ensure safety or to perform maintenance as dictated by utility easement agreements and requirements.

13. **PERMISSION TO USE DATA:** For all EV Charging Infrastructure installed that are capable of collecting and reporting usage and utilization data, Site Owner agrees to allow PCEA and its authorized Contractors to access, collect, use, and report EV Charging Infrastructure usage and utilization data gathered as a part of the Program for use in regulatory reporting, ordinary business use, industry forums, case studies, or other similar activities, in accordance with applicable laws and regulations. PCEA and its authorized Contractors shall have access to the EV Charging Infrastructure usage and utilization data indefinitely and in accordance with all applicable laws, including but not limited to PCEA privacy guidelines and relevant regulatory decisions.

14. **DEMAND RESPONSE and LOAD SHAPING PROGRAMS:** Customer agrees that PCEA may, at its discretion enroll all networked EV charging port(s) units installed under the Program in any future demand response, grid optimization, and/ or load shaping programs implemented by PCEA. Future load shaping program will, by design, not incur any additional costs or expenses to Customer. The load shaping program will aim to curtail energy usage for each charging port during a predefined period established by PCEA. These curtailments will be designed to minimally impact EV drivers that are charging during these times whenever possible. Customers will be provided an appropriate mechanism to opt-out before the program is implemented.

15. **TAX LIABILITY and CREDITS**: PCEA is not responsible for any taxes which may be imposed on Customer as a result of the rebates provided within the Program. Site Owners receiving incentives from either the Program and/or other regional organizations, including, but not limited to, the Bay Area Air Quality Management District, that have been facilitated through assistance from PCEA are required to designate their Low Carbon Fuel Standard (LCFS) credits to PCEA. Customer attests they are releasing their rights to report and claim credits in the LCFS and are designating credits in the LCFS to PCEA (FEIN 81-2708786) on an ongoing basis. Customer will inform third-party entities when necessary, including CARB, that the LCFS credits generated by their installed EVSE are designated to PCEA on an ongoing basis. Customer will provide the EVSE usage and electricity data to PCEA for LCFS reporting pursuant to CARB sections 95483.2(b)(8), 95491 and 95491.1. Customer will provide PCEA with ongoing access to EV charging data through the use of a login to the online account and/or an application program interface (API), a dashboard with exportable data files, or other means to access the charging data.

16. **DISPUTES**: Except where otherwise limited by law, PCEA reserves the right, at its sole discretion, to make final determinations regarding any disputed issues about the Program, including but not limited to eligibility and rebate amounts. In the event of a dispute that cannot be remedied by the parties, any court filings and/or proceedings shall be venued in San Mateo County, California. PCEA shall in no case be responsible for the legal costs of Site Owner and/or Designated Applicant.

17. **PROGRAM CHANGES**: PCEA reserves the right to change, modify, or terminate the Program at any time without any liability except as expressly stated herein. PCEA will honor all written commitments made in the Funds Reservation Agreement provided to Customers prior to the date of any change, modification or termination of this program, provided that project installations are fully completed within the timeframe specified within the Program Requirements.

18. **PROGRAM EXPIRATION:** The Program will expire upon the earliest to occur: (i) when funds are depleted or (ii) when the program is terminated by PCEA.

19. **INDEMNIFICATION:** Applicant agrees to indemnify, defend, and hold PCEA, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Customer's negligence, recklessness or willful misconduct while participating in the PCEA Program.

20. **ACKNOWLEDGEMENTS:** Customer shall acknowledge PCEA as a funding source of the installed EV Charging Infrastructure each time Customer's activities related to the EV Charging Infrastructure are published in any news media, press release, brochures, or other type of public communication or promotional material. The acknowledgement of PCEA's support as a funding source, whether in whole or in part, shall include language such as: "Funding for [Customer Site Name]'s charging station(s) provided by Peninsula Clean Energy." If Customer is receiving funding from multiple organizations, Customer may use one statement conforming to the format listed above and include all organizations from which funding is received. PCEA also reserves the right to install stickers, signage, or other advertisement mechanism on the EV charging port(s) funded or facilitated by PCEA.

21. **CUSTOMER DISCLOSURE AUTHORIZATION:** By signing the Funds Reservation Agreement, Applicant confirms they are the authorized representative for the electric account holder identified in the Funds Reservation Agreement and authorized PCEA to disclose Customer's account status and participation in the PCEA Program. If Applicant is not the authorized representative for the electric account holder identified in the Funds Reservation Agreement, the Applicant certifies that they have submitted a Third Party Designated Applicant Assignment Form to verify that the Site Owner has delegated authority to the Applicant to represent the Site Owner and execute the Funds Reservation Agreement.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Executive Committee

FROM: Jennifer Stalzer, General Counsel

SUBJECT: Approval of the Establishment of a Purchasing Agent for Peninsula Clean Energy Pursuant to Government Code Section 25500, Delegation of Purchasing Agent Authority to the Chief Executive Officer, and Amendments to Policy 14 to Reflect the Same

RECOMMENDATION

Establishment of a Purchasing Agent for Peninsula Clean Energy pursuant to Government Code Section 25500, delegation of Purchasing Agent Authority to the CEO, and as authorization of amendments to Policy 14 by the General Counsel to reflect the same.

BACKGROUND

Designation of a Purchasing Agent pursuant to California Government Code Section 22550 is an administrative action aligning PCE's current procurement limits with the Government Code procurement designations as stated in Policy 14 (Non-Energy Agreement Signatory and Delegation Policy). This designation maintains the Purchasing Agent/CEO's signing authority and their ability to enter into agreements not to exceed $250,000 in a fiscal year. This item does not recommend an increase procurement limits or procurement authority but aligns internal titles, existing spending authority policy, and the Government Code.

DISCUSSION

PCE's procurement authority is tied to the County of San Mateo by the Joint Powers Agreement section 2.5. Pursuant to the California Government Code, the Board of Directors can designate a purchasing agent to enter into contracts for the purchase of materials, supplies, equipment, and other personal property; for the rent of office furnishings and equipment; or for services and public works projects. *See* Cal. Gov't Code Section 22550. The County of San Mateo also designates a Purchasing Agent under the Chief Executive's Office (Procurement).

PCE's CEO has been effectively fulfilling this role. The requested Purchasing Agent designation is administrative in nature and allows for Peninsula Clean Energy's Purchasing Agent to execute contacts within the fiscal limits ($250,000) already established by the Board and as currently stated in Policy 14. Further, as PCE grows, the Board of Directors may

choose to employ additional purchasing agents, such as a Chief Operating Officer. The establishment of the Purchasing Agent, and accompanying housekeeping amendments to Policy 14, will simplify future revisions to and designations of purchasing agents.

The recommended amendment to Policy 14 reflects the establishment of the Purchasing Agent and the designation of the CEO as the Purchasing Agent. Policy 14 shall also be amended to reflect that the Chief Operating Officer and Chief Financial Officer are designated as alternative signatories to the CEO for agreements not to exceed $250,000 ***only in the absence of the CEO and at the CEO's direction (proposed additions to Policy 14, section 4.1 are bolded and in italics):***

4. Policy Details

4.1 ***The Chief Executive Officer acts as the Purchasing Agent pursuant to Government Code Section 22550. The Purchasing Agent*** *may approve and enter into any contract agreement if the total amount payable under the agreement is less than $250,000 in any fiscal year, as stated in the PCE Joint Powers Agreement, section 3.4, except for the specific approval authority granted in PCE Operating Rules and Regulations Policy 15 "Energy Supply Procurement Authority",* ***[,]*** *and the approval amount is included in the Board-approved budget for the current fiscal year.* ***In the event of the CEO's absence or unavailability, t*** *he Chief Executive Officer* ***may delegate signing authority under this paragraph to the Chief Operating Officer (COO) or the Chief Financial Officer (CFO).***

Additional minor clean-up edits will be made to Policy 14 reflecting the addition of the position of Purchasing Agent. No edits will be made to the fiscal authority of any position within PCE. All contracts in excess of $250,000 in any fiscal year, except those specifically authorized by Policy 15 "Energy Supply Procurement Authority", and/or Policy 14, shall be brought to the Board for review and authorization.

This item was reviewed and unanimously approved by the Executive Committee on January 12, 2026.

FISCAL IMPACT

None.

STRATEGIC PLAN

Organizational Excellence & Effectiveness. This revision to Policy 14 improves PCE's operations and performance in key areas; specifically, the revisions clarify and optimize its procurement and legal policies.

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

APPROVAL OF THE ESTABLISHMENT OF A PURCHASING AGENT FOR PENINSULA CLEAN ENERGY PURSUANT TO GOVERNMENT CODE SECTION 25500, DELEGATION OF PURCHASING AGENT AUTHORITY TO THE CHIEF EXECUTIVE OFFICER, AND AMENDMENTS TO POLICY 14 TO REFLECT THE SAME

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, and the city of Los Banos, State of California ("Peninsula Clean Energy" or "PCE"), that

WHEREAS, Peninsula Clean Energy (PCE) is a joint powers authority established on February 29, 2016, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, Government Code Section 25500 et seq. defines the role of a purchasing agent, and authorizes the governing body of a county to employ a purchasing agent to enter into certain transactions; and

WHEREAS, the Board of Directors of PCE is therefore permitted to appoint a purchasing agent for the same purposes; and

WHEREAS, the Board of Directors desires to appoint a purchasing agent for PCE; and

WHEREAS, the Board of Directors delegates the title of purchasing agent to the Chief Executive Officer; and

WHEREAS, the Board of Directors, by designating a purchasing agent and delegating certain contracting authority to the designated purchasing agent as described herein, shall not be divested of any such authority, but shall retain and may exercise such authority at such times as it may deem necessary and proper, at its sole discretion; and

WHEREAS, the Board of Directors shall retain contracting authority over all contracts required by law to be approved by the Board, including but not limited to any contracts to borrow money or otherwise incur debt;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors establishes a Purchasing Agent pursuant to Government Code Section 25500 et seq., hereby designates the Chief Executive Officer as purchasing agent for PCE, and permits General Counsel to make edits to Policy 14 to reflect the authorized changes.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 8, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Mike Mielke, Sr. Mgr Legislative Policy

SUBJECT: Approval of the 2026 Legislative and Regulatory Policy Platform

RECOMMENDATION

Approve PCE's 2026 Regulatory and Legislative Policy Platform

BACKGROUND

Since 2016, the Peninsula Clean Energy Board of Directors has adopted a Legislative and Regulatory Policy Platform (Policy 1) that provides direction to the organization on policy matters and enables the Board and staff to take expedient action in support of, or opposition to, legislation, regulation, or other policy initiatives related to Peninsula Clean Energy's mission and operations. The nature of the legislative, regulatory, and policy environment frequently requires the ability to react quickly and nimbly to an onslaught of proposed changes.

The Policy Platform provides staff with a clearly defined scope in which to operate and respond.

Policy 1 authorizes the CEO to take action within the scope of the Policy Platform. These actions are then reported to the Board of Directors at its next meeting. In late 2023, Peninsula Clean Energy staff undertook an extensive examination of all California CCAs' policy platforms. It was determined that PCE's platform was among the most extensive and encompassing in the State. In the fall of 2025 and winter of 2026, as it does every year, the Regulatory and Government Affairs teams solicited input from PCE department heads for suggested modifications to PCE's Policy Platform.

Staff-recommended modifications were then shared with the members of PCE's Legislative Committee. Committee membership currently includes Directors Donna Colson, Leslie Ragsdale, Marty Medina, Anders Fung, Stacy Jimenez and former Peninsula Clean Energy Directors Pradeep Gupta and John Keener in advisory roles. Earlier this month, the Legislative Committee met and discussed updates to PCE's Policy Platform. The modifications to the Policy Platform as presented to the Board of Directors for adoption reflect the recommendations of staff and Legislative Committee.

DISCUSSION

A number of changes are proposed for PCE's 2026 Legislative and Regulatory Policy Platform.

An attached document in the Board packet summarizes the key substantive changes proposed in the 2026 Policy Platform compared to the Board adopted 2025 Policy Platform. Updates were designed to improve clarity, reflect evolving market and policy conditions, and best position PCE for the 2026 legislative and regulatory sessions.

ATTACHMENTS:

2025 PCE Policy Platform.pdf
2026 DRAFT PCE Policy Platform -- Clean.docx
2026 DRAFT PCE Policy Platform -- Redlines and Comments Included.docx
Jan 2026 PCE Board Memo -- Policy Platform Update.docx

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

APPROVAL OF THE 2026 LEGISLATIVE AND REGULATORY POLICY PLATFORM

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, and the City of Los Banos, State of California ("Peninsula Clean Energy" or "PCE") that

WHEREAS, Peninsula Clean Energy was formed on February 29, 2016; and

WHEREAS, the PCE Legislative and Regulatory Policy Platform is updated on a yearly basis to remain current with key issues and matters before the CA Legislature, CA Public Utilities Commission, CA Energy Commission, and other governing bodies;

WHEREAS, the resulting 2026 modifications to the Legislative and Regulatory Policy Platform reflect the review and concurrence of PCE's staff and Legislative Committee.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED, that the PCE Board approves the 2026 Legislative and Regulatory Policy Platform.

PENINSULA CLEAN ENERGY

Related to Policy Number: 1
Board Adoption Date: February 27, 2025

Peninsula Clean Energy Authority 2025 Policy Platform

Overview and Purpose

Peninsula Clean Energy Authority's Policy Platform (Platform) serves as a guide to the Peninsula Clean Energy Board of Directors (Board) and Peninsula Clean Energy Staff (Staff) in their advocacy efforts and engagement on policy matters of interest to Peninsula Clean Energy.

The Platform provides a framework and guidance that allows both Board members and Staff to pursue and engage in legislative, regulatory, and administrative actions at the local, regional, state, and federal levels in a consistent manner and with the understanding that they are pursuing and engaging in actions in the best interest of Peninsula Clean Energy and its mission, its member agencies, and its customers.

The Platform also enables Peninsula Clean Energy to move swiftly to raise and respond to issues before the federal and state Legislative and Executive Branch agencies including the California Public Utilities Commission, the California Energy Commission, California Independent System Operator, and the California Air Resources Board so that Peninsula Clean Energy's views can be heard on important matters in a timely fashion.

The Platform also provides guidance to Peninsula Clean Energy's Chief Executive Officer on support or oppose positions that should be taken on legislative matters identified by the Staff regulatory lead, the Staff legislative lead, and the California Community Choice Association (CalCCA) Board of Directors.

The Platform will be reviewed and updated annually and presented to the Board for consideration at a Board meeting held during the first quarter of the calendar year.

I. Governance and Authority

a. Support policies that make it easier for cities and counties to form a CCA, become members of Peninsula Clean Energy or other CCAs, and oppose policies that restrict that ability.
b. Support policies that level the playing field and improve access of CCAs within state programs, including permitting CCAs to elect to administer funding overseen by state agencies.
c. Support policies that encourage and expand public access to Peninsula Clean Energy meetings and enhance the attendance and participation of Peninsula Clean Energy's Directors at Peninsula Clean Energy meetings.
d. Oppose policies that limit the local decision-making authority for Community Choice Aggregators (CCAs), including rate-setting authority and procurement of energy and capacity to serve their customers.

e. Oppose policies that limit Peninsula Clean Energy's ability to effectively serve its customers.

II. Decarbonization

a. Advocate for and support policy efforts to accelerate decarbonization of the energy sector, transportation, and the built environment.
b. Advocate for and support the abolishment of ratepayer or taxpayer funded subsidies for fossil fuel production, distribution, equipment installation, and usage and oppose marginally greening fossil fuel supplies such as adding hydrogen in the methane gas system or investment in hydrogen for light duty vehicles.
c. Advocate for and support policies to support and expand access to transportation electrification and building electrification, including funding for said electrification.
d. Support policies that incorporate the social costs of carbon.
e. Advocate for and support efforts to ensure flexibility in state and IOU program design so that local data and local needs directly inform program offerings.
f. Advocate for and support legislative and regulatory efforts to provide incentives, including financial support, that enable and support underserved communities in achieving decarbonization.
g. Support and advocate for policies to expand affordable customer financing options, such as tariff on-bill financing and credit enhancements, that promote the decarbonization and electrification of buildings. Support efforts to improve, streamline, expedite, and provide more cost-efficient electrical capacity upgrades for customers electrifying building and transportation uses.

III. IOU Charges and Exit Fees (Power Charge Indifference Adjustment (PCIA))

a. Support efforts to ensure energy affordability and equity in customer rates, including containment of transmission and distribution rate increases and other added fees.
b. Support efforts that seek to eliminate exit fees including the PCIA or wind down exit fees within a reasonable time frame.
c. Support efforts to minimize the cost of the PCIA generally and minimize its impact on Peninsula Clean Energy's rates.
d. Support efforts, including CalCCA's efforts, to increase the transparency of IOU electricity contracts that provide the basis for PCIA charges.
e. Support policies that would bring stability to the PCIA and/or provide new mechanisms for CCAs to securitize PCIA charges.
f. Advocate for policies that do not penalize ratepayers for taking service from a CCA over another load-serving entity (LSE).
g. Oppose policies that would increase or expand exit fees and regressive fees on CCA customers.

IV. Power Procurement & Grid Reliability

a. Support reform of the CPUC resource adequacy program to allow for stability in the resource adequacy value of existing resources.

b. Support policies that advance and accelerate the delivery of carbon free and renewable energy on a 24/7 basis.
c. Support policies that value the resource adequacy contribution of solar, wind and storage resources.
d. Advocate for and support efforts to remove barriers to demand response, microgrids and behind the meter resources to provide Resource Adequacy.
e. Support policies that help proliferate Long Duration Energy Storage, including adequate planning for variation in weather patterns.
f. Oppose policies that would supplant or reduce CCAs' procurement authority.
g. Oppose unreasonable fixed charges and support measures that make solar affordable and decrease customer bills.

V. Environmental Justice & Affordability

a. Support rate designs and other policies that lower customer costs and improve the economics of decarbonization.
b. Support policies that improve the ability of underserved communities in the Peninsula Clean Energy service territory to have affordable, reliable, and clean energy.
c. Support policies that strengthen the resilience of vulnerable communities to the impacts of climate change.
d. Support policies that enable all communities, including emerging and historically marginalized communities in California, to participate in and benefit from decarbonization efforts.

VI. Community Resilience

a. Advocate for and support funding for programs implemented by CCAs and their member jurisdictions to increase community resilience to wildfires, PSPS events, other potential service disruptions, and climate change impacts.
b. Support policies that reduce barriers to microgrid development by CCAs.
c. Support policies that increase development of community-level resources and distributed energy resources that improve resilience and reduce the need for new transmission and distribution infrastructure, including expansion of rooftop and community solar.
d. Oppose policies that would enable IOUs to be the sole developer of microgrids.

VII. Local Economic Development

a. Support policies that are consistent with and oppose policies that are not consistent with Peninsula Clean Energy's commitment to a sustainable workforce.
b. Support policies that enhance opportunities for CCAs to promote local economic development through locally designed programs that meet the unique needs of their member agencies, communities, and customers.
c. Support policies that assist transitioning workforces and new workforce development into clean energy fields.
d. Support efforts to enhance the development of local and regional sources of renewable energy.

e. Support policies that enable CCAs to collaborate with their member jurisdictions on local energy resources and projects to advance environmental objectives.
f. Advocate for and support efforts to direct federal economic stimulus/recovery funding to CCAs to deliver local energy resources and projects, as appropriate.

VIII. California Energy Market Structure

a. Support policies that would create renewable content and environmental standards for electric service providers to match the products offered by CCAs.
b. Support policies that change California's market structures towards innovative models that reduce costs of energy service and support the expansion of carbon-free resources.
c. Engage in discussions and track policy efforts to create a multi-state regional transmission system to ensure that it increases supply availability and reliability for California energy customers, recognizes California's influence in its governance structure, and advances California's clean energy policies and goals.
d. Support policies that expedite grid interconnections and energization of electrical services including utility scale and distributed interconnections to new generation sources, and new and existing service upgrades for utility customers.
e. Support policies that fully value distributed energy resources.
f. Support policies that provide flexibility in renewable energy tracking systems and modernize tracking system technology.
g. Support policies that allow for more timely availability of load data to CCAs.
h. Support policies to streamline regulatory reporting and reduce duplicative reporting requests.
i. Oppose policies that expand direct access or the ability or economic incentives for electric service providers to selectively recruit CCA or IOU customer.

Peninsula Clean Energy Authority 2026 Policy Platform

Overview and Purpose

Peninsula Clean Energy Authority's Policy Platform (Platform) serves as a guide to the Peninsula Clean Energy Board of Directors (Board) and Peninsula Clean Energy Staff (Staff) in their advocacy efforts and engagement on policy matters of interest to Peninsula Clean Energy.

The Platform provides a framework and guidance that allows both Board members and Staff to pursue and engage in legislative, regulatory, and administrative actions at the local, regional, state, and federal levels in a consistent manner and with the understanding that they are pursuing and engaging in actions in the best interest of Peninsula Clean Energy and its mission, its member agencies, and its customers.

The Platform also enables Peninsula Clean Energy to move swiftly to raise and respond to issues before the federal and state Legislative and Executive Branch agencies including the California Public Utilities Commission, the California Energy Commission, California Independent System Operator, and the California Air Resources Board so that Peninsula Clean Energy's views can be heard on important matters in a timely fashion.

The Platform also provides guidance to Peninsula Clean Energy's Chief Executive Officer on support or oppose positions that should be taken on legislative matters identified by the Staff regulatory lead, the Staff legislative lead, and the California Community Choice Association (CalCCA) Board of Directors.

The Platform will be reviewed and updated annually and presented to the Board for consideration at a Board meeting held during the first quarter of the calendar year.

I. Governance and Authority

a. Support easier CCA formation and membership; oppose new barriers.
b. Preserve CCA authority over rates and procurement so PCE can serve customers effectively.
c. Ensure CCAs can access/administer state programs on equal footing.
d. Keep PCE governance transparent and accessible, and support director participation that enables timely action.

II. Decarbonization

a. Advocate for and support policy efforts to accelerate decarbonization of the energy sector, transportation, and the built environment.
b. Oppose fossil fuel cost-shifts — including gas line-extension subsidies and ratepayer- or taxpayer-funded hydrogen blending or light-duty hydrogen projects — and support only verifiably clean fuels for hard-to-abate sectors where lifecycle emissions show real, cost-effective reductions.
c. Advocate for and support policies to support and expand access to transportation electrification and building electrification, including funding for said electrification.

d. Support policies that incorporate the social costs of carbon.
e. Advocate for and support efforts to ensure flexibility in state and IOU program design so that local data and local needs directly inform program offerings.
f. Advocate for and support legislative and regulatory efforts to provide incentives, including financial support, that enable and support underserved communities in achieving decarbonization.
g. Support and advocate for policies to expand affordable customer financing options, such as tariff on-bill financing and credit enhancements, that promote the decarbonization and electrification of buildings.
h. Support and advocate for policies that recognize early action to decarbonize the energy sector under the broader Cap-and-Invest framework.

III. IOU Charges and Exit Fees (Power Charge Indifference Adjustment (PCIA))

a. Contain pass-through charges and support equitable, predictable customer bills.
b. Support reforms that ensure reasonable utility returns and cost-effective wildfire and reliability investments, protecting customers from excessive T&D cost burdens.
c. Increase clarity into IOU portfolios, how the IOUs manage the resources within those portfolios, and the calculations underlying exit fees.
d. Oppose any expansion of exit or other regressive fees and any policy that disadvantages customers for choosing a CCA.
e. Encourage the accelerated retirement, renegotiation, repowering, or right-sizing of legacy IOU-owned generation and other PCIA-eligible resources to reduce long-term costs and improve affordability.

IV. Power Procurement & Grid Reliability

a. Support reform of the CPUC resource adequacy program to allow for stability in the resource adequacy value of existing resources.
b. Support policies that advance and accelerate the delivery of carbon free and renewable energy on a 24/7 basis.
c. Support policies that remove barriers to developing wind and geothermal resources within the CAISO footprint.
d. Support policies that value the resource adequacy contribution of distributed resources and out-of-state renewables.
e. Advocate for and support efforts to remove barriers to demand response, virtual power plants (VPPs), microgrids, and behind the meter resources to provide Resource Adequacy
f. Support policies that help improve the value-proposition for Long Duration Energy Storage, such as reducing or removing charging sufficiency requirements.
g. Oppose policies that would supplant or reduce CCAs' procurement authority.
h. Oppose unreasonable fixed charges and support measure that make solar affordable and decrease customer bills.

V. Environmental Justice & Affordability

a. Support rate designs and other policies that lower customer costs and improve the economics of decarbonization.
b. Support policies that improve the ability of underserved communities in the Peninsula Clean Energy service territory to have affordable, reliable, and clean energy.
c. Support policies that strengthen the resilience of vulnerable communities to the impacts of climate change.
d. Support policies that enable all communities, including emerging and historically marginalized communities in California, to participate in and benefit from decarbonization efforts.
e. Oppose unreasonable fixed charges and support measures that make rooftop solar affordable and decrease customer bills.

VI. Community Resilience

a. Advocate for and support funding for programs implemented by CCAs and their member jurisdictions to increase community resilience to wildfires, PSPS events, other potential service disruptions, and climate change impacts.
b. Support policies that reduce barriers to microgrid development by CCAs.
c. Support policies that increase development of community-level resources and distributed energy resources that improve resilience and reduce the need for new transmission and distribution infrastructure, including expansion of rooftop and community solar.
d. Oppose policies that would enable IOUs to be the sole developer of microgrids.

VII. Local Economic Development

a. Support policies that are consistent with and oppose policies that are not consistent with Peninsula Clean Energy's commitment to a sustainable workforce.
b. Support policies that enhance opportunities for CCAs to promote local economic development through locally designed programs that meet the unique needs of their member agencies, communities, and customers.
c. Support policies that assist transitioning workforces and new workforce development into clean energy fields.
d. Support efforts to enhance the development of local and regional sources of renewable energy.
e. Support policies that enable CCAs to collaborate with their member jurisdictions on local energy resources and projects to advance environmental objectives.
f. Advocate for and support efforts to direct federal economic stimulus/recovery funding to CCAs to deliver local energy resources and projects, as appropriate.

VIII. California Energy Market Structure

a. Support policies that ensure consistent enforcement of RA, RPS, MTR, and environmental compliance requirements across all LSEs to maintain a fair, reliable, and level playing field..

b. Support policies that change California's market structures towards innovative models that reduce costs of energy service and support the expansion of renewable and carbon free resources.
c. Support regional market participation that lowers electric bills, strengthens grid reliability, and expands access to clean power.
d. Support policies that accelerate both interconnections for new generation resources and the timely energization of new or upgraded customer electrical services.
e. Support policies that expedite energization of electrical services including new and existing utility customers and service upgrades.
f. Support policies that fully value distributed energy resources.
g. Support policies that modernize renewable and carbon-free energy tracking system technology.
h. Support policies that allow for more timely availability of load data to CCAs.
i. Support policies to streamline regulatory reporting and reduce duplicative reporting requests.
j. Oppose policies that expand direct access or the ability or economic incentives for electric service providers to selectively recruit CCA or IOU customers.

IX. Transmission & Interconnection

a. Advocate for accelerated interconnection via CAISO IPE and pro-forma timelines; prioritize deliverability for LSE-sponsored and community-benefit projects.
b. Advocate for improved transmission planning approaches, such as robust transmission planning approach cosponsored by SCP and PCE.

X. New Large Loads

a. Advocate for CCAs to be the default provider for any new load within their service territory—regardless of size.
b. Advocate for the sharing of timely, essential large-load data from IOUs to CCAs to support servicing these emerging customers/loads.
c. Advocate for policies that only favor large-load growth that lowers (or at least does not raise) existing customers' total bills; reject subsidies or structures that shift costs to non-participants.

Peninsula Clean Energy Authority 2026 Policy Platform

Overview and Purpose

Peninsula Clean Energy Authority's Policy Platform (Platform) serves as a guide to the Peninsula Clean Energy Board of Directors (Board) and Peninsula Clean Energy Staff (Staff) in their advocacy efforts and engagement on policy matters of interest to Peninsula Clean Energy.

The Platform provides a framework and guidance that allows both Board members and Staff to pursue and engage in legislative, regulatory, and administrative actions at the local, regional, state, and federal levels in a consistent manner and with the understanding that they are pursuing and engaging in actions in the best interest of Peninsula Clean Energy and its mission, its member agencies, and its customers.

The Platform also enables Peninsula Clean Energy to move swiftly to raise and respond to issues before the federal and state Legislative and Executive Branch agencies including the California Public Utilities Commission, the California Energy Commission, California Independent System Operator, and the California Air Resources Board so that Peninsula Clean Energy's views can be heard on important matters in a timely fashion.

The Platform also provides guidance to Peninsula Clean Energy's Chief Executive Officer on support or oppose positions that should be taken on legislative matters identified by the Staff regulatory lead, the Staff legislative lead, and the California Community Choice Association (CalCCA) Board of Directors.

The Platform will be reviewed and updated annually and presented to the Board for consideration at a Board meeting held during the first quarter of the calendar year.

I. Governance and Authority

a. Support easier CCA formation and membership; oppose new barriers.
b. Preserve CCA authority over rates and procurement so PCE can serve customers effectively.
c. Ensure CCAs can access/administer state programs on equal footing.
d. Keep PCE governance transparent and accessible, and support director participation that enables timely action.

II. Decarbonization

a. Advocate for and support policy efforts to accelerate decarbonization of the energy sector, transportation, and the built environment.
b. Oppose fossil fuel cost-shifts — including gas line-extension subsidies and ratepayer- or taxpayer-funded hydrogen blending or light-duty hydrogen projects — and support only verifiably clean fuels for hard-to-abate sectors where lifecycle emissions show real, cost-effective reductions.
c. Advocate for and support policies to support and expand access to transportation electrification and building electrification, including funding for said electrification.

d. Support policies that incorporate the social costs of carbon.
e. Advocate for and support efforts to ensure flexibility in state and IOU program design so that local data and local needs directly inform program offerings.
f. Advocate for and support legislative and regulatory efforts to provide incentives, including financial support, that enable and support underserved communities in achieving decarbonization.
g. Support and advocate for policies to expand affordable customer financing options, such as tariff on-bill financing and credit enhancements, that promote the decarbonization and electrification of buildings.
h. Support and advocate for policies that recognize early action to decarbonize the energy sector under the broader Cap-and-Invest framework.

III. IOU Charges and Exit Fees (Power Charge Indifference Adjustment (PCIA))

a. Contain pass-through charges and support equitable, predictable customer bills.
b. Support reforms that ensure reasonable utility returns and cost-effective wildfire and reliability investments, protecting customers from excessive T&D cost burdens.
c. Increase clarity into IOU portfolios, how the IOUs manage the resources within those portfolios, and the calculations underlying exit fees.
d. Oppose any expansion of exit or other regressive fees and any policy that disadvantages customers for choosing a CCA.
e. Encourage the accelerated retirement, renegotiation, repowering, or right-sizing of legacy IOU-owned generation and other PCIA-eligible resources to reduce long-term costs and improve affordability.

IV. Power Procurement & Grid Reliability

a. Support reform of the CPUC resource adequacy program to allow for stability in the resource adequacy value of existing resources.
b. Support policies that advance and accelerate the delivery of carbon free and renewable energy on a 24/7 basis.
c. Support policies that remove barriers to developing wind and geothermal resources.
d. Support policies that value the resource adequacy contribution of distributed resources and out-of-state renewables.
e. Advocate for and support efforts to remove barriers to demand response, virtual power plants (VPPs), microgrids, and behind the meter resources to provide Resource Adequacy
f. Support policies that help improve the value-proposition for Long Duration Energy Storage, such as reducing or removing charging sufficiency requirements.
g. Oppose policies that would supplant or reduce CCAs' procurement authority.
h. Oppose unreasonable fixed charges and support measure that make solar affordable and decrease customer bills.

V. Environmental Justice & Affordability

a. Support rate designs and other policies that lower customer costs and improve the economics of decarbonization.
b. Support policies that improve the ability of underserved communities in the Peninsula Clean Energy service territory to have affordable, reliable, and clean energy.
c. Support policies that strengthen the resilience of vulnerable communities to the impacts of climate change.
d. Support policies that enable all communities, including emerging and historically marginalized communities in California, to participate in and benefit from decarbonization efforts.
e. Oppose unreasonable fixed charges and support measures that make rooftop solar affordable and decrease customer bills.

VI. Community Resilience

a. Advocate for and support funding for programs implemented by CCAs and their member jurisdictions to increase community resilience to wildfires, PSPS events, other potential service disruptions, and climate change impacts.
b. Support policies that reduce barriers to microgrid development by CCAs.
c. Support policies that increase development of community-level resources and distributed energy resources that improve resilience and reduce the need for new transmission and distribution infrastructure, including expansion of rooftop and community solar.
d. Oppose policies that would enable IOUs to be the sole developer of microgrids.

VII. Local Economic Development

a. Support policies that are consistent with and oppose policies that are not consistent with Peninsula Clean Energy's commitment to a sustainable workforce.
b. Support policies that enhance opportunities for CCAs to promote local economic development through locally designed programs that meet the unique needs of their member agencies, communities, and customers.
c. Support policies that assist transitioning workforces and new workforce development into clean energy fields.
d. Support efforts to enhance the development of local and regional sources of renewable energy.
e. Support policies that enable CCAs to collaborate with their member jurisdictions on local energy resources and projects to advance environmental objectives.
f. Advocate for and support efforts to direct federal economic stimulus/recovery funding to CCAs to deliver local energy resources and projects, as appropriate.

VIII. California Energy Market Structure

a. Support policies that ensure consistent enforcement of RA, RPS, MTR, and environmental compliance requirements across all LSEs to maintain a fair, reliable, and level playing field..

b. Support policies that change California's market structures towards innovative models that reduce costs of energy service and support the expansion of renewable and carbon free resources.
c. Support regional market participation that lowers electric bills, strengthens grid reliability, and expands access to clean power.
d. Support policies that accelerate both interconnections for new generation resources and the timely energization of new or upgraded customer electrical services.
e. Support policies that expedite energization of electrical services including new and existing utility customers and service upgrades.
f. Support policies that fully value distributed energy resources.
g. Support policies that modernize renewable and carbon-free energy tracking system technology.
h. Support policies that allow for more timely availability of load data to CCAs.
i. Support policies to streamline regulatory reporting and reduce duplicative reporting requests.
j. Oppose policies that expand direct access or the ability or economic incentives for electric service providers to selectively recruit CCA or IOU customers.

IX. Transmission & Interconnection

a. Advocate for accelerated interconnection via CAISO IPE and pro-forma timelines; prioritize deliverability for LSE-sponsored and community-benefit projects.
b. Advocate for improved transmission planning approaches, such as robust transmission planning approach cosponsored by SCP and PCE.

X. New Large Loads

a. Advocate for CCAs to be the default provider for any new load within their service territory—regardless of the size of the load.
b. Advocate for the sharing of timely, essential large-load data from IOUs to CCAs to support servicing these emerging customers/loads.
c. Advocate for policies that only favor large-load growth that lowers (or at least does not raise) existing customers' total bills; reject subsidies or structures that shift costs to non-participants.

2026 PCE Policy Platform: Summary of Changes

This memorandum summarizes the key substantive changes made to the draft 2026 Peninsula Clean Energy Policy Platform compared to the adopted February 2025 Policy Platform. Updates were designed to improve clarity, reflect evolving policy conditions, and best position PCE in the legislative arena.

I. Governance and Authority

- Streamlined language for clarity and to reflect the emphases on preserving CCA authority (rates/procurement), supporting easier CCA formation/membership, and ensuring CCAs can access/administer state programs on equal footing.
- Refined governance language to prioritize transparency and practical director participation that enables timely action.

II. Decarbonization

- Updated and sharpened language to focus on fossil-fuel cost shifts, while preserving support for verifiably clean fuels in hard-to-abate sectors.
- Added recognition of early action to decarbonize under the Cap-and-Invest framework.

III. IOU Charges and Exit Fees (PCIA)

- This section was simplified and consolidated down, while keeping all the relevant and important issues from the previous draft.
- Moved to the foreground affordability and equity outcomes (contain pass-through charges; oppose expansion of regressive fees) while maintaining transparency and reform objectives.
- Added emphasis on cost-effective wildfire/reliability investments and accelerating retirement/renegotiation/right-sizing of legacy IOU resources to reduce long-term PCIA cost exposure.

IV. Power Procurement & Grid Reliability

- Expanded focus beyond traditional RA reform to include: 24/7 carbon-free procurement, removal of barriers for wind/geothermal, valuation of distributed resources and out-of-state renewables, and enabling demand response/VPPs/microgrids/BTM resources to contribute to RA.
- Added emphasis on improving the value proposition for long-duration energy storage (e.g., reducing/removing charging sufficiency requirements).

V. Environmental Justice & Affordability

- Moved opposition to unreasonable fixed charges and support for measures that keep rooftop solar affordable from Section IV to Section V.

VI. Community Resilience

- No changes.

VII. Local Economic Development

- No changes.

VIII. California Energy Market Structure

- Updated market fairness language from ‘creating new standards’ to ‘consistent enforcement’ of existing RA/RPS/MTR/environmental compliance requirements across all LSEs, which better supports system reliability, environmental integrity, and market fairness.
- Simplified language making it clear that PCE supports policies that address both system-side and customer-side delays that can slow clean energy deployment and electrification.
- Updated language on the regional market, to reflect the passage of AB 825 (Pathways).
- Added an explicit bullet elevating customer service energization (new and existing utility customers; service upgrades) as a standalone priority.
- Maintained positions and updated language on DER valuation, modernizing tracking systems, load data availability, and reducing duplicative reporting.

IX. Transmission & Interconnection (NEW SECTION IN 2026)

- Added a new section, as a big driver of customer bills, portfolio reliability, and decarb speed will be how transmission is planned/paid for and how fast projects get delivered.
- Added explicit support for improved planning approaches (e.g., robust transmission planning framework work co-sponsored with Sonoma Clean Power).

X. New Large Loads (NEW SECTION IN 2026)

- Added a new section to address large-load growth: CCA default service within territory, timely IOU-to-CCA load data sharing, and explicit protections against structures that shift costs to existing customers.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: December 12, 2025
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Nelly Wogberg, Board Clerk

SUBJECT: Approval of Minutes from the December 18, 2025 Board of Directors Meeting

RECOMMENDATION

Approval of Minutes from the December 18, 2025 Board of Directors meeting.

ATTACHMENTS:
12-18-2025 BOD Draft Minutes.pdf

Regular Meeting of the Board of Directors of the Peninsula Clean Energy Authority (PCEA)
Minutes

Thursday, December 18, 2025
6:30 p.m.
Zoom Video Conference and Teleconference

CALL TO ORDER

Meeting was called to order at 6:31 p.m. in virtual teleconference, in the Peninsula Clean Energy Authority lobby and in the Los Banos City Hall conference room A.

ROLL CALL

Participating:

Lisa Gauthier, San Mateo County
Jasneet Sharma, San Mateo County
Rick DeGolia, Atherton
Tom McCune, Belmont, arrived at 6:46 p.m.
Coleen Mackin, Brisbane
Desiree Thayer, Burlingame
Mark Dinan, East Palo Alto
Stacy Jimenez, Foster City
Patrick Jonsson, Half Moon Bay, arrived at 6:43 p.m.
Leslie Ragsdale, Hillsborough
Nirorn Than, Los Banos, arrived at 6:42 p.m.
Betsy Nash, Menlo Park
Anders Fung, Millbrae
Greg Wright, Pacifica
Craig Taylor, Portola Valley
Marty Medina, San Bruno, *Vice Chair*
John Dugan, San Carlos
Adam Loraine, San Mateo
James Coleman, South San Francisco
Hassan Aburish, Woodside

Absent:

Ken Gonzalez, Colma
Roderick Daus-Magbual, Daly City
Elmer Martinez Saballos, Redwood City

A quorum was established.

PUBLIC COMMENT

None

ACTION TO SET THE AGENDA AND APPROVE REMAINING CONSENT AGENDA ITEMS

Public Comment: None

MOTION: Director Fung moved, seconded by Director Gauthier to set the Agenda, and approve Agenda Item Numbers 1-5.

1. Approval of Amendment to Contract for Climate Action Planning Support with San Mateo County Department of Sustainability in the Amount of $95,000 for a total not to exceed amount of $380,000

2. Approval of Amendments to Contracts with Sports Basement, ELV Motors, Kevin's Bikes, and Chain Reaction Bicycles, and a New Contract with ELV Motor Bikes, as Part of the E-Bikes Program

3. Approval of Amendments to Peninsula Clean Energy Operating Rules and Regulations: "Policy 16, Policies and Procedures for Board of Directors and Committees"

4. Approval of Minutes from the November 20, 2025 Board of Directors Meeting

5. Approval of Home Upgrade Program Self-Service Offering Loan and Rebate Expenditures in an amount not to exceed $25M for Customer-Selected Contractors through June 30, 2027.

MOTION PASSED: 16-0 (Absent: Belmont, Burlingame, Colma, Daly City, Half Moon Bay, Los Banos, Redwood City)

JURISDICTION	BOARD MEMBER	YES	NO	ABSTAIN	ABSENT
San Mateo County	Director Gauthier	X			
San Mateo County	Director Sharma	X			
Atherton	Director DeGolia	X			
Belmont	Director McCune				X
Brisbane	Director Mackin	X			
Burlingame	Director Colson				X
Colma	Director Gonzalez				X
Daly City	Director Daus-Magbual				X
East Palo Alto	Director Dinan	X			
Foster City	Director Jimenez	X			
Half Moon Bay	Director Jonsson				X
Hillsborough	Director Ragsdale	X			
Los Banos	Director Amabile				X
Menlo Park	Director Nash	X			
Millbrae	Director Fung	X			
Pacifica	Director Wright	X			
Portola Valley	Director Taylor	X			
Redwood City	Director Martinez Saballos				X
San Bruno	Director Medina	X			
San Carlos	Director Dugan	X			
San Mateo	Director Loraine	X			
South San Francisco	Director Coleman	X			
Woodside	Director Aburish	X			
	Total	16			7

REGULAR AGENDA

6. Chair Report (Discussion) YouTube

Vice Chair Medina gave a report including interim appointment of John Dugan, San Carlos, to the Executive Committee, and asked for volunteers for the Chair and Vice Chair Ad Hoc Nominating Committee.

7. CEO Report (Discussion) YouTube

Shawn Marshall, Chief Executive Officer, gave a presentation including recognizing Board members who have served for 10 years, an update on the second pre-pay transaction, a recap of board and staff activities, an update on two submittals to the Microgrid program, general updates on Peninsula Clean Energy thought and industry leadership, and a preview of the January Board meeting.

8. Update on First Year Results of In-House Contact Center (Discussion) YouTube

Stephanie Elmore, Call Center Manager, gave a presentation recapping the first year of the in-house customer contact center. Kerstin Grune, Associate Director of Marketing, answered questions for the Board.

Public Comment: None

9. Briefing on PCE's Energy Efficiency Application to the California Public Utilities Commission YouTube (Discussion)

Shelby Bush, Program Manager for Energy Efficiency, gave a presentation on the energy efficiency application to the California Public Utilities Commission.

Public Comment: None

10. Planning Discussion for Agency's 10-Year Anniversary (Discussion) YouTube

Kerstin Grune, Associate Director of Marketing, facilitated a discussion on planning for the Agency's 10-year anniversary.

Public Comment: None

11. Board Open Forum Regarding Constituent Feedback, 2026 Board Member Priorities, Questions and/or Suggestions by Directors (Discussion) (CONTINUED FROM OCTOBER 23, 2025 BOARD OF DIRECTORS MEETING) YouTube

Shawn Marshall, Chief Executive Officer, introduced the Board open forum to solicit thoughts from the member jurisdictions going into 2026.

Public Comment: None

12. Board Members' Reports (Discussion)

None

ADJOURNMENT

Meeting was adjourned at 7:42 p.m.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Executive Committee

FROM: Shawn Marshall, Chief Executive Officer

SUBJECT: CEO Report (Discussion)

BACKGROUND

During the Board meeting, CEO Shawn Marshall will provide an update on a variety of PCE topics and upcoming events of interest.

PCE In the Community

1/15	Daly City Partnership Rebrand Focus Group, Daly City
1/20	Stanford Course on Energy Equity Guest Panel, Palo Alto
1/20	Los Banos City Hall Tabling, Los Banos
1/23	Los Banos High School College & Career Day, Los Banos
1/24	Youth Climate Ambassadors Mid-Point Retreat, San Mateo County
1/27	YMCA All-Staff Presentation, South San Francisco
1/30	Belle Haven Home Upgrade Workshop (English and Spanish), Menlo Park

PCE Staffing Update

Welcome to the Team!
Emily Foster, Manager, Virtual Power Plants, Community Programs, Started on Jan. 20

Sebastian Sarria, Senior Analyst, Regulatory Compliance, Regulatory, Started on Jan.20

Open Positions
There are currently no open positions posted at PCE

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 12, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Shawn Marshall, Chief Executive Officer

SUBJECT: Presentation of PCE's 2026 Agency Goals (Discussion)

BACKGROUND

Since its inception, Peninsula Clean Energy has engaged in long-term strategic planning at the Board level as well as shorter-term, annual planning at the staff level. In October 2025 the Board closed out the Agency's 2020-2025 strategic plan and in November 2025, it adopted PCE's next five-year plan covering the years 2026-2030. The new strategic plan is organized around four guiding principles and four strategic policies in the areas of:

1. Environmental Impact
2. Economic Development
3. Customer First Focus
4. Driving Innovation
5. Procurement
6. Equity Programs
7. Distributed Energy Resources
8. Organizational Excellence

These together form the foundation and planning framework for the development of annual Agency goals and key performance indicators (KPIs), which will be tracked and reported on at the Board retreat each year.

DISCUSSION

Following Board adoption of the 2026-2030 Strategic Plan in November 2025, PCE's senior leadership in partnership with department staff, developed Agency-wide goals for 2026 which serve as the "umbrella" for more detailed department-level goals and individual staff goals that are being finalized now.

Having just completed an 18-month planning cycle, 2026 will be primarily focused on implementation and service delivery, change management, and celebration of a decade of progress. During the Board meeting, CEO Shawn Marshall will present and answer any questions about this year's Agency goals (see attached) as well as Board plans and

operations.

FISCAL IMPACT

The financial impacts associated with the 2026 Agency goals are reflected in the FY 2026 budget and will also be reflected in the FY 2027 budget to be adopted in June, 2026.

ATTACHMENTS:
PCE 2026 Agency Goals.V3.FINAL.docx

2026 Agency Goals

List order does not reflect a particular prioritization or include department-level goals.

1) **Customer Focus**. *Continue evolving the ways we reach and engage our customers to introduce our new Agency name and expand brand awareness, build toward higher levels of customer participation and satisfaction, and celebrate all that PCE has accomplished in its first decade of service.*
    a. 10-year anniversary activities
    b. Brand awareness campaign & name change
    c. Launch Voice of the Customer, including new Community Feedback Forum

2) **Driving Innovation:** *Continue to be an industry leader by actively demonstrating thought leadership in legislative and regulatory policy development and CCA best practices to advance PCE's mission and support the success of the California CCA's more broadly.*
    a. Regulatory leadership– Extension of Cap and Trade/Voluntary Renewable Energy (VRE), Max Import Capacity (MIC) reform
    b. Rate design innovations
    c. Continue right-sizing approach for cost-effective decarbonization and rate payer cost containment
    d. Lead and participate in CCA industry discussions regarding operational shared services
    e. Provide leadership among CCAs on program design supporting Air District and CARB decarbonization policies.

3) **Economic Development.** *Provide direct economic benefit to customers and communities including continued rate savings despite high PCIA exit fees and develop third party capital options to support program access and scale.*
    a. Target $10M in annual customer rate savings despite high PCIA costs and deep cuts in PG&E's 2026 electric generation rates
    b. Explore third-party capital for DER deployment

c. Further develop residential electrification best practices and support local contractors in adopting heat pumps and related technologies.

4) **Distributed Energy Resources.** *Deepen focus, priority, and resources on implementation of PCE's DER strategy with particular emphasis in 2026 on the launch of our new DERMS platform and PCE's first Virtual Power Plant (VPP)*
   a. Put DERMS platform into operation with PCE deployed storage systems for load modification benefits
   b. Complete GovPV2 installs by NEM deadline and develop next round of battery projects
   c. Launch Residential General Market Solar+Storage Program
   d. Develop complete business model analysis of DER programs with both customer and PCE economics in mind

5) **Procurement.** *Continue incremental progress toward PCE's goal of 100% renewable energy on an annual basis by 2030, while also managing PCE's portfolio for full compliance, greatest grid benefit, and affordability. Complete and submit PCE's IRP in Q2 2026 and adjust PCE's 5-year procurement targets accordingly.*
   a. Submit PCE Integrated Resource Plan to CPUC
   b. Achieve 65%-70% annual renewable content based on retail sales
   c. Maintain 100% compliance on resource adequacy and mid-term reliability requirements

6) **Equity Programs.** *Advance PCE's commitment to its more vulnerable customers by expanding customer participation in available energy savings and bill assistance programs, completing next steps on the Pescadero microgrid project (if awarded), and advancing home upgrade projects that support low-and moderate-income customers.*
   a. Install 250 free solar and storage projects to low-income customers
   b. Implement 200 new home electrification projects for low-and moderate- income customers
   c. Complete next steps for Pescadero Microgrid (if awarded)
   d. Implement local portable battery program for vulnerable customers

e. Optimize low income/vulnerable customer participation in available energy and bill assistance programs (AMP, Match my Payment, CARE/FERA).

7) **Environmental Impact.** *In addition to increasing the percentage of PCC-1 renewable energy in our power portfolio, complete a strategic review of PCE's programs from a lens of greenhouse gas emission reductions to ensure that PCE's investments are meeting environmental ROI targets and can adequately scale to achieve our 5-year decarbonization goals. Deepen relationships with the County and other external stakeholders to ensure that PCE prioritizes programs and initiatives that achieve mutual objectives.*
   a. Continue development of scalable decarbonization with a target of reaching 60,000 MTCo2e in annual reductions
   b. Submit $35M-$40M Energy Efficiency Application to the CPUC
   c. Advance existing building codes and program support for Air District decarbonization policies
   d. Programs evaluation & long-term strategy – targeted decarbonization
   e. Strengthen relationship with PCE member agencies and other external partners to achieve mutual decarbonization objectives and increase program participation
   f. Complete load growth/expansion analysis

8) **Organizational Excellence & Effectiveness.** *Continue to work across the organization to improve our operations and performance in key areas. 2026 priorities will focus on:*
   a. **Legal:** Contract and legal operations review for optimization
   b. **Risk Management:** Launch enterprise risk management program
   c. **People:** Maintain high employee retention and engagement; 2026 learning & development focus on project management
   d. **Culture:** Celebrate 10 years, transition to a new Agency name and a new office
   e. **Finance:** Potential new banking relationship, continued review of all operating costs to support reduced customer rates
   f. **Admin:** Improve cross functional operations and communications, including backend systems and processes; complete consultant audit

g. **Data and Technology:** Enhance data quality and accessibility; Strengthen IT reliability and security; Implement records retention policy; Expand responsible AI use
h. **Board Governance:** Maintain positive Board relationships and effective meetings; transition new Board officers and committee members as needed; design dashboard and reporting methodology for Strategic Plan Year 1 implementation.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 9, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Shawn Marshall, Chief Executive Officer; and Rox Xu, Senior Director of Power Resources

SUBJECT: Approval of two Resolutions Relating to California Community Power (CC Power) that:

A) Directs the Chief Executive Officer to Vote, as a Director on the CC Power Board of Directors, to Approve the Resource Adequacy and TB4 Agreement Between CC Power and GEM A-CAES LLC and any Necessary Ancillary Documents for the Willow Rock Energy Storage Center Project with a Delivery Term of Twenty (20) Years Starting at the Commercial Operation Date on or About December 31, 2030, and;

B) Delegates Authority to the Chief Executive Officer to execute the Following Agreements and any Necessary Ancillary Documents, for the Willow Rock Energy Storage Center Project, in an Amount Not-to-Exceed $99 Million: i) Project Participation Share Agreement Between Peninsula Clean Energy Authority, CC Power, and Other Participating Community Choice Aggregators; and ii) Buyer Liability Pass-Through Agreement Between Peninsula Clean Energy Authority, CC Power, and GEM A-CAES LLC (Action)

RECOMMENDATION

A: Approve resolution directing the Chief Executive Officer to vote, as a director on the California Community Power Board of Directors, to approve the Resource Adequacy and TB4 Agreement between California Community Power and GEM A-CAES LLC and any necessary ancillary documents for the Willow Rock Energy Storage Center Project (Project) with a delivery term of twenty (20) years starting at the Commercial Operation Date on or about December 31, 2030

B: Approve resolution delegating Authority to the Chief Executive Officer to execute the following Agreements and any necessary ancillary documents, for the same aforementioned Project, in an amount Not-to-Exceed $99 Million: i) Project Participation Share Agreement (PPSA) between Peninsula Clean Energy Authority, California Power, and other Participating Community Choice Aggregators (CCAs); and ii) Buyer Liability Pass-Through Agreement (BLPTA) between Peninsula Clean Energy Authority, California Community Power, and GEM

A-CAES LLC

BACKGROUND

Peninsula Clean Energy's Board has set a long-term goal to procure 100% of its energy supply from renewable energy sources by 2030 through strategic and cost-effective procurement of resources that maximizes 24/7 hourly matching of renewable energy and load. One set of technologies that will help Peninsula Clean Energy to meet this goal is long duration energy storage (LDS). LDS is storage technology with a duration of eight hours or longer. This technology will allow Peninsula Clean Energy to shift grid energy from times when there is oversupply, which generally correlates to solar production hours to times when there is a high demand for renewable energy on the grid, typically the evening and overnight hours. Storage technology helps to improve grid reliability and will be necessary to move California to a fully decarbonized energy system. The Willow Rock Energy Storage Center Project would be the first non-lithium storage project in Peninsula Clean Energy's supply portfolio. Peninsula Clean Energy's current portfolio includes five stand-alone storage projects using lithium-ion technology and four solar plus storage projects, also based on lithium-ion technology. Out of all the storage capacity currently under contract in Peninsula Clean Energy's portfolio to date, 24.8MW is 8-hour long duration storage.

Joint Procurement through California Community Power (CC Power)

In 2021, a group of Community Choice Aggregators (CCAs) came together to form a joint powers authority (JPA) called California Community Power (CC Power) to leverage their combined buying power to provide cost effective joint services, programs, and procurement of energy resources and products. The other CCAs that are currently members of CC Power include Central Coast Community Energy (3CE), Silicon Valley Clean Energy (SVCE), San Jose Clean Energy (SJCE), Redwood Coast Energy Authority (RCEA), Valley Clean Energy (VCE), Sonoma Clean Power (SCP), Ava Community Energy (Ava), and Clean Power San Francisco (CPSF).

CC Power solicited for long duration energy storage projects through its 2024 Request for Proposals ("RFP") and received 80 offers from 61 discrete projects and 22 counterparties. The vast majority of offers were for lithium-ion technology storage projects. CC Power evaluated the offers on quantitative and qualitative criteria and reviewed results with members. After consultation amongst CC Power's interested members, the group selected the Willow Rock Energy Storage Center ("Willow Rock") because it provides technology diversification, has an adept development team, and offers the potential of increasing the duration of the storage capacity to 12 hours at a later date. Interest in the Willow Rock project totals 50 MW from 6 of CC Power's member CCAs, namely: CPSF, PCE, RCEA, SJCE, SVCE, and VCE. These members entered joint negotiations with GEM A-CAES LLC, a project company of the developer, Hydrostor, for the purchase of capacity (i.e. resource adequacy) and certain financial energy products from the Willow Rock project.

CC Power led negotiations on behalf of members, and conducted frequent check-ins with representatives from the participating CCAs to incorporate their feedback on the terms under negotiation. CC Power's legal counsel and PCE staff and legal counsel have extensively reviewed the agreements.

Overview of the the Project

Project Name	Willow Rock Energy Storage Center
Technology	Advanced Compressed Air Energy Storage (A-CAES)
Total Project Capacity	500 MW, 4000 MWh
CC Power's Share of Capacity (subset of Total Project Capacity)	50 MW, 400 MWh
Peninsula Clean Energy's Share of Capacity (subset of CC Power's Share of Capacity)	15 MW, 120 MWh
Guaranteed Commercial Operation Date	December 31, 2030
Project Owner	GEM A-CAES LLC
Developer	Hydrostor
Location	Kern County

The Willow Rock Energy Storage Center is a new, 500 MW, 4,000 MWh (8-hr duration) advanced compressed air energy storage (A-CAES) project located in Kern County. The project will interconnect to Southern California Edison's Whirlwind substation. The project has secured conditional commitment for a loan guarantee of up to $1.76 billion with the U.S. Department of Energy's ("DOE") Clean Energy Financing Program. The project is expected to start construction by September 30, 2026. The Guaranteed Commercial Operation Date is December 31, 2030. CC Power members are proposing to contract for 50 MW (400 MWh) of the total capacity. Peninsula Clean Energy's share is 15 MW (120 MWh), or about 3% of the total project capacity. The capacity shares of the CC Power members are listed in the following table.

Project Participant	**Capacity Share (MW)**	**Percentage Share of Total CC Power Capacity**
CPSF	11.5	23%
PCE	15	30%
RCEA	3.1	6.2%
SJCE	12	24%
SVCE	5.7	11.4%
VCE	2.7	5.4%
Total	50	100%

The project has an executed interconnection agreement with Full Capacity Deliverability Status (FCDS), meaning it has already secured resource adequacy rights from the CAISO.

Developer Background

The project is being developed by Hydrostor Inc., which is a Canada-based developer and technology provider for utility-scale energy storage facilities. Hydrostor started in 2010 and is headquartered in Toronto, Canada. Hydrostor has successfully developed one CAES project in Ontario, Canada and has a 200 MW CAES facility under development in Australia.

Technology – Advanced Compressed Air Energy Storage (A-CAES)

To charge the A-CAES system, off-peak or surplus electricity is used to power a motor-driven air compressor, which compresses ambient atmospheric air. The heat generated during

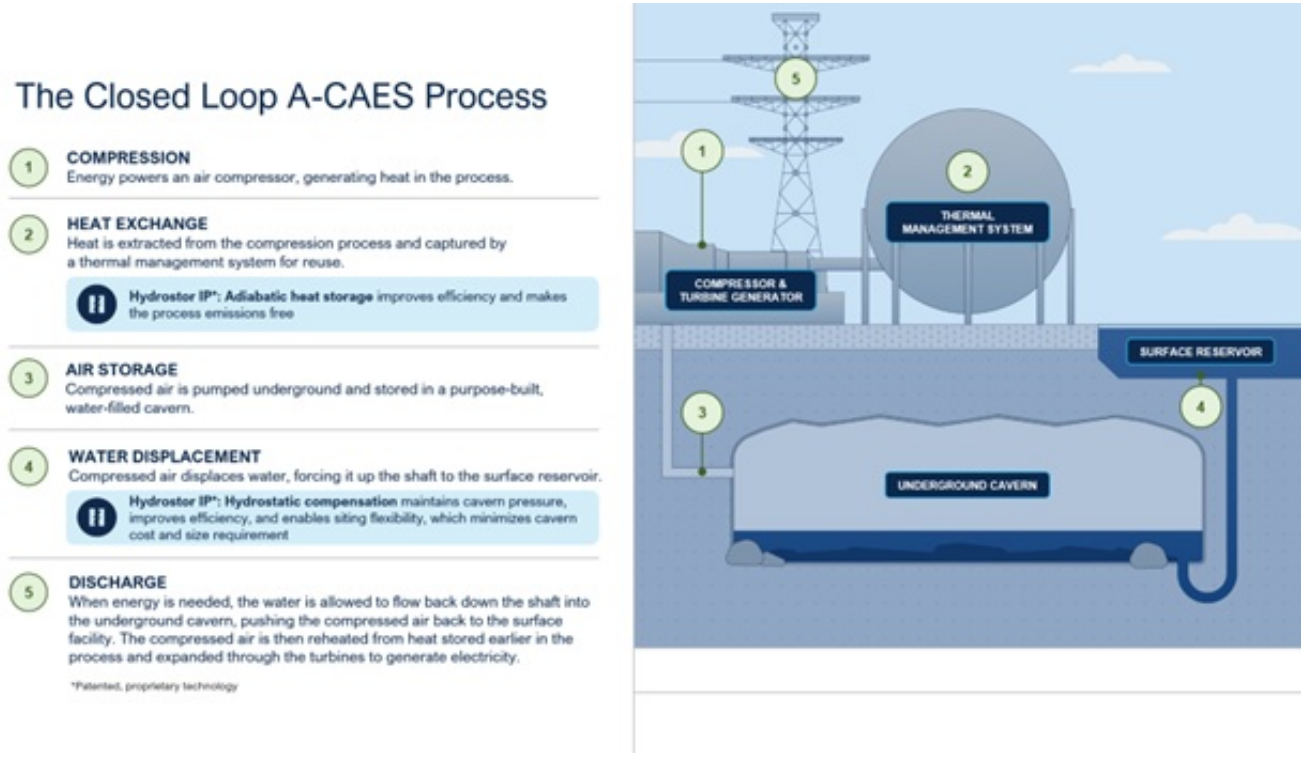
compression of the air is captured by a set of heat exchangers and stored separately in a thermal fluid for later use. The air is compressed to match the storage pressure of a constructed underground storage cavern, where it can be stored until electricity is required.

The storage cavern is flooded through a hydrostatic connection to a surface reservoir of water. The storage pressure of the cavern is therefore equal to the hydrostatic pressure at the cavern depth. As air is charged into the storage cavern, water is displaced up the access shaft and into the surface reservoir, storing substantial potential energy in the large elevation difference. With hydrostatic compensation, the air pressure within the cavern is maintained at a near constant level during the entire operating cycle. This is beneficial for the efficient performance of the air handling equipment, and reduces the required underground cavern volume.

When energy is required, the compressed air is released from the storage cavern and allowed to flow back to the surface under the pressure of the hydrostatic compensation reservoir. The stored heat which was generated during system charging is reinjected to the compressed air and is used to drive a turbine, generating electricity and supplying it back to the grid.

Because of the use of hydrostatic compensation, all the stored air is fully recoverable; this is unlike traditional CAES which requires a substantial portion of the air to maintain a minimum storage pressure for either cavern protection or turbine operation. This drastically reduces storage volume requirements for A-CAES.

An illustration of how Hydrostor's A-CAES system works is shown below and additional animation can be found at https://www.hydrostor.ca/.



Safety

The A-CAES process is an inherently low-risk process configuration using standard mechanical equipment, and no hazardous chemicals or fuels. The process relies only on air

and water, and these fluids are compressed at relatively low process pressures and temperatures. The risk profile of an A-CAES facility is generally related to mechanical failure of parts like vessels and piping, similar to a thermal power plant, but without fuel-related or combustion hazards. This gives A-CAES relatively lower technology-related safety risk as compared to certain chemical storage technologies. The subsurface storage is well-understood, and uses cavern construction techniques designed for much more rigorous requirements of hydrocarbon storage rather than the limited risk of air and water at balanced natural hydrostatic pressures at depth. There is very little risk associated with the long-term operations of A-CAES and it does not rely on exotic materials and does not have risk of fire or thermal runaway of the stored energy.

Environmental Review

The project area is located 60 miles north of Los Angeles and 15 miles west of Edwards Air Force Base in Kern County, and is currently undeveloped, consisting of vacant desert low scrubland. The project has completed Phase 1 Environmental Assessment, including geotechnical, topographic, cultural, noise, air quality, traffic, and biological technical work, and has received permits from the California Energy Commission (CEC) and the East Kern Air Pollution Control District. The project has a limited above-ground site footprint. The majority of the project work will involve below-ground excavation to construct the cavern that will hold the compressed air. The project has secured a Water Supply Agreement with Antelope Valley East Kern Water Agency, executed in December 2025.

The operation of the technology is emissions-free, representing an advancement from previous generations of compressed air energy storage, which required small amounts of fossil-fuel combustion for operations. The Phase 1 Environmental Assessment identified limited impacts to endangered species, and any significant impacts will be mitigated. The project has obtained letters of support from the National Parks Conservation Association.

Peninsula Clean Energy staff performs an internal environmental review of each potential new project. Staff evaluated the Willow Rock project and found that the project was not located in a protected area based on the United States Geological Survey Protected Areas Database.

Workforce Requirements

The project owner has committed that the construction of the project will be conducted using a project labor agreement or other similar agreement providing for terms and conditions of employment with applicable labor organizations. The entire Willow Rock project (not just CC Power's share) is expected to create high value jobs in Kern County, contributing approximately 275 to 750 construction jobs (average to peak) and an expected 40 permanent jobs, plus a greater number of indirect jobs. Hydrostor intends to use domestic manufacturers where possible.

Regulatory Compliance Benefits

Peninsula Clean Energy has already procured sufficient capacity to meet the CPUC-mandated Mid-Term Reliability (MTR) procurement requirements for Long Duration Energy Storage and generic capacity. However, the Willow Rock project will provide back-up Long Duration Energy Storage capacity should one of Peninsula Clean Energy's existing contracts encounter challenges in reaching commercial operation. The Willow Rock project is eligible to comply with expected future procurement mandates by the CPUC. If the Willow Rock project is someday converted to a 12-hr duration project, as is contemplated in the Agreement, then the project would also meet the definition of a Long Duration Energy Storage that the State has

instructed the Central Procurement Entity to procure on behalf of all California load-serving entities, potentially positioning Peninsula Clean Energy to self-provide this type of capacity, which could reduce costs for customers.

The Willow Rock project will also contribute towards meeting Peninsula Clean Energy's recurring Resource Adequacy compliance requirements.

Contract Structure

CC Power will contract for two products from Willow Rock: resource adequacy (RA), and an energy hedging product called Top 4 - Bottom 6.7 ("TB4") that provides stable, risk-reduced energy arbitrage revenue from the project. The TB4 energy product provides Buyer (CC Power and participating members) with market revenue based on a pre-determined formula, while allowing Seller (GEM A-CAES LLC) the freedom to operate the project. Under a TB4 structure, each day CC Power will receive a day-ahead market energy revenue settlement as if the project had charged during the lowest-priced 6.7 hours of the day (which accounts for round-trip efficiency losses), and discharged during the highest-priced four (4) hours of the day. However, the actual project operations may vary from that schedule, giving Seller freedom to perform more complex market optimizations, while providing Buyer with the stability of a fixed schedule. This RA plus TB4 contracting structure is not new to the market but to date has not been Peninsula Clean Energy's preferred choice compared to a more typical "full toll" Energy Storage Services Agreement, which gives Buyers full operational control over the project. However, for this particular project, CC Power members elected to structure the Willow Rock contract as RA plus TB4 to shift the operational risk of a new technology to Seller while retaining member benefits from a lower contract price and higher net value relative to a full toll.

CC Power will enter into the RA plus TB4 agreement directly with the project company, GEM A-CAES LLC.

- Resource Adequacy plus Top 4 Bottom - 6.7 Agreement (RA plus TB4) : The RA plus TB4 Agreement describes the energy and capacity products being procured and the contract price, as well as key terms typically included in standard Energy Storage Services Agreements or Power Purchase Agreements, such as security requirements, operational online date and development milestones, and non-performance penalties.

While CC Power will execute the RA plus TB4 Agreement on behalf of its members, including Peninsula Clean Energy, Peninsula Clean Energy will itself directly execute the following agreements:

- Project Participation Share Agreement (PPSA): The PPSA will be executed by CC Power and each of the participating CCAs. The PPSA conveys the project benefits (energy arbitrage and resource adequacy) from CC Power to each of the CCAs, and specifies payment obligations of each CCA to CC Power, proportionate to each CCA's entitlement share of the project. The PPSA also details payment timelines from each CCA to CC Power and covers terms and procedures if a CCA does not make payments when due and if a CCA needs to be removed from the contract for nonperformance. Under the PPSA, each CCA commits to a 25% “step-up” obligation if other participating CCAs default and are removed from the agreement. For Peninsula Clean Energy, with a 15 MW capacity share, this means its capacity share could be increased to 18.75 MW, if such defaults by other CCAs occurs. Under the PPSA, each CCA also commits to pre-

pay three months of projected project payments. These advance payments provide a cushion for CC Power to make payments to Seller on a timely basis.

- Buyer Liability Pass Through Agreement (BLPTA): The BLPTA will be executed by Peninsula Clean Energy, CC Power and GEM A-CAES LLC. The BLPTA is a guaranty by Peninsula Clean Energy of its share of payment obligations under the RA plus TB4 Agreement, in the event that CC Power fails to make the payments on participating CCAs' behalf. The intent of the BLPTA is to mirror the liability a participating CCA would have if it were to execute the RA plus TB4 agreement directly with GEM A-CAES LLC. Through the BLPTA, each CCA guarantees CC Power's payment obligations in proportion to each participating CCA's share of the project. In exchange, GEM A-CAES agrees to release CC Power from liability and to limit recovery from each CCA to an amount proportionate to each CCA's share of the project.

These three agreements (RA plus TB4 Agreement, PPSA, and BLPTA) are provided as attachments to this report. These agreements are provided in substantive form, but some additional modifications may be necessary prior to execution. The specific terms discussed in this report will remain unchanged.

The CC Power Board meeting on January 28, 2026 includes an action item to approve the Willow Rock RA plus TB4 Agreement. The RA plus TB4 Agreement gives CC Power 120 days to secure approval from each of the participating CCAs' governing Boards.

The Peninsula Clean Energy Board of Directors' vote on this item will direct the Chief Executive Officer's vote at the CC Power Board Meeting on January 28, 2026 with respect to the RA plus TB4 Agreement, and delegate authority to the Chief Executive Officer to execute the PPSA and the BLPTA on behalf of Peninsula Clean Energy.

DISCUSSION

Energy storage, including long-duration energy storage, is a key resource type that Peninsula Clean Energy needs to reach its aggressive clean energy goal of serving its customers with 100% renewable energy by 2030 while maximizing 24/7 hourly matching. The Willow Rock project represents an intersection of procurement and innovation, helping to advance the 24/7 renewable goal while promoting cutting-edge clean technologies.

As the first non-lithium storage project in Peninsula Clean Energy's supply portfolio, the Willow Rock project provides technology diversity benefits to the portfolio, helping reduce risk associated with relying on a single technology type. In addition, the project provides contract structure diversity by being the first RA plus TB4 Agreement in the portfolio. By jointly procuring the project through CC Power, participating CCAs collectively were able to pool buying power and obtain access to resources that each individually could not have easily procured. From a regulatory compliance perspective, the project is eligible to fulfill upcoming CPUC-issued procurement requirements, and/or serve as a back-up project for meeting the existing MTR obligations. The project will create local jobs, and the construction will emphasize the use of domestic manufacturing and materials.

Overall, the Willow Rock project is an innovative yet relatively de-risked project that positions Peninsula Clean Energy to meet its goals while embracing a new technological solution for the future energy grid.

FISCAL IMPACT

The fiscal impact of the Willow Rock Energy Storage Center Project will not exceed $99 million over the twenty (20) year term of the Agreement commencing on or around December 1, 2030.

STRATEGIC PLAN

The Willow Rock Energy Storage Center project supports the following objectives in Peninsula Clean Energy's strategic plan:

Procurement: PCE will maintain a 100% zero-carbon power resource portfolio while working towards delivering 100% renewable energy on an annual basis by 2030 through strategic and cost-effective procurement that can maximize PCE's 24/7 hourly matching of renewable energy to PCE's load while prioritizing reducing grid emissions and lowering customer costs.

Driving Innovation: PCE will continue to be an innovator and thought leader in the CCA industry - recognized locally, statewide and nationally for its leading-edge renewable procurement strategies, scalable building and transportation programs and policies, workforce DEAI initiatives, and piloted distributed energy resource projects. These efforts, designed to be replicated, will maximize environmental, economic, and customer impact while resulting in broader market changes.

ATTACHMENTS:
RESOLUTION A DIRECTING THE CHIEF EXECUTIVE OFFICER TO VOTE AS A MEMBER OF THE CC POWER BOARD OF DIRECTORS.docx
RESOLUTION B DELEGATING AUTHORITY TO THE CHIEF EXECUTIVE OFFICER TO EXECUTE THE PPSA AND THE BLPTA.docx
DRAFT PROJECT PARTICIPANT SHARE AGREEMENT (PPSA) FOR WILLOW ROCK.docx
DRAFT BUYER LIABILITY PASS THROUGH AGREEMENT (BLPTA) FOR WILLOW ROCK.docx
GEM - CCP RA + TB4 Agreement 01.08.2026_clean_redacted

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

*** * * * * ***

RESOLUTION DIRECTING THE CHIEF EXECUTIVE OFFICER TO VOTE, AS A DIRECTOR ON THE CALIFORNIA COMMUNITY POWER BOARD OF DIRECTORS, TO APPROVE THE RESOURCE ADEQUACY AND TB4 AGREEMENT BETWEEN CALIFORNIA COMMUNITY POWER AND GEM A-CAES LLC AND ANY NECESSARY ANCILLARY DOCUMENTS FOR THE WILLOW ROCK LONG DURATION ENERGY STORAGE PROJECT WITH A DELIVERY TERM OF TWENTY (20) YEARS STARTING AT THE COMMERCIAL OPERATION DATE ON OR ABOUT DECEMBER 31, 2030

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, and the City of Los Banos, State of California ("Peninsula Clean Energy" or "PCE"), that

WHEREAS, the Peninsula Clean Energy Authority ("Peninsula Clean Energy") was formed on February 29, 2016; and

WHEREAS, launch of service for Phase I occurred in October 2016, and launch of service for Phase II occurred in April 2017; and

WHEREAS, Peninsula Clean Energy is purchasing energy, renewable energy, carbon-free energy, resource adequacy and related energy market products and services (the "Products") to supply its customers; and

WHEREAS, Peninsula Clean Energy is a member of the California Community Power (CC Power) joint powers authority; and

WHEREAS, Peninsula Clean Energy as a member of CC Power conducted a request for offers for long duration energy storage (LDS) projects and engaged in negotiations for the Willow Rock Energy Storage Center project; and

WHEREAS, CC Power seeks to execute agreements to effectuate its purchase of storage resource from the Willow Rock Energy Storage Center based on the project's desirable offering of products, pricing, and terms; and

WHEREAS, the Willow Rock Energy Storage Center project may contribute to the existing and expected future regulatory requirement to procure LDS and generic capacity for each of the CCAs that are participating in this project through CC Power by providing energy storage capacity for a term of twenty years starting on or about June 1, 2030; and

WHEREAS, staff is presenting to the Board for its review the Resource Adequacy plus TB4 Agreement, Buyer Liability Pass Through Agreement, and Project Participation Share Agreement, reference to which should be made for further particulars; and

WHEREAS, the Board wishes to direct the Chief Executive Officer to vote as a director on the California Community Power Board to approve the Resource Adequacy

and TB4 Agreement between CC Power and GEM A-CAES, LLC and any necessary ancillary documents the Willow Rock Energy Storage Center Project for a delivery term of 20 years starting at the Commercial Operation Date on or about December 31, 2030.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board directs the Chief Executive Officer to vote, as a director on the CC Power Board of Directors, to approve the Resource Adequacy and TB4 Agreement between CC Power and GEM A-CAES LLC and any necessary ancillary documents for the Willow Rock Long Duration Energy Storage Project with a delivery term of twenty (20) years starting at the Commercial Operation Date on or About December 31, 2030.

* * * * * *

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

*** * * * * ***

RESOLUTION DELEGATING AUTHORITY TO THE CHIEF EXECUTIVE OFFICER TO EXECUTE THE FOLLOWING AGREEMENTS AND ANY NECESSARY ANCILLARY DOCUMENTS FOR THE WILLOW ROCK ENERGY STORAGE CENTER PROJECT IN AN AMOUNT NOT-TO-EXCEED $99 MILLION: i) PROJECT PARTICIPATION SHARE AGREEMENT (PPSA) BETWEEN PENINSULA CLEAN ENERGY, CALIFORNIA COMMUNITY POWER, AND OTHER PARTICIPATING COMMUNITY CHOICE AGGREGATORS AND ii) BUYER LIABILITY PASS-THROUGH AGREEMENT (BLPTA) BETWEEN PENINSULA CLEAN ENERGY AUTHORITY, CALIFORNIA COMMUNITY POWER, AND GEM A-CAES LLC

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, and the City of Los Banos, State of California ("Peninsula Clean Energy" or "PCE"), that

WHEREAS, the Peninsula Clean Energy Authority ("Peninsula Clean Energy") was formed on February 29, 2016; and

WHEREAS, launch of service for Phase I occurred in October 2016, and launch of service for Phase II occurred in April 2017; and

WHEREAS, Peninsula Clean Energy is purchasing energy, renewable energy, carbon-free energy, resource adequacy and related energy market products and services (the "Products") to supply its customers; and

WHEREAS, Peninsula Clean Energy is a member of the California Community Power (CC Power) joint powers authority; and

WHEREAS, Peninsula Clean Energy as a member of CC Power conducted a request for offers for long duration energy storage (LDS) projects and engaged in negotiations for the Willow Rock Energy Storage Center project; and

WHEREAS, consistent with its mission of reducing greenhouse gas emissions by expanding access to sustainable and affordable energy solutions, Peninsula Clean Energy seeks to execute agreements to effectuate its purchase of its share of storage capacity and energy revenue products from the Willow Rock Energy storage Center project based on the project's desirable offering of products, pricing, and terms; and

WHEREAS, the Willow Rock Energy Storage Center project is eligible to contribute to Peninsula Clean Energy's existing and future regulatory requirement to procure LDS and generic capacity; and

WHEREAS, staff is presenting to the Board for its review the Energy Storage Services Agreement, Buyer Liability Pass Through Agreement, and Project Participation Share Agreement, reference to which should be made for further particulars; and

WHEREAS, the Board wishes to delegate to the Chief Executive Officer authority to execute the Buyer Liability Pass Through Agreement, and Project Participation Share

Agreement and any other ancillary documents required for said purchase of energy storage from the project.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board delegating Authority to the Chief Executive Officer to Execute the Agreements and any necessary ancillary documents with the Willow Rock Energy Storage Center Project, California Community Power, and participating CCAs with terms generally consistent with those presented, in a form approved by the General Counsel; and for a delivery term of twenty years in an amount not to exceed $99 million.

* * * * * *

WILLOW ROCK ENERGY STORAGE CENTER

PROJECT PARTICIPATION SHARE AGREEMENT

among

CITY AND COUNTY OF SAN FRANCISCO, ACTING BY AND THROUGH ITS PUBLIC UTILITIES COMMISSION CLEANPOWERSF

and

PENINSULA CLEAN ENERGY AUTHORITY

and

REDWOOD COAST ENERGY AUTHORITY

and

CITY OF SAN JOSÉ, ADMINISTRATOR OF SAN JOSÉ CLEAN ENERGY

and

SILICON VALLEY CLEAN ENERGY AUTHORITY

and

VALLEY CLEAN ENERGY

and

CALIFORNIA COMMUNITY POWER

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WILLOW ROCK ENERGY STORAGE CENTER

PROJECT PARTICIPATION SHARE AGREEMENT

PREAMBLE

This Project Participation Share Agreement ("**Agreement**") is entered into as of [DATE] (the "**Effective Date**"), by and among the City and County of San Francisco acting by and through its Public Utilities Commission – CleanPowerSF, Peninsula Clean Energy Authority, a California joint powers authority, Redwood Coast Energy Authority, a California joint powers authority, City of San José, a California municipal corporation administering San José Clean Energy, Silicon Valley Clean Energy, a California joint powers authority, and Valley Clean Energy, a California joint powers authority (each individually a "**Project Participant**" and collectively referred to as the "**Project Participants**") and California Community Power ("**CCP**"), a California joint powers authority. CCP and the Project Participants are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS CCP is a Joint Powers Authority, was formed for the purpose of developing, acquiring, constructing, owning, managing, contracting for, engaging in, or financing electric energy generation and storage projects, and for other purposes; and

WHEREAS, the Project Participants have participated with CCP in the negotiation of an agreement for purchase of the certain wholesale energy market products of the Willow Rock Energy Storage Center (the "**Project**" as defined in Exhibit A of the Offtake Agreement), and CCP is to enter into a Resource Adequacy plus TB4 Agreement ("**Offtake Agreement**"), which is incorporated herein by this reference, with GEM A-CAES LLC, a Delaware limited liability company ("**Project Developer**"), providing for purchase of the wholesale energy market products, and associated rights, benefits, and credits from the Project on behalf of the Project Participants; and

WHEREAS, pursuant to this Agreement, CCP shall cause to deliver to each Project Participant the Project Participant's associated share of the wholesale energy market products and associated rights, benefits, and credits of the Project.

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

ARTICLE 1
DEFINITIONS

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

"**AC**" means alternating current.

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

"**Agreement**" has the meaning set forth in the Preamble and any Exhibits, schedules, and any written supplements hereto.

"**Alternate Normal Vote**" has the meaning set forth in Exhibit D, Section 3.5.3.

"**Amended Annual Budget**" means the budget recommended by the CCP Manager and adopted by the CCP Board pursuant to Section 5.1(c) of this Agreement.

"Annual Budget" means the budget recommended by the CCP Manager and adopted by the CCP Board pursuant to Section 5.1(c) of this Agreement for the operating costs associated with CCP's administration of this Agreement.

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

"**Billing Statement**" has the meaning set forth in Section 9.2 of this Agreement.

"**Buyer Liability Pass Through Agreement**" **or** "**BLPTA**" means, for each Project Participant, the form set forth in Exhibit L of the Offtake Agreement, as executed by such Project Participant, countersigned by CCP, and delivered to the Project Developer.

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

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

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

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

"CCP Board" means the Board of Directors of California Community Power.

"CCP Manager" means the General Manager of California Community Power or any person who is designated by the CCP Board to act in the capacity of the General Manager.

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

"**Chair**" has the meaning set forth in Exhibit D, Section 3.3.1.

"**Change of Control**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Charging Energy**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Commercial Operation Date**" or "**COD**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Commercial Operation Delay Damages**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Community Choice Aggregator**" has the meaning set forth in California Public Utilities Code § 331.1.

"**Confidential Information**" has the meaning set forth in Section 18.1 of the Offtake Agreement.

"**Construction Delay Damages**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Construction Start Date**" has the meaning set forth in Exhibit B of the Offtake Agreement.

"**Contract Price**" has the meaning set forth on the Cover Sheet of the Offtake Agreement.

"**Contract Term**" has the meaning set forth in Section 2.1 of the Offtake Agreement.

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

"**Coordinated Operations Agreement**" means the agreement by and among CCP and all Project Participants for purposes of operating the Project.

"**Costs**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Project Participant in terminating any arrangement pursuant

to which it has hedged its obligations; and all reasonable attorneys' fees and expenses incurred by the Project Participant in connection with the Step-Up Allocation.

"**CPUC**" means the California Public Utilities Commission, or successor entity.

"Cured Payment Default" means a Payment Default that has been cured in accordance with Section 12.4 of this Agreement.

"**Damage Payment**" means the amount to be paid by the Offtake Agreement Defaulting Party to the Offtake Agreement Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount set forth in Section 11.3(a) of the Offtake Agreement.

"**Defaulting Project Participant**" has the meaning set forth in Section 12.1.

"**Delivery Point**" means the Facility PNode on the CAISO grid.

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

"Designated Fund" has the meaning set forth in Section 10.5.

"**Development Security**" means (a) cash or (b) a Letter of Credit in the amount set forth on the Cover Sheet of the Offtake Agreement.

"**Discharging Energy**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

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

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

"**Energy Settlement Revenues**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Entitlement Share**" means the percentage entitlement of each Project Participant as set forth in Exhibit B of this Agreement (entitled "Schedule of Project Participant Entitlement Shares and Step-Up Allocation Caps") attributable to each such Project Participant, as may be amended pursuant to Section 4.2 or 12.8.

"**Entitlement Share Reduction Amount**" has the meaning set forth in Exhibit C.

"**Entitlement Share Reduction Compensation Amount**" has the meaning set forth in Exhibit C.

"**Entitlement Share Reduction Notice**" has the meaning set forth in Exhibit C.

"**Estimated Monthly Project Cost**" has the meaning set forth in Section 8.1.

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

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

"**Facility Meter**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

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

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

"**Fiscal Year**" means CCP's fiscal year as determined by the CCP Board.

"**Force Majeure Event**" has the meaning set forth in Section 10.1 of the Offtake Agreement.

"**Gains**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from such Step-Up Allocation for the remaining Contract Term of the Offtake Agreement, determined in a commercially reasonable manner. Factors used in determining the economic benefit to such Project Participant may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of such Project Participant, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term, and include the value of Capacity Attributes.

"**Governmental Authority**" means any federal, state, provincial, local, or municipal government, any political subdivision thereof or any other governmental, congressional, or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided*, "Governmental Authority" shall not in any event include any Party, except to the extent that the Party is acting solely in its governmental capacity.

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

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

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

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

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

"**Invoice Amount**" has the meaning set forth in Section 9.2.

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

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated January 29, 2021, as amended from time to time, under which CCP is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

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

"**Late Payment Notice**" means a notice issued by CCP to a Project Participant pursuant to Section 9.7.

"**Late Payment Charge**" has the meaning set forth in Section 9.7.

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

"**Lead Point Person**" has the meaning set forth in Exhibit D, Section 2.1.

"**Letter(s) of Credit**" has the meaning set forth in Section 1.1 the Offtake Agreement.

"**Losses**" means, with respect to a Project Participant assuming all or a portion of a Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c), an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from such Step-Up Allocation for the remaining Contract Term of the Offtake Agreement, determined in a commercially reasonable manner. Factors used in determining economic loss to such Project Participant may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Project Participant, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term of the Offtake Agreement and must include the value of Capacity Attributes.

"**Month**" means a calendar month.

"**Monthly Costs**" has the meaning set forth in Section 9.1.

"**Monthly Energy Settlement Amount**" has the meaning set forth in Exhibit C of the Offtake Agreement.

"**Monthly Product Payment**" means the payment required to be made by CCP to Project Developer each month of the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C of the Offtake Agreement.

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

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

"**Non-Defaulting Project Participant**" has the meaning set forth in Section 12.1.

"**Normal Vote**" has the meaning set forth in Exhibit D, Section 3.5.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Offtake Agreement**" means the agreement between CCP and Project Developer for the purchase of wholesale energy market products of the Willow Rock Energy Storage Center, executed on [Offtake Agreement Effective Date].

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

"**Offtake Agreement Non-Defaulting Party**" has the meaning set forth in Section 11.2 of the Offtake Agreement.

"**Operating Account**" means an internal accounting mechanism utilized by CCP to track the amounts paid by and owed to each individual Project Participant pursuant to the terms of this Agreement.

"**Operations Advisory Subcommittee**" has the meaning set forth in Exhibit D, Section 3.1.

"**Operating Cost**" means the share of the Annual Budget or Amended Annual Budget attributable to the applicable Month for a Billing Statement.

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

"**Payment Default**" has the meaning set forth in Section 12.2.

"**Payment Default Termination Deadline**" has the meaning set forth in Section 12.6.

"**Performance Security**" means (i) cash or (ii) a Letter of Credit in the amount set forth on the Cover Sheet of the Offtake Agreement.

"**Permitted Transferee**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

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

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

"**Product**" has the meaning set forth in Section 3.1

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

"**Project**" shall be broadly construed to entail the aggregate of rights, liabilities, interests, and obligations of CCP pursuant to the Offtake Agreement, including but not limited to all rights, liabilities, interests, and obligations associated with the Product, all rights, liabilities, interests and obligations associated with the Facility, and including all aspects of the operation and

administration of the Facility and the Offtake Agreement and the rights, liabilities, interests and obligations associated therewith.

"**Project Developer**" means GEM A-CAES LLC, a Delaware limited liability company, or assignee as permitted under the Offtake Agreement.

"**Project Participants**" means those entities executing this Agreement, as identified in the Preamble, together in each case with each entity's successors or assigns.

"**Project Revenue Rights**" means all rights of a Project Participant under this Agreement to any revenue owed to CCP associated with the Facility, including the Monthly Energy Settlement Amount.

"**Project Rights**" means all rights and privileges of a Project Participant under this Agreement, including but not limited to its Entitlement Share, and its right to receive the Product from the Facility.

"**Project Rights and Obligations**" means the Project Participants' Project Rights and obligations under the terms of this Agreement.

"**Proposed Entitlement Share Reduction Compensation Amount**" has the meaning set forth in Exhibit C.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules, and standards of any successor organizations.

"**RA Deficiency Amount**" has the meaning set forth in Exhibit C of the Offtake Agreement.

"**Receiving Party**" has the meaning set forth in Section 18.2 of the Offtake Agreement.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4 of the Offtake Agreement.

"**Replacement RA**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Resource Adequacy Benefits**" has the meaning set forth in Section 1.1 of the Offtake Agreement.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff,

by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-031, 20-06-028, 20-12-006, 21-06-029, 21-06-035, 21-07-014, 22-03-034, 22-06-050, 23-04-010, 23-06-029, 24-06-040, 24-12-003, 25-06-048 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

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

"**Site**" has the meaning set forth in Section 1.1 of the Offtake Agreement, as further described in Exhibit A of the Offtake Agreement.

"**Step-Up Allocation Cap**" has the meaning set forth in Section 12.8(a).

"**Step-Up Invoice**" means an invoice sent to a Non-Defaulting Project Participant as a result of a Defaulting Project Participant's Payment Default, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of the Defaulting Project Participant, as the case may be, pursuant to Section 12.7.

"Step-Up Invoice Amount" has the meaning set forth in Section 12.7.

"Step-Up Invoice Amount Cap" has the meaning set forth in Section 12.7.

"**Step-Up Reserve Account**" has the meaning set forth in Section 12.7(a)(i).

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

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

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

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

"**Uncontrollable Forces**" means any Force Majeure event and any cause beyond the control of any Party, which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, epidemic or pandemic (excluding impacts of the disease designated COVID-19 or the related virus designated SARS-CoV-2 impacts actually known by the Party claiming the Force Majeure Event as of the

Effective Date), an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, licenseor permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Offtake Agreement, as defined therein.

"**Vice Chair**" has the meaning set forth in Exhibit D, Section 3.3.1.

1.2. Rules of Interpretation. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

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

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

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

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

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

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

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

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

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

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

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

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

(n) in the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Offtake Agreement or the Coordinated Operations Agreement, the terms and provisions of this Agreement shall control.

ARTICLE 2
EFFECTIVE DATE AND TERM

2.1. Term.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the occurrence of all of the following: (i) the termination of the Offtake Agreement, (ii) the termination of the Buyer Liability Pass Through Agreements for all the Project Participants, and (iii) all Parties have met their obligations under this Agreement ("**Term**").

(b) Applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. All indemnity and audit rights shall remain in full force and effect for three (3) years following the termination of this Agreement.

ARTICLE 3
AGREEMENT

3.1. Transaction. Subject to the terms and conditions of this Agreement, the Project Participants authorize CCP to purchase all Capacity Attributes associated with the Facility and any Replacement RA and Energy Settlement Revenues provided pursuant to the Offtake Agreement (collectively the "**Product**"), on behalf of the Project Participants. Pursuant to the procedures set

forth in the Coordinated Operations Agreement, CCP shall cause Project Developer to deliver each Project Participant's Entitlement Share of the Capacity Attributes to such Project Participant. CCP shall cause Project Developer to deliver any amounts owed to CCP associated with the Offtake Agreement, including the Monthly Energy Settlement Amount, RA Deficiency Amount, Construction Delay Damages, Commercial Operation Delay Damages, Capacity Damages, or any amounts otherwise owed to CCP pursuant to the Offtake Agreement. CCP shall administer the Offtake Agreement and oversee the Project Developer's development and operation of the Project. CCP shall not sell, assign, or otherwise transfer any Product, or any portion thereof, to any third party other than to the Project Participants, unless authorized by the Project Participants pursuant to this Agreement.

ARTICLE 4
ENTITLEMENT SHARE

4.1. Initial Entitlement Share. Each Project Participant's initial Entitlement Share as of the Effective Date shall be set forth in Column B of the Table provided in Exhibit B of this Agreement (entitled "Schedule of Project Participant Entitlement Shares and Step-Up Allocation Caps"). Any revisions to the Entitlement Shares specified in Exhibit B pursuant to Section 4.2 or Section 12.8 shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

4.2. Change of Entitlement Share. Any Project Participant may reduce its Entitlement Share of the Project pursuant to the process set forth in Exhibit C.

4.3. Reduction of Entitlement Share to Zero. If any Project Participant's Entitlement Share is reduced to zero through any process specified in Exhibit C, such Project Participant shall remain a Party to this Agreement and shall be subject to all rights, obligations, and liabilities of this Agreement, including but not limited to any liabilities for Monthly Product Payments, Damage Payment or Termination Payment, as applicable, and any other damage payments or reimbursement amounts under the Offtake Agreement.

ARTICLE 5
OBLIGATIONS OF CCP AND ROLE OF CCP BOARD

5.1. Obligations of CCP.

(a) CCP shall take such commercially reasonable actions or implement such commercially reasonable measures as may be necessary or desirable for the utilization, maintenance, or preservation of the rights and interests of the Project Participants in the Project including, if appropriate, such enforcement actions or other measures as CCP or the CCP Board deems to be in the Project Participants' best interests. To the extent not inconsistent with the Offtake Agreement or other applicable agreements, CCP may also be authorized by the Project Participants to assume any responsibilities in relation to the Project necessary to effectuate the conveyance of the Product to Project Participants in accordance with Project Participants' Entitlement Shares.

(b) To the extent such services are available and can be carried forth in accordance with the Offtake Agreement, CCP shall also provide such other services, as may be deemed necessary by CCP or the CCP Board to secure the benefits and/or satisfy the obligations associated with the Offtake Agreement.

(c) Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with this Section 5.1(c).

(i) The CCP Manager will prepare a proposed Annual Budget at least ninety (90) days prior to the beginning of each Fiscal Year during the Term of this Agreement. The proposed Annual Budget shall be based on the prior Fiscal Year's actual costs, as applicable, and shall include reasonable estimates of the costs CCP expects to incur during the applicable Fiscal Year in association with the administration of the Offtake Agreement. The CCP Manager shall present the proposed Annual Budget to the CCP Board. The CCP Board shall adopt the Annual Budget no later than thirty (30) days prior to the beginning of such Fiscal Year and shall cause copies of such adopted Annual Budget to be delivered to each Project Participant.

(A) For operating costs not otherwise collected through Articles 8 and 9 incurred prior to the Commercial Operation Date and which are approved by the CCP Board, including costs related to administering the Offtake Agreement, overseeing the development and CAISO integration of the Project, and other costs that are determined to be attributable to the Project by action of the CCP Board, shall be invoiced to each Project Participant based on their Project Entitlement Share.

(ii) At any time after the adoption of the Annual Budget for a Fiscal Year, the CCP Manager may prepare a proposed Amended Annual Budget for and applicable to the remainder of such Fiscal Year. The proposal shall (A) explain why an amendment to the Annual Budget is needed, (B) compare estimated costs against actual costs, and (C) describe the events that triggered the need for additional funding. The CCP Manager shall present the proposed Amended Annual Budget to the CCP Board. Upon adoption of the Amended Annual Budget by the CCP Board, such Amended Annual Budget shall apply to the remainder of the Fiscal Year and the CCP Board shall cause copies of such adopted Amended Annual Budget to be delivered to each Project Participant.

(iii) Reports. CCP will prepare and issue to Project Participants the following reports each quarter of a year during the Term:

(A) Financial and operating statement relating to the Project.

(B) Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project. If CCP incurred any material costs to provide services that were deemed necessary pursuant to Section 5.1(b), the variance report shall identify the costs and describe the services provided.

(d) Records and Accounts. CCP will keep, or cause to be kept, accurate records and accounts of the Project as well as of the operations relating to the Project, all in a manner similar to accepted accounting methodologies associated with similar projects. All transactions of CCP relating to the Project with respect to each Fiscal Year shall be subject to an annual audit.

Each Project Participant shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice during regular business hours.

(e) Information Sharing. Upon CCP's request, each Project Participant agrees to coordinate with CCP to provide such information, documentation, and certifications that are reasonably necessary for the administration, financing, refinancing, operation, scheduling, maintenance, attribute transfer, settlement, compliance reporting, and other ongoing activities of the Project, including information required to respond to requests for such information from any federal, state, or local regulatory body or other authority.

(f) [Reserved].

(g) Deposit of Insurance Proceeds. CCP shall promptly attribute any insurance proceeds received by CCP from any insurance obtained pursuant to this Agreement or otherwise associated with the Project to the Operating Accounts of the Project Participants based on each Project Participants' Entitlement Shares.

(h) Liquidated and Other Damages. Any amounts paid to CCP or applied against payments otherwise due by CCP pursuant to the Offtake Agreement or each Project Participant's respective BLPTA, by the Project Developer shall be attributed on a pro rata share, based on each Project Participant's Entitlement Share, to each Project Participant's Operating Account. Liquidated Damages include, but are not limited to Construction Delay Damages, Commercial Operation Delay Damages, Capacity Damages, Damage Payment, and Termination Payment.

(i) [Reserved].

(j) Resale of Product. Any Project Participant may direct CCP to remarket such Project Participant's Entitlement Share of the Product, or such Project Participant's Entitlement Share of any part of the Product. If CCP incurs any expenses associated with the remarketing activities pursuant to this Section 5.1(j), then CCP shall include the total amount of such expenses as a Monthly Cost on the Project Participant's next Billing Statement. Prior to offering the Project Participant's Entitlement Share of the Product, or the Project Participant's Entitlement Share of any part of the Product to any third party, CCP shall first offer the Product or portion of the Product to the other Project Participants. The amount of compensation paid to the selling Project Participant shall be negotiated and agreed to between the selling Project Participant and the purchasing Project Participant or third party. Any payments for any resold Product pursuant to this Section 5.1(j) shall be transmitted directly from the purchasing Project Participant or purchasing third party to the reselling Project Participant. Any such resale to a third party shall not convey any rights or authority over the operation or administration of the Project, and the Project Participant shall not make a representation to the third party that the resale conveys any rights or authority over the operation of the Project.

(k) Uncontrollable Forces. CCP shall not be required to provide, and CCP shall not be liable for failure to provide, the Product, Replacement RA, or other service under this Agreement when such failure, or the cessation or curtailment of, or interference with, the service is caused by Uncontrollable Forces or by the failure of the Project Developer, or its

successors or assigns, to obtain any required governmental permits, licenses, or approvals to acquire, administer, or operate the Project; provided, however, that the Project Participants shall not thereby be relieved of their obligations to make payments under this Agreement except to the extent CCP is so relieved pursuant to the Offtake Agreement, and provided further that CCP shall pursue all applicable remedies against the Project Developer under the Offtake Agreement and distribute any remedies obtained pursuant to Section 5.1(h).

(l) Insurance. Within one hundred and eighty days (180) of the Effective Date of this Agreement, CCP shall secure and maintain, during the Term, insurance coverage as follows:

(i) Commercial General Liability. CCP shall maintain, or cause to be maintained, commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of One Million Dollars ($1,000,000) per occurrence, and an annual aggregate of not less than Two Million Dollars ($2,000,000), endorsed to provide contractual liability in said amount, specifically covering CCP's obligations under this Agreement and including each Project Participant as an additional insured.

(ii) Employer's Liability Insurance. CCP, if it has employees, shall maintain Employers' Liability insurance with limits of not less than One Million Dollars ($1,000,000) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar ($1,000,000) policy limit will apply to each employee.

(iii) Workers' Compensation Insurance. CCP, if it has employees, shall also maintain at all times during the Term workers' compensation and employers' liability insurance coverage in accordance with statutory amounts, with employer's liability limits of not less than One Million Dollars ($1,000,000) for each accident, injury, or illness; and include a blanket waiver of subrogation.

(iv) Business Auto Insurance. CCP shall maintain at all times during the Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of CCP's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement and shall name each Project Participant as an additional insured and contain standard cross-liability and severability of interest provisions.

(v) Public Entity Liability Insurance. CCP shall maintain public entity liability insurance, including public officials' liability insurance, public entity reimbursement insurance, and employment practices liability insurance in an amount not less than One Million Dollars ($1,000,000) per claim, and an annual aggregate of not less than One Million Dollars ($1,000,000) and CCP shall maintain such coverage for at least two (2) years from the termination of this Agreement.

(m) Evidence of Insurance. Within ten (10) days after the deadline for securing insurance coverage specified in Section 5.1(l), and upon annual renewal thereafter, CCP shall deliver to each Project Participant certificates of insurance evidencing such coverage with insurers with ratings comparable to A-VII or higher, and that are authorized to do business in the State of California, in a form evidencing all coverages set forth above. Such certificates shall specify that

each Project Participant shall be given at least thirty (30) days prior Notice by CCP in the event of cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of each Project Participant. Any other insurance maintained by CCP not associated with this Agreement is for the exclusive benefit of CCP and shall not in any manner inure to the benefit of Project Participants. The general liability, auto liability and worker's compensation policies shall be endorsed with a waiver of subrogation in favor of each Project Participant for all work performed by CCP, its employees, agents and sub-contractors.

5.2. Role of CCP Board.

(a) The rights and obligations of CCP under the Offtake Agreement shall be subject to the ultimate control at all times of the CCP Board. The CCP Board shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the duties and responsibilities listed below, among others. The actions identified in Section 5.2(a)(ii) through (a)(ix) shall require CCP Board approval.

(i) Dispute Resolution. The CCP Board shall review, discuss and attempt to resolve any disputes among CCP, any of the Project Participants, and the Project Developer relating to the Project, the operation and management of the Facility, and CCP's rights and interests in the Facility.

(ii) Offtake Agreement. The CCP Board shall have the authority to review, modify, and approve, as appropriate, all amendments, modifications, and supplements to the Offtake Agreement.

(iii) [Reserved].

(iv) [Reserved].

(v) Budgeting. Upon the submission of a proposed Annual Budget or proposed Amended Annual Budget, the CCP Board shall review, modify, and approve each Annual Budget and Amended Annual Budget in accordance with Section 5.1(c) of this Agreement.

(vi) Early Termination of Offtake Agreement. The CCP Board shall review, modify, and approve the recommendations of the CCP Manager, made pursuant to Section 6.2(b) of this Agreement, as to an early termination of the Offtake Agreement pursuant to Section 11.2 of the Offtake Agreement.

(vii) Assignment by Project Developer. The CCP Board shall review, modify, and approve the recommendations of the CCP Manager, made pursuant to Section 6.2(c) of this Agreement, as to any assignment by Project Developer pursuant to Section 14.1 of the Offtake Agreement other than any assignment pursuant to Sections 14.2 or 14.3 of the Offtake Agreement.

(viii) Buyer Financing Assignment. The CCP Board shall review, modify, and approve the recommendations of the CCP Manager, made pursuant to Section 6.2(d) of this Agreement, as to an assignment by CCP to a financing entity pursuant to Section 14.5 of the Offtake Agreement.

(ix) Change of Control. The CCP Board shall review, modify, and approve the recommendations of the CCP Manager, made pursuant to Section 6.2(e) of this Agreement, as to any Change of Control requiring CCP's consent, as specified in Section 14.1 of the Offtake Agreement.

(x) Supervening Authority of the Board. The CCP Board has complete and plenary supervening power and authority to act upon any matter which is capable of being acted upon by the CCP Manager or which is specified as being within the authority of the CCP Manager pursuant to the provisions of this Agreement.

(xi) Other Matters. The CCP Board is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the CCP Manager as may be provided for under this Agreement and under the Offtake Agreement, or as may otherwise be appropriate.

(xii) Periodic Audits. The CCP Board or the CCP Manager may arrange for the annual audit by certified accountants, selected by the CCP Board and experienced in electric generation or electric utility accounting, of the books and accounting records of CCP and the Project Developer, to the extent authorized under the Offtake Agreement, and such audit shall be completed and submitted to the CCP Board as soon as reasonably practicable after the close of the Fiscal Year. CCP shall promptly furnish to the Project Participant copies of all audits. No more frequently than once every calendar year, each Project Participant may, at its sole cost and expense, audit, or cause to be audited the books and cost records of CCP and/or the Project Developer, to the extent authorized under the Offtake Agreement.

(b) Pursuant to Section 5.06 of the Joint Powers Agreement, this Agreement modifies the voting rules of the CCP Board for purposes of approving or acting on any matter identified in this Agreement, as follows:

(i) Quorum. A quorum shall consist of a majority of the CCP Board members that represent Project Participants.

(ii) Voting. Each CCP Board member that represents a Project Participant shall have one vote for any matter identified in this Agreement. Any CCP Board member representing a CCP member that is not a Project Participant shall abstain from voting on any matter identified in this Agreement. A vote of the majority of the CCP Board members representing Project Participants that are in attendance shall be sufficient to constitute action, provided a quorum is established and maintained.

ARTICLE 6
ROLE AND RESPONSIBILITIES OF CCP MANAGER

6.1. Role of CCP Manager. The CCP Manager shall take all actions necessary to ensure that CCP fulfills its obligations under this Agreement, including the obligations set forth in Section 5.1. The CCP Manager is authorized to take any action that CCP is authorized to take, except those actions that expressly require CCP Board approval. In addition to any duties or

responsibilities set forth elsewhere in this Agreement, the CCP Manager is directed to do the following:

(a) Consult with the Project Participants with respect to the ongoing administration of the Project, including through the formation of advisory subcommittees.

(b) Oversee, as appropriate, the completion of any Project-related contract negotiation, contract administration, CAISO integration, attribute and revenue transfers, settlements, preparation of compliance reporting, and dispute resolution.

(c) Review, discuss, and attempt to resolve any disputes among the Project Participants relating to this Agreement or the Offtake Agreement.

(d) Review, validate, dispute, approve and timely pay, as appropriate, each invoice submitted by Project Developer.

(e) Upon a request or demand by any third person that is not a Party to the Offtake Agreement or a Project Participant, for Confidential Information as described in Section 18.2 of the Offtake Agreement, the CCP Manager shall notify the Project Developer and coordinate the response of CCP and Project Participants.

(f) Review Progress Reports provided by Project Developer to CCP pursuant to Section 2.3 of the Offtake Agreement and participate in any associated meetings with Project Developer to discuss development and construction progress. If Project Developer provides a Progress Report to CCP, the CCP Manager shall promptly provide such Progress Report to each Project Participant. The CCP Manager shall promptly notify the Project Participants upon receiving a Progress Report from the Project Developer that identifies a delay to the Construction Start Date or Commercial Operation Date.

(g) Take any necessary actions or implement such measures as may be necessary to facilitate the transfer of Resource Adequacy Benefits from the Project Developer to the Project Participants.

(h) Perform such other functions and duties as may be provided for under this Agreement, the Offtake Agreement, or as may otherwise be appropriate or beneficial to the Project or the Project Participants, unless such action requires CCP Board approval pursuant to this Agreement.

6.2. CCP Manager Recommendations to the CCP Board.

(a) Budgeting. Recommend each proposed Annual Budget and proposed Amended Annual Budget for submission to the CCP Board for final approval.

(b) Early Termination of Offtake Agreement. Recommend to the CCP Board regarding an early termination of the Offtake Agreement pursuant to Section 11.2 of the Offtake Agreement.

(c) Assignment by Project Developer. Recommend to the CCP Board any proposed assignment by Project Developer pursuant to Section 14.1 of the Offtake Agreement other than any assignment pursuant to Sections 14.2 or 14.3 of the Offtake Agreement.

(d) Buyer Financing Assignment. Recommend to the CCP Board an assignment by CCP to a financing entity pursuant to Section 14.5 of the Offtake Agreement.

(e) Change of Control. Recommend to the CCP Board any Change of Control requiring CCP's consent, as specified in Section 14.1 of the Offtake Agreement.

6.3. CCP Manager Report to CCP Board on Actions relating to the Offtake Agreement or the Project. The CCP Manager shall report to the CCP Board on the occurrence of any of the following actions taken by the CCP Manager. Such report may be written or oral and shall be provided at the next CCP Board Meeting occurring within a reasonable amount of time after the action was taken. Any information included as part of such report may be provided by the CCP Manager in a manner that maintains the confidentiality of such information, as reasonably determined to be necessary by the CCP Manager.

(a) Confirmation by the CCP Manager that the requirements of Exhibit B of the Offtake Agreement have been satisfied, such that the Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date has been achieved or extended.

(b) Any exercise of CCP's rights under the Offtake Agreement if an Event of Default has occurred under Section 11.1 of the Offtake Agreement.

(c) The approval or modification of any arrangements and instruments entered into by the Project Developer or any affiliate thereof to, among other things, secure certain performance requirements, including, but not limited to, the Offtake Agreement, the Development Security or the Performance Security and any other letter of credit delivered to, or for the benefit of, CCP by the Project Developer and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.

(d) The approval of any Remedial Action Plan submitted by Project Developer to CCP pursuant to Section 2.4 of the Offtake Agreement.

(e) The written acknowledgement by CCP of the occurrence of the Commercial Operation Date in accordance with Section 2.2 of the Offtake Agreement.

(f) The approval of the return of the Development Security to Project Developer in accordance with Section 8.7 of the Offtake Agreement.

(g) The approval of the return of any unused Performance Security to Project Developer in accordance with Section 8.8 of the Offtake Agreement.

(h) The collection of any liquidated damages owed by Project Developer to CCP under the Offtake Agreement, or any draw upon the Development Security or Performance Security.

6.4. Subcommittees. The CCP Manager may establish as needed subcommittees including, but not limited to, contract management, auditing, legal, financial, engineering, mechanical, weather, geologic, diurnal, barometric, meteorological, operating, insurance, governmental relations, environmental, and public information subcommittees. The authority, membership, and duties of any subcommittee shall be established by the CCP Manager; provided, however, such authority, membership or duties shall not conflict with the provisions of the Offtake Agreement or this Agreement.

(a) Project Participant Expenses. Any expenses incurred by any representative of any Project Participant or group of Project Participants serving on any subcommittee in connection with their duties on such subcommittee shall be the responsibility of the Project Participant which they represent and shall not be an expense payable under this Agreement.

6.5. Delegation. To secure the effective cooperation and interchange of information in a timely manner in connection with various administrative, technical, and other matters which may arise from time to time in connection with administration of the Offtake Agreement, in appropriate cases, duties and responsibilities of the CCP Board, as the case may be under this Section 6, may be delegated to the CCP Manager by the CCP Board upon notice to the Project Participants.

ARTICLE 7
COORDINATED OPERATIONS AGREEMENT

7.1. Coordinated Operations Agreement. The Project Participants hereby establish and agree to a Coordinated Operations Agreement by and among CCP and all Project Participants for purposes of operating the Project as set forth in Exhibit D of this Agreement, which shall be construed in accordance with the terms of this Agreement.

ARTICLE 8
OPERATING ACCOUNT

8.1. Calculation of Estimated Monthly Project Cost. No later than ninety (90) days prior to the start of the Fiscal Year in which the Commercial Operation Date is expected to occur, the CCP Manager shall present to the Project Participants a proposed Estimated Monthly Project Cost, which shall be equal to a forecast of expected Monthly Product Payments over an entire Contract Year, divided by twelve (12). The Project Participants shall review, and, if appropriate, recommend approval of, or modification to the proposed Estimated Monthly Project Cost.

8.2. Operating Account. CCP shall establish an Operating Account for each Project Participant. Such Operating Accounts are for the purpose of internally tracking the amounts paid by each Project Participant, any amounts owed to a Project Participant, Project Participant's Monthly Costs, and any balances held within the Operating Account.

(a) Operating Account Amount. The Operating Account Amount for each Project Participant shall be an amount equal to the product of (i) the Estimated Monthly Project

Cost ($/month), (ii) three (3) (months), and (iii) such Project Participant's Entitlement Share (%) ("**Operating Account Amount**").

(b) Initial Funding of Operating Account. By no later than ninety (90) days prior to the expected Commercial Operation Date, each Project Participant shall pay to CCP an amount equal to that Project Participant's Operating Account Amount.

(c) Use of Operating Account. CCP may utilize the funds attributed to each Project Participant's Operating Account each month in an amount equal to the Monthly Costs multiplied by such Project Participant's Entitlement Share.

(d) Final Distribution of Operating Account. Following the expiration or earlier termination of the Offtake Agreement, and upon payment and satisfaction of any and all liabilities and obligations to make payments of the Project Participants under this Agreement and upon satisfaction of all remaining costs and obligations of CCP under the Offtake Agreement, any amounts then remaining in any Project Participant's Operating Account shall be paid to the associated Project Participant.

ARTICLE 9
BILLING

9.1. Monthly Costs. The amount of a Project Participant's Monthly Costs for a particular Month shall be the product of (a) the Project Participant's Entitlement Share multiplied by (b) the sum of (i) the actual Monthly Product Payments for such Month plus (ii) the Operating Cost for such Month minus (iii) the positive revenue associated with the Monthly Energy Settlement Amount minus (iv) any RA Deficiency Amount, as shown in the following formula:

Project Participant's Monthly Cost = (Project Participant's Entitlement Share) × [(Monthly Product Payments) + (Operating Costs) – (Monthly Energy Settlement Amount) – (RA Deficiency Amount)]

9.2. Billing Statements. By no later than ten (10) calendar days after CCP receives an invoice from Project Developer for the prior Month during the Delivery Term pursuant to Section 8.1 of the Offtake Agreement, CCP shall issue to each Project Participant a copy of the invoice and a "Billing Statement," which specifies such Project Participant's Monthly Costs, itemized by each part of such Monthly Cost. The amount of Monthly Costs attributable to a Project Participant, and specified in such Billing Statement, shall be the "**Invoice Amount**."

9.3. Disputed Monthly Billing Statement. A Project Participant may dispute, by written Notice to CCP, any portion of any Billing Statement submitted to that Project Participant by CCP pursuant to Section 9.2, provided that the Project Participant shall pay the full amount of the Billing Statement when due. If CCP determines that any portion of the Billing Statement is incorrect, CCP will attribute the difference between such correct amount and such full amount, if any, including interest at the rate received by CCP on any overpayment to such Project Participant's Operating Account. If CCP and a Project Participant disagree regarding the accuracy of a Billing Statement, CCP will give consideration to such dispute and will advise all Project Participants with regard to CCP's position relative thereto within thirty (30) days following receipt of written Notice by Project Participant of such dispute.

9.4. Payment Adjustments; Billing Errors. If CCP or Project Developer determines that a prior invoice or Billing Statement was inaccurate, CCP shall credit against or increase as appropriate each Project Participant's subsequent Monthly Costs according to such adjustment. The accompanying Billing Statement shall describe the cause of such adjustment and the amount of such adjustment.

9.5. Payment of Invoice Amount. Each Project Participant shall pay the Invoice Amount for the applicable Month to CCP by no later than the twentieth (20th) calendar day of the following Month after the Billing Statement is issued, unless CCP has failed to issue the Billing Statement by the deadline specified in Section 9.2, in which case, each Project Participant shall pay the Invoice Amount for the applicable Month by no later than thirty (30) days after the date on which CCP issues the Billing Statement to the Project Participant.

9.6. Deduction of Invoice Amount from Operating Account. After CCP issues a Billing Statement to a Project Participant or a Step-Up Invoice to a Project Participant, CCP shall deduct the Invoice Amount or the Step-Up Invoice Amount from each Project Participant's Operating Account. If the Monthly Cost attributable to such Project Participant is a negative number, CCP shall add such funds to the Operating Account of that Project Participant.

9.7. Late Payments.

(a) If any Project Participant fails to pay the Invoice Amount to CCP by the deadline specified in Section 9.5, then CCP will issue such Project Participant a Late Payment Notice within five (5) days of the deadline specified in Section 9.5 directing the Project Participant to immediately pay the Invoice Amount to CCP and informing the Project Participant that such Project Participant must pay a charge (**"Late Payment Charge"**). Upon issuing a Late Payment Notice to any Project Participant, CCP shall promptly provide Notice of such occurrence to all other Project Participants.

(b) The Late Payment Charge shall be equal to (i) the Invoice Amount minus any partial payment multiplied by (ii) the Interest Rate specified in Section 8.2 of the Offtake Agreement for the period from the deadline specified in Section 9.5 until the date on which the Project Participant pays the Invoice Amount plus the Late Payment Charge. Upon payment, CCP shall withdraw the full amount of such Late Payment Charge from the Project Participant's Operating Account and attribute any such Late Payment Charge to the Operating Accounts of all other Project Participants on a pro rata share, based on such other Project Participants' Entitlement Shares.

ARTICLE 10
UNCONDITIONAL PAYMENT OBLIGATIONS; AUTHORIZATIONS; CONFLICTS; LITIGATION

10.1. Unconditional Payment Obligation. Beginning with the earliest of (i) the date CCP is obligated to pay any portion of the costs of the Project, (ii) the date of the COD, or (iii) the date of the first delivery of the Product to Project Participants and continuing through the Term of this Agreement, Project Participants shall pay CCP the amounts of Monthly Costs set forth in the Billing Statements submitted by CCP to Project Participants in accordance with the provisions of

Section 9, whether or not the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output or the provision of Facility products are suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever, provided that the obligation of Project Participants to pay amounts associated with the Monthly Product Payment shall be limited to the amount of Monthly Product Payment charged by the Project Developer to CCP and paid by CCP to the Project Developer.

10.2. Authorizations. Each Project Participant hereby represents and warrants that no order, approval, consent, or authorization of any governmental or public agency, authority, or person, is required on the part of such Project Participant for the execution and delivery by the Project Participant, or the performance by the Project Participant of its obligations under this Agreement except for such as have been obtained.

10.3. Conflicts. Each Project Participant represents and warrants to CCP as of the Effective Date that, to the Project Participant's knowledge, the execution and delivery of this Agreement by the Project Participants and the Project Participants' performance hereunder will not constitute a default under any agreement or instrument to which it is a party, or any order, judgment, decree or ruling of any court that is binding on the Project Participant, or a violation of any applicable law of any governmental authority, which default or violation would have a material adverse effect on the financial condition of the Project Participant.

10.4. Litigation. Each Project Participant represents and warrants to CCP that, as of the Effective Date, to the Project Participant's knowledge, except as disclosed, there are no actions, suits or proceedings pending against the Project Participant (service of process on the Project Participant having been made) in any court that questions the validity of the authorization, execution or delivery by the Project Participant of this Agreement, or the enforceability on the Project Participant of this Agreement.

10.5. San José Clean Energy.

(a) The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies without an appropriation for such obligation, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City of San José to appropriate funds for purposes of the Agreement; provided, however, that the City of San José has created and set aside a designated fund (being the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 *et. seq.*) ("**Designated Fund**") for payment of its obligations under this Agreement.

(b) Limited Obligations. The City of San José's payment obligations under this Agreement are special limited obligations of San José Clean Energy payable solely from the Designated Fund and are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

10.6. CleanPowerSF. With regard to CleanPowerSF only, (1) obligations under this Agreement are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF, and shall not be a charge upon the revenues or general fund of the San Francisco Public Utilities Commission or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the San Francisco Public Utilities Commission or the City and County of San Francisco, (2) cannot exceed the amount certified by the San Francisco City Controller for the purpose and period stated in such certification, and (3) absent an authorized emergency per the San Francisco City Charter or Code, no San Francisco City representative is authorized to offer or promise, nor is San Francisco required to honor, any offered or promised payments under this Agreement for work beyond the agreed upon scope or in excess of the certified maximum amount without the San Francisco City Controller having first certified the additional promised amount.

ARTICLE 11
RIGHTS AND OBLIGATIONS UNDER THE OFFTAKE AGREEMENT

11.1. CCP Rights and Obligations under the Offtake Agreement. Notwithstanding anything to the contrary contained in this Agreement: (i) the obligation of CCP to cause the delivery of the Project Participants' Entitlement Shares of the Product during the Delivery Term of this Agreement is limited to the Product which CCP receives from the Facility (or the Project Developer, as applicable); (ii) the obligation of CCP to pay any amount to Project Participants hereunder or to give credits against amounts due from Project Participants hereunder is limited to amounts CCP receives in connection with the transaction to which the payment or credit relates (or is otherwise available to CCP in connection with this Agreement for which such payment or credit relates); (iii) any purchase costs, operating costs, energy costs (including costs related to Charging Energy), capacity costs, Facility costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which CCP is responsible under the Offtake Agreement shall be considered purchase costs, operating costs, energy costs, capacity costs, Facility costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by CCP and payable by Project Participants as provided in this Agreement; (iv) CCP shall carry out its obligations and exercise its rights under the Offtake Agreement in a commercially reasonable manner; (v) all remedies provided to CCP pursuant to the Offtake Agreement shall be provided to Project Participants in accordance with Section 5.1(h); and (vi) any Force Majeure under the Offtake Agreement or other event of force majeure affecting the delivery of Product pursuant to applicable provisions of the Offtake Agreement shall be considered an event caused by Uncontrollable Forces affecting CCP with respect to the delivery of the Product hereunder and CCP forwarding to Project Participants notices and information from the Project Developer concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a Notice that Uncontrollable Forces have occurred pursuant to Section 5.1 of this Agreement. Any net proceeds received by CCP from the sale of the Product by the Project Developer to any third-party as a result of a Force Majeure event or failure by CCP to accept delivery of Product pursuant to the Offtake Agreement and any reimbursement received by CCP for purchase of Replacement RA shall be remitted by CCP to the Project Participants in accordance with their respective Entitlement Shares.

ARTICLE 12
NONPERFORMANCE AND PAYMENT DEFAULT.

12.1. Nonperformance by Project Participants. If a Project Participant fails to perform any covenant, agreement, or obligation under this Agreement or shall cause CCP to be in default with respect to any undertaking entered into for the Project or to be in default under the Offtake Agreement (**"Defaulting Project Participant"**), CCP may, in the event the performance of any such obligation remains unsatisfied after thirty (30) days' prior written notice thereof to such Project Participant and a demand to so perform, take any action permitted by law to enforce its rights under this Agreement, including but not limited to termination of such Project Participant's rights under this Agreement including any rights to its Entitlement Share of the Product, and/or bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against such Project Participant with regard to its failure to so perform. Any Project Participant that is not the Defaulting Project Participant (**"Non-Defaulting Project Participant"**) may submit Notice directly to the CCP Board, if such Non-Defaulting Project Participant determines that CCP is or may not be fully taking appropriate actions to enforce CCP's rights under this Agreement against a Defaulting Project Participant. The CCP Board shall consider such Notice and direct CCP to take appropriate action, if any.

12.2. Payment Default. If any Project Participant fails to pay the Invoice Amount by the deadline specified in Section 9.5, and if such Participant has not paid the Invoice Amount plus the Late Payment Charge within ten (10) calendar days of the issuance of the Late Payment Notice to such Project Participant by CCP, then such occurrence shall constitute a "**Payment Default**."

12.3. Payment Default Notice. Upon the occurrence of a Payment Default, CCP shall issue a Notice of Payment Default to the Project Participant notifying such Project Participant that as a result of a Payment Default, it is in default under this Agreement and has assumed the status of a Defaulting Project Participant and that such Defaulting Project Participant's Project Revenue Rights have been suspended and that such Defaulting Project Participant's Project Rights are subject to termination and disposal in accordance with Sections 12.6 and 12.8 of this Agreement. CCP shall provide a copy of such Notice of Default to all other Project Participants within five (5) calendar days after the issuance of the written Notice of Payment Default by CCP to the Defaulting Project Participant.

12.4. Cured Payment Default. If after a Payment Default, the Defaulting Project Participant cures such Payment Default within forty-five (45) calendar days after the issuance of the Late Payment Notice by CCP, the Defaulting Project Participant's Project Revenue Rights shall be reinstated and its Project Rights shall not be subject to termination and disposal as provided for in Sections 12.6 and 12.8. In order to cure a Payment Default, the Defaulting Project Participant must pay to CCP the full amount of any unpaid Invoice Amounts and any associated Late Payment Penalties.

12.5. Suspension of Project Participant's Project Revenue Rights and Treatment of Capacity Attributes.

(a) Upon the occurrence of a Payment Default, the Defaulting Project Participant's Project Revenue Rights shall be suspended until such time as such Defaulting Project Participant cures the Payment Default pursuant to the requirements of Section 12.4. Any revenue

associated with the Monthly Energy Settlement Amount[1] shall be attributed by CCP to the Step-Up Reserve Account, as specified in Section 12.7.

(b) For any Month where the funds remaining in a Defaulting Project Participant's Operating Account are sufficient to pay the entire Invoice Amount, CCP shall withdraw the Invoice Amount from such Defaulting Project Participant's Operating Account and shall cause the delivery of the Defaulting Project Participant's Entitlement Share of the Capacity Attributes associated with the Facility or otherwise provided for pursuant to the Offtake Agreement. For any Month where the funds remaining in a Defaulting Project Participant's Operating Account are less than the amount necessary to pay the entire Invoice Amount, CCP shall withdraw all remaining funds from the Defaulting Project Participant's Operating Account, and to the extent reasonably possible, in CCP's sole discretion, CCP shall cause the delivery of a quantity of Capacity Attributes proportionate to the portion of the Invoice Amount that the remaining funds were sufficient to pay for. For any Month where the Defaulting Project Participant's Operating Account has no funds remaining, the Defaulting Project Participant shall have no right to any such Capacity Attributes associated with the Facility or otherwise provided for under the Offtake Agreement.

12.6. Termination and Disposal of Project Participant's Project Rights. If a Defaulting Project Participant has not cured a Payment Default within forty-five (45) calendar days after the payment deadline specified in Section 9.5 by CCP ("**Payment Default Termination Deadline**"), then all Project Rights and Obligations pursuant to this Agreement shall be terminated and disposed in accordance with Sections 12.6 and 12.8 of this Agreement; provided, however, that the Defaulting Project Participant shall be liable for all outstanding payment obligations accrued prior to the Payment Default Termination Deadline and shall remain subject to all rights, obligations, and liabilities of this Agreement, including but not limited to any liabilities for Damage Payment or Termination Payment, as applicable, and any other damage payments or reimbursement amounts under the Offtake Agreement. CCP shall provide to the Defaulting Project Participant a separate monthly invoice of any such payment obligations of such Defaulting Project Participant. CCP shall immediately notify the other Project Participants of such termination of the Defaulting Project Participant's Project Rights and Obligations.

12.7. Step-Up Invoices.

(a) Upon the occurrence of a Payment Default, CCP shall, concurrently with the Late Payment Notice issued pursuant to Section 9.7(a), issue a Step-Up Invoice to each Non-Defaulting Project Participant that specifies such Non-Defaulting Project Participant's pro rata payment obligation, calculated based on the Entitlement Share of such Non-Defaulting Project Participant, of the amount of the Payment Default for the Defaulting Project Participant (the "**Step-Up Invoice Amount**"); provided, however, that a Non-Defaulting Project Participant's Step-Up Invoice Amount shall not exceed twenty-five percent (25%) of such Non-Defaulting Project Participant's Invoice Amount for the same month for which the Payment Default occurred (the **"Step-Up Invoice Amount Cap"**).

1 For discussion among Project Participants: Should only energy revenues flow to the Step-Up Reserve Account and not liquidated damages, or should all revenues and damages received go to the Step-Up Reserve Account?

(i) Each Non-Defaulting Project Participant shall pay the Step-Up Invoice Amount by the later of the twentieth (20th) calendar day of the following Month or thirty (30) days after the date on which CCP issues the Step-Up Invoice to the other Project Participants. No sooner than five (5) calendar days after CCP issues the Step-Up Invoice, CCP may deduct the amount of the Step-Up Invoice from each Project Participant's Operating Account and attribute such funds to a separate tracking account ("**Step-Up Reserve Account**"), which shall be accessible only by CCP, and which CCP may in its sole discretion deduct from in order to ensure that CCP can meet the payment obligations of the Offtake Agreement. CCP first shall deduct all funds from a Defaulting Project Participant's Operating Account before deducting funds from the Step-Up Reserve Account.

(ii) Application of Moneys Received from a Defaulting Project Participant. If a Defaulting Project Participant cures a Payment Default on or before the Payment Default Termination Deadline, any funds remaining in the Step-Up Reserve Account shall be attributed to the Operating Accounts of the other Project Participants on a pro rata share, based on the Entitlement Share of such other Project Participant. If a Defaulting Project Participant fails to cure a Payment Default and the Defaulting Project Participant's Project Rights and Obligations are terminated and disposed of in accordance with Section 12.8, any funds remaining in the Step-Up Reserve Account shall be attributed to the Operating Accounts of the Non-Defaulting Project Participants on a pro rata share, based on the Entitlement Share, subject to the Step-Up Invoice Amount Cap for each Non-Defaulting Project Participant. If any Non-Defaulting Project Participant has not paid the full amount of its share of the Step-Up Invoice Amount to CCP by the deadline specified in Section 12.7(a)(i), then such occurrence shall be a Late Payment as specified in Section 9.7(a) and is subject to a Late Payment Charge pursuant to Section 9.7(b), and any such Non-Defaulting Project Participant shall not be entitled to its share of any moneys received from the Defaulting Project Participant or any funds remaining in the Step-Up Reserve Account in accordance with this Section 12.7(a)(ii) until such Non-Defaulting Project Participant has paid to CCP the full amount of its Step-Up Invoice Amount and the Late Payment Charge.

12.8. Step-Up Allocation of Project Participant's Project Rights. In the event that a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant's Entitlement Share shall be allocated to the other Project Participants (**"Step-Up Allocation"**) pursuant to the process set forth in this Section 12.8. If a Project Participant has defaulted in the performance of any of its obligations under its BLPTA, and any applicable cure periods under the BLPTA have expired, the Project Participants shall, to the extent required by each respective Project Participant's BLPTA, utilize the procedures set forth in this Section 12.8 to allocate the Project Rights and Obligations of the Project Participant that has defaulted under the BLPTA to the Project Participants that have not defaulted under the BLPTA, subject to the Step-Up Allocation Cap specified in Section 12.8(a).

(a) Step-Up Allocation Cap. If a Defaulting Project Participant's Entitlement Share is allocated to the Non-Defaulting Project Participants pursuant to this Section 12.8, no individual Non-Defaulting Project Participant shall be obligated to assume an allocation that exceeds that Project Participant's Step-Up Allocation Cap set forth in Column E of the Table in Exhibit B of this Agreement. Each Non-Defaulting Project Participant's initial Step-Up Allocation Cap shall be equal to the Non-Defaulting Project Participant Entitlement Share as of the Effective Date and set forth in Column B of the Table in Exhibit B of this Agreement, multiplied by one

hundred and twenty-five percent (125%). If a Project Participant modifies its Entitlement Share pursuant to Section 4.2 of this Agreement, then that Project Participant's Step-Up Allocation Cap shall be equal to the Project Participant's Entitlement Share as modified pursuant to Section 4.2 multiplied by one hundred and twenty-five percent (125%). Upon a modification of a Project Participant's Entitlement Share pursuant to Section 4.2, the CCP Manager shall cause the Step-Up Allocation Cap specified in Column E of the Table in Exhibit B of this Agreement to be modified in accordance with this Section 12.8(a). For avoidance of doubt, if a Project Participant's Entitlement Share is increased pursuant to Section 12.8(b) or (c), then such Project Participant's Step-Up Allocation Cap shall not be modified.

(b) Step-Up Allocation Share. If a Defaulting Project Participant's Project Rights are terminated pursuant to Section 12.6, then such Defaulting Project Participant's Entitlement Share shall be allocated to each Non-Defaulting Project Participant based on such Non-Defaulting Project Participant's pro rata share, calculated based on its Entitlement Share of the difference of the entire project minus the Entitlement Share of the Defaulting Project Participant, unless such allocation would cause any individual Non-Defaulting Project Participant to exceed its Step-Up Allocation Cap, in which case Section 12.8(c) shall apply. Upon allocation of a defaulting Project Participant's Entitlement Share pursuant to this Section 12.8(b), the CCP Manager shall cause each affected Project Participant's Entitlement Share specified in Column D of the Table in Exhibit B to be modified in accordance with this Section 12.8.

(c) Voluntary Allocation of Project Rights in Excess of the Step-Up Allocation Caps. If the allocation of a Defaulting Project Participant's Entitlement Share pursuant to Section 12.8(b) would cause any Non-Defaulting Project Participant's Entitlement Share to exceed its Step-Up Allocation Cap, then no allocation shall occur pursuant to Section 12.8(b). In such case, the CCP Manager shall oversee the offering of the total amount of the Defaulting Project Participant's Entitlement Share to the Non-Defaulting Project Participants on a voluntary basis. The initial offering shall be to each Non-Defaulting Project Participant on a pro rata share, based on such Non-Defaulting Project Participant's Entitlement Share. Each Project Participant may accept or reject the portion of the Defaulting Project Participant's Entitlement Share. If any portion of the Defaulting Project Participant's Entitlement Share remains unclaimed after the initial offering, then the remaining portion shall be offered to any Non-Defaulting Project Participant that accepted its full share of the Defaulting Project Participant's Entitlement Share in the initial offering on a pro rata share, based on such Non-Defaulting Project Participant's Entitlement Share as a percentage of the total Entitlement Shares of all Project Participants that are participating in the subsequent round of offerings. The CCP Manager shall conduct subsequent offering rounds until either the total amount of the Defaulting Project Participant's Entitlement Share is accepted by one or more of the Non-Defaulting Project Participants or some portion of the Defaulting Project Participant's Entitlement Share remains, but all Non-Defaulting Project Participants have rejected such remaining amount.

(d) Step-Up Allocation Damage Payment. A Defaulting Project Participant shall owe to each Non-Defaulting Project Participant that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c) a "**Step-Up Allocation Damage Payment**" equal to the Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Project Participant's Costs and Losses exceed its Gains, then the Step-Up Allocation Damage Payment shall be an amount owing to such

Non-Defaulting Project Participant. If the Non-Defaulting Project Participant's Gains exceed its Costs and Losses, then the Step-Up Allocation Damage Payment shall be zero dollars ($0). A Defaulting Project Participant shall not be entitled to any Step-Up Allocation Damage Payment or any other damages otherwise authorized under this Agreement from any other Project Participant. The Step-Up Allocation Damage Payment does not include consequential, incidental, punitive, exemplary, or indirect or business interruption damages. Each Non-Defaulting Project Participant that assumes any portion of the Defaulting Project Participant's Entitlement Share pursuant to the process set forth in Section 12.8(b) or 12.8(c) shall calculate, in a commercially reasonable manner, the Step-Up Allocation Damage Payment for the Defaulting Project Participant's Entitlement Share assumed by the Non-Defaulting Project Participant as of the effective date of such Step-Up Allocation. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. If the Defaulting Project Participant disputes the Non-Defaulting Project Participant's calculation of the Step-Up Allocation Damage Payment, in whole or in part, the Defaulting Project Participant shall, within five (5) Business Days of receipt of the Non-Defaulting Project Participant's calculation of the Step-Up Allocation Damage Payment, provide to the Non-Defaulting Project Participant a detailed written explanation of the basis for such dispute. Disputes regarding the Step-Up Allocation Damage Payment shall be determined in accordance with Article 16. Each Party agrees and acknowledges that (i) the actual damages that the other Project Participant would incur in connection with a Step-Up Allocation would be difficult or impossible to predict with certainty, (ii) the Step-Up Allocation Damage Payment described in this Section 12.8(d) is a reasonable and appropriate approximation of such damages, and (iii) the Step-Up Allocation Damage Payment described in this Section 12.8(d) is the exclusive remedy of a Project Participant in connection with a Step-Up Allocation pursuant to the process set forth in Sections 12.8(b) or 12.8(c) against a Defaulting Project Participant but shall not otherwise act to limit any of the Non-Defaulting Project Participant's rights or remedies under this Agreement.

(e) Remarketing of Unclaimed Defaulting Project Participant's Entitlement Share. If after the process set forth in Section 12.8(c), some portion of the Defaulting Project Participant's Entitlement Share remains unclaimed, the CCP Manager, in their discretion or as directed by the Non-Defaulting Project Participants, may take any action to generate revenue from such unclaimed Entitlement Share in order to meet CCP's payment obligation under the Offtake Agreement. For avoidance of doubt, the CCP Manager shall not be limited by the requirements of Section 4.2 or 5.1(j) of this Agreement in remarketing or generating revenue based on the unclaimed share.

12.9. Elimination or Reduction of Payment Obligations. Notwithstanding anything to the contrary in this Agreement, upon termination of a Defaulting Project Participant's Project Rights pursuant to Section 12.6 and the disposal of such Defaulting Project Participant's Project Rights and Obligations pursuant to Section 12.8, such Defaulting Project Participant's obligation to make payments under this Agreement (notwithstanding anything to the contrary herein) shall not be eliminated or reduced; provided, however, such payment obligations for the Defaulting Project Participant may be eliminated or reduced to the extent permitted by law, through an amendment to this Agreement, which shall be subject to the consent and approval of all Parties to this Agreement.

ARTICLE 13
LIABILITY

13.1. Project Participants' Obligations Several. No Project Participant shall be liable under this Agreement for the obligations of any other Project Participant or for the obligations of CCP incurred on behalf of other Project Participants. Each Project Participant shall be solely responsible and liable for performance of its obligations under this Agreement, except as otherwise provided for herein. The obligation of Project Participants to make payments under this Agreement is a several obligation and not a joint obligation with those of the other Project Participants.

13.2. No Liability of CCP or Project Participants. Except as provided for under Section 13.5 herein, the Parties agree that neither CCP, Project Participants, nor any of their past, present or future directors, officers, employees, board members, agents, attorneys or advisors (collectively, the "**Released Parties**") shall be liable to any other of the Released Parties for any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of Project Participants, CCP, or third persons) suffered by any Released Party as a result of the action or inaction or performance or non-performance by the Project Developer under the Offtake Agreement. Except as provided for under Section 13.5 herein, each Party shall release each of the other Released Parties from any claim or liability that such Party may have cause to assert as a result of any actions or inactions or performance or non-performance by any of the other Released Parties under this Agreement (excluding gross negligence and willful misconduct, which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). Notwithstanding the foregoing, no such action or inaction or performance or non-performance by any of the Released Parties shall relieve CCP or any Project Participants from their respective obligations under this Agreement, including, without limitation, the Project Participants' obligation to make payments required under Section 9.5 of this Agreement and CCP's obligation to make payments under Section 8.2 of the Offtake Agreement. The provisions of this Section 13.2 shall not be construed so as to relieve the CCP or the Project Developer from any obligation or liability under this Agreement or the Offtake Agreement.

13.3. Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 13.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, any Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of any other Party, and each Party shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment, underpayment or other monetary damages owed by the other Party in accordance with the terms of this Agreement.

13.4. No General Liability of CCP. The undertakings under this Agreement by CCP shall not constitute a debt or indebtedness of CCP within the meaning of any provision or limitation of

the Constitution or statutes of the State of California, and shall not constitute or give rise to a charge against its general credit.

13.5. Indemnification. Each Party shall indemnify, defend, protect, hold harmless, and release the other Parties, their directors, board members, officers, employees, agents, attorneys and advisors, past, present or future, from and against any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise, which include, without limitation, death, bodily injury, or personal injury to any person or damage or destruction to any property of Project Participants, CCP, or third persons, that may be imposed on, incurred by or asserted against any Party arising by manner of any breach of this Agreement, or the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of any Party or any Party's directors, board members, officers, employees, agents and advisors, past, present or future.

ARTICLE 14
NOTICES

14.1. Addresses for the Delivery of Notices. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit A or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

14.2. Acceptable Means of Delivering Notice. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows:

(a) if sent by United States mail with proper first class postage prepaid, five (5) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail;

(b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier;

(c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5:00 pm, on the next Business Day; or

(d) if delivered in person, upon receipt by the receiving Party.

Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 15
ASSIGNMENT

15.1. General Prohibition on Assignments. No Party may assign this Agreement, or its rights or obligations under this Agreement, without the prior written consent of all other Parties, in each Party's sole discretion.

ARTICLE 16
GOVERNING LAW AND DISPUTE RESOLUTION

16.1. Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced, and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. The Parties agree that any suit, action, or other legal proceeding by or against any Party with respect to or arising out of this Agreement shall be brought in the federal or state courts located in the State of California in a location to be mutually chosen by all Parties, or in the absence of mutual agreement, the County of Sacramento.

16.2. Dispute Resolution. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate, and attempt, in good faith, to resolve the dispute quickly and informally without significant legal costs. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days after Notice of the dispute, the Parties may pursue all remedies available to them at Law or in equity.

ARTICLE 17
MISCELLANEOUS

17.1. Entire Agreement; Integration; Exhibits. This Agreement, together with the Exhibits attached hereto constitutes the entire agreement and understanding by and among the Parties with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission, or other event of negotiation, drafting or execution hereof.

17.2. Amendments. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of all Parties; *provided*, this Agreement may not be amended by electronic mail communications. Any revisions to the Entitlement Share specified in Exhibit B pursuant to Section 4.2. or Section 12.8 shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

17.3. No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

17.4. Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force

and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

17.5. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

17.6. Electronic Delivery. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)). Delivery of an executed counterpart in .pdf electronic version shall be binding as if delivered in the original. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and as provided for in any applicable law.

17.7. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

17.8. Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and that the Parties are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

17.9. City of San Francisco Standard Provisions.

(a) False Claims. Pursuant to San Francisco Administrative Code § 21.35, any Party to this Agreement who submits a false claim shall be liable to the City and County of San Francisco for the statutory penalties set forth in that section. A Party will be deemed to have submitted a false claim to the City and County of San Francisco if the Party: (i) knowingly presents or causes to be presented to an officer or employee of the City and County of San Francisco a false claim or request for payment or approval; (ii) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City and County of San Francisco; (iii) conspires to defraud the City and County of San Francisco by getting a false claim allowed or paid by the City and County of San Francisco; (iv) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City and County of San Francisco; or (v) is a beneficiary of an inadvertent submission of a false claim to the City and County of San Francisco, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City and County of San Francisco within a reasonable time after discovery of the false claim.

(b) Political Activity. In performing its responsibilities under this Agreement, CCP shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City and County of San Francisco for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure.

(c) Non-discrimination Requirements.

(i) Non-discrimination in Contracts. CCP shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. CCP shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. CCP is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(ii) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. CCP does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(d) Consideration of Criminal History in Hiring and Employment Decisions. CCP agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to CCP's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

(e) MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

(f) Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products:

(i) Chapter 8 of the Environment Code is incorporated herein and by reference made a part hereof as though fully set forth.

(ii) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the Environment Code, CCP shall not provide any items to the City in performance of this Agreement which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products.

(iii) Failure of CCP to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

17.10. City of San José Standard Provisions.

(a) Nondiscrimination/Non-Preference. The Parties shall not, and shall not cause or allow its subcontractors to, discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing. The Parties will inform all subcontractors of these obligations. This prohibition is subject to the following conditions: (i) the prohibition is not intended to preclude Parties from providing a reasonable accommodation to a person with a disability; (ii) the City of San José's Compliance Officer may require the Parties to file, and cause any Party's subcontractor to file, reports demonstrating compliance with this section. Any such reports shall be filed in the form and at such times as the City's Compliance Officer designates. They shall contain such information, data and/or records as the City's Compliance Officer determines is needed to show compliance with this provision.

(b) Conflict of Interest. The Parties represent that they are familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Parties certify that, as of the Effective Date, are unaware of any facts constituting a conflict of interest or creating an appearance of a conflict of interest. The Parties shall avoid all conflicts of interest or appearances of conflicts of interest in performing this Agreement. The Parties have the obligation of determining if the manner in which it performs any part of this Agreement results in a conflict of interest or an appearance of a conflict of interest, and a Party shall immediately notify the City of San José in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict of interest. A Party's violation of this Section 17.10(b) is a material breach.

(c) Environmentally Preferable Procurement Policy. Parties shall perform its obligations under this Agreement in conformance with San José City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and San José City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy," as those policies may be amended from time to time. The Parties acknowledge and agree that in no event shall a breach of this Section 17.10(c) be a material breach of this Agreement or otherwise give rise to an Event of Default or entitle the City of San José to terminate this Agreement.

(d) Gifts Prohibited. The Parties represent that they are familiar with Chapter 12.08 of the San José Municipal Code, which generally prohibits a City of San José officer or designated employee from accepting any gift. The Parties shall not offer any City of San José officer or designated employee any gift prohibited by Chapter 12.08. A Party's violation of this Section 17.10(d) is a material breach.

(e) Disqualification of Former Employees. The Parties represent that they are familiar with Chapter 12.10 of the San José Municipal Code, which generally prohibits a former City of San José officer and former designated employee from providing services to the City of San José connected with his/her former duties or official responsibilities. Parties shall not use either directly or indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10.

17.11. Further Assurances. Each of the Parties hereto agrees to provide such information, execute, and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

California Community Power By: Name: Alexander Morris Title: General Manager Approved as to form by Counsel By: Name: Tony Braun Title: General Counsel	**CleanPowerSF** By: Name: Dennis J. Herrera Title: General Manager, San Francisco Public Utilities Commission Approved as to form by Counsel By: Name: William Sanders Title: Deputy City Attorney
Peninsula Clean Energy Authority By: Name: Shawn Marshall Title: Chief Executive Officer	**Redwood Coast Energy Authority** By: Name: Elizabeth Burks Title: Executive Director
San José Clean Energy By: Name: Lori Mitchell Title: Director of San José Clean Energy Approved as to form by Counsel By: Name: William Charley Title: Senior Deputy City Attorney	**Silicon Valley Clean Energy** By: Name: Monica Padilla Title: Chief Executive Officer Approved as to form by Counsel By: Name: Michael Callahan Title: General Counsel

Valley Clean Energy By: Name: Mitch Sears Title: Chief Executive Officer	

EXHIBIT A

NOTICES

Party	*All Notices*	*Invoices*
California Community Power	**California Community Power** Alexander Morris, General Manager 901 H Street Ste 120, PMB 157 Sacramento, CA 95814 amorris@cacommunitypower.org	**California Community Power** Attn: Accounting 901 H Street Ste 120, PMB 157 Sacramento, CA 95814 amorris@cacommunitypower.org mmaher@mahercpa.com
CleanPowerSF	**CleanPowerSF** Barbara Hale, Assistant General Manager, Power San Francisco Public Utilities Commission 525 Golden Gate Ave, 13th Floor San Francisco, CA 94102 bhale@sfwater.org	**CleanPowerSF** CleanPowerSF Accounts Payable San Francisco Public Utilities Commission 525 Golden Gate Ave, 7th Floor San Francisco, CA 94102 CleanPowerSFAP@sfwater.org
Peninsula Clean Energy	**Peninsula Clean Energy Authority** Shawn Marshall, Chief Executive Officer Peninsula Clean Energy Authority 2075 Woodside Road Redwood City, CA 94061 smarshall@peninsulacleanenergy.com	**Peninsula Clean Energy Authority** Finance Department Attn: Chief Financial Officer Peninsula Clean Energy Authority 2075 Woodside Road Redwood City, CA 94061 finance@peninsulacleanenergy.com
Redwood Coast Energy Authority	**Redwood Coast Energy Authority** Elizabeth Burks, Executive Director 633 Third Street Eureka, CA 95501 bburks@redwoodenergy.org	**Redwood Coast Energy Authority** Attn: Accounting 633 Third Street Eureka, CA 95501 707-269-1700, ext. 305 ap@redwoodenergy.org

Party	*All Notices*	*Invoices*
San José Clean Energy	**San José Clean Energy** Lori Mitchell, Director, Energy San José Clean Energy 200 E. Santa Clara Street, San José, CA 95113 Lori.Mitchell@sanjoseca.gov With a copy to: Attn: Senior Deputy City Attorney, Energy 200 E. Santa Clara Street, 16th Floor San José, CA 95113 mailto:CAO.Main@sanjoseca.gov Overnight Courier: 4 N. 2nd St., Ste. 700 San José, CA 95113	**San José Clean Energy** Invoices, San José Clean Energy 200 E. Santa Clara Street, San José, CA 95113 Invoices@sanjosecleanenergy.org With a copy to: Attn: Monica Gorham Monica.Gorham@sanjoseca.gov
Silicon Valley Clean Energy	**Silicon Valley Clean Energy Authority** Monica Padilla, Chief Executive Officer 333 W El Camino Real, Suite 330 Sunnyvale, CA 94087 monica.padilla@svcleanenergy.org	**Silicon Valley Clean Energy Authority** Attn: Finance Group 333 W El Camino Real, Suite 330 Sunnyvale, CA 94087 (408) 721-5301 invoices@svcleanenergy.org
Valley Clean Energy	**Valley Clean Energy** Chad Curran Director of Power Services 604 2nd Street Davis, CA 95616 chad.curran@valleycleanenergy.org	**Valley Clean Energy** Attn: Alisa Lembke 604 2nd Street Davis, CA 95616 (530) 446-2750 accounting@valleycleanenergy.org

EXHIBIT B

SCHEDULE OF PROJECT PARTICIPANT ENTITLEMENT SHARES AND STEP-UP ALLOCATION CAPS

Dated:_____

A	B	C	D	E
Project Participant	**Entitlement Share** *As of Effective Date*	**Entitlement Share** *As Modified Pursuant to Section 4.2*	**Entitlement Share** *As Modified Pursuant to Section 12.8(b) or 12.8(c)*	**Step-Up Allocation Cap** *125% multiplied by Column B or C as applicable*
CleanPowerSF	23.00%			28.75%
Peninsula Clean Energy	30.00%			37.50%
Redwood Coast Energy Authority	6.20%			7.75%
San José Clean Energy	24.00%			30.00%
Silicon Valley Clean Energy	11.40%			14.25%
Valley Clean Energy	5.40%			6.75%
Total	100%			

Instructions: If the CCP Manager modifies one or more Project Participant's Entitlement Share pursuant to Section 4.2, the CCP Manager shall prepare an updated Exhibit B that shows the prior Entitlement Share (Column B or D) in ~~strikeout~~ and specifies the new Entitlement Share values and the effective date of such modification in Column C. If the CCP Manager modifies one or more Project Participant's Entitlement Share pursuant to Section 12.8, the CCP Manager shall prepare an updated Exhibit B that shows the prior Entitlement Share (Column B or Column C) in ~~strikeout~~ and specifies the new Entitlement Share values and the effective date of such modification in Column D.

EXHIBIT C

PROCEDURE FOR VOLUNTARY REDUCTION OF PROJECT PARTICIPANT'S ENTITLEMENT SHARE

(a) Offer to Other Project Participants. A Project Participant proposing to reduce its Entitlement Share of the Project shall provide Notice to all other Project Participants and CCP specifying the quantity of the proposed reduction of Entitlement Share ("**Entitlement Share Reduction Amount**") and the first Month for which the Project Participant Proposes that the change of Entitlement Share would become effective (such Notice referred to as the "**Entitlement Share Reduction Notice**").

(i) Upon receiving an Entitlement Share Reduction Notice from any Project Participant, the CCP Manager shall promptly do all of the following:

(A) Establish Entitlement Share Reduction Compensation Amount. The CCP Manager shall secure at least one (1), but no more than three (3), valuations of the net present value of the Entitlement Share Reduction Amount over the remaining term of the Offtake Agreement from one or more qualified firm(s) with the requisite experience to determine such valuation. The valuation, or if more than one valuation is obtained, the average of all valuations received, shall be the "**Proposed Entitlement Share Reduction Compensation Amount**." The CCP Manager shall present the Proposed Entitlement Share Reduction Compensation Amount to the Project Participants. The Project Participants shall by a Normal Vote either approve the Proposed Entitlement Share Reduction Compensation Amount or direct the CCP Manager to secure additional valuations. The Proposed Entitlement Share Reduction Compensation Amount approved by the Project Participants shall be the "**Entitlement Share Reduction Compensation Amount**." The Project Participant proposing to reduce its Entitlement Share may modify the quantity of the Entitlement Share Reduction Amount associated with its proposal or withdraw its proposal at any time prior to the initiation of the process set forth in paragraph (a)(i)(B).

(B) Oversee the Offering of the Entitlement Share Reduction Amount to Other Project Participants. The CCP Manager shall facilitate the offering of the Entitlement Share Reduction Amount to the other Project Participants through multiple rounds of offerings.

a) The initial offering shall be to each Project Participant on a pro rata share, based on such Project Participant's Entitlement Share. Each Project Participant may accept or reject the portion of the Entitlement Share Reduction Amount offered to the Project Participant through this process. If any portion of the Entitlement Share Reduction Amount remains after the initial offering, then the remaining portion shall be offered to any Project Participant that accepted the share of the Entitlement Share Reduction Amount offered in the initial offering on a pro rata share, based on such Project Participant's Entitlement Share as a percentage of the total Entitlement Shares of all Project Participants that accepted the portion of the Entitlement Share Reduction Amount offered to them in the initial offering.

b) The CCP Manager shall conduct subsequent offering rounds until either the total Entitlement Share Reduction Amount is accepted by one or more of the other Project Participants or some portion of the Entitlement Share Reduction Amount remains, but all Project Participants have rejected such amount.

c) Any Project Participant accepting a share of the offered Entitlement Share Reduction Amount shall either pay the offering Project Participant or be compensated by the offering Project Participant at the Entitlement Share Reduction Compensation Amount multiplied by the quantity of the portion being accepted.

d) Before a transfer of all or a portion of any Project Participant's Entitlement share to another Project Participant can become effective, the proposed transfer must be submitted to and approved by the CCP Manager.

e) After acceptance and payment for such portion of the Entitlement Share Reduction Amount, the CCP Manager shall cause the Entitlement Share specified in Exhibit B to be modified accordingly, and such modification shall be considered an element of the administration of this Agreement and shall not require the consent of the Parties hereto.

(C) Oversee the Offering of the Entitlement Share Reduction Amount to CCP Members that are not Project Participants. If there is any portion of the Entitlement Share Reduction Amount that remains unaccepted after the process specified in paragraph (a)(i)(B) is complete, then the Project Participant proposing to reduce its Entitlement Share may request that the CCP Manager offer the remaining portion of the Entitlement Share Reduction Amount to CCP Members that are not Project Participants. If any CCP Member wishes to accept any or all of the remaining portion of the Entitlement Share Reduction Amount, such action shall require the CCP Member to become a Project Participant through an amendment to this Agreement, which shall be subject to the consent and approval of all Parties to this Agreement and the CCP Member becoming a Project Participant. The compensation amount associated with the CCP Member accepting the remaining portion of the Entitlement Share Reduction Amount shall be negotiated between the CCP Member and the offering Project Participant.

(D) Oversee the Offering of the Entitlement Share Reduction Amount to a Community Choice Aggregator that is not a CCP Member. If there is any portion of the Entitlement Share Reduction Amount that remains unaccepted after the process specified in both paragraphs (a)(i)(B) and (a)(i)(C) is complete, then the Project Participant proposing to reduce its Entitlement Share, may request that the CCP Manager offer the remaining portion of the Entitlement Share Reduction Amount to a Community Choice Aggregator that is not a CCP Member. If any Community Choice Aggregator wishes to accept any or all of the remaining portion of the Entitlement Share Reduction Amount, such action shall require the Community Choice Aggregator to become a CCP Member, and subsequent to becoming a CCP Member, to become a Project Participant through an amendment to this Agreement that is subject to the consent and approval of all Parties to this Agreement and the Community Choice Aggregator becoming a Project Participant. The compensation amount associated with the Community Choice Aggregator accepting the remaining portion of the Entitlement Share Reduction Amount shall be negotiated between the Community Choice Aggregator and the offering Project Participant.

EXHIBIT D

COORDINATED OPERATIONS AGREEMENT

1. AGREEMENT; TERM

1.1 Agreement. This Coordinated Operations Agreement establishes the structure for CCP to oversee the operations of the Project and for the Project Participants to advise CCP on the operation of the Project through the Operations Advisory Subcommittee.

2. LEAD POINT PERSON

2.1 Lead Point Person. The CCP Manager shall appoint a "**Lead Point Person**," who shall be an employee of CCP with the responsibilities set forth herein.

2.2 Lead Point Person Responsibilities. In consultation with the Operations Advisory Subcommittee, the Lead Point Person shall be responsible for fulfilling the operational requirements of the Project Participation Share Agreement, the Offtake Agreement, and CCP policies, and developing the procedures, protocols, and strategies relating to the operations of the Project. Examples include, but are not limited to, the following tasks, as applicable:

- settlements;
- after-the-fact analysis;
- Project inspections and performance testing;
- meter testing, calibration, and certification;
- compliance, Project performance, and market operations reporting;
- records management;
- facilitation of Capacity Attribute or other Product delivery, certification, and (subject to individual Project Participants' authorization for their Entitlement Share) resale;
- and any other relevant operational activities relating to the Project.

2.3 Reporting. Commencing no later than twelve (12) months prior to the expected COD, the Lead Point Person shall provide regular reports, no less frequently than monthly, to the Operations Advisory Subcommittee regarding the status and performance of the Project and any actions taken by the Lead Point Person on a regular cadence, as requested by the Operations Advisory Subcommittee.

2.4 Calling and Leading Meeting. The Lead Point Person shall call and lead meetings of the Operations Advisory Subcommittee, shall coordinate the Operations Advisory Subcommittee meetings with the Chair and Vice Chair, and shall follow the guidance of the Operations Advisory Subcommittee and any Normal Votes or Alternate Normal Votes by the Operations Advisory Subcommittee in his or her management of the Project.

3. OPERATIONS ADVISORY SUBCOMMITTEE

3.1 Operations Advisory Subcommittee. The Project Participants shall form an "**Operations Advisory Subcommittee**" with the responsibilities set forth below to advise the Lead Point Person upon all actions reasonably necessary to ensure that the Project Participants may obtain the benefits of the Offtake Agreement in a manner consistent with the terms and conditions of the Offtake Agreement.

3.2 Operations Advisory Subcommittee Membership. The Operations Advisory Subcommittee shall consist of one representative from each Project Participant and the Lead Point Person. An alternate representative may attend all meetings of the Operations Advisory Subcommittee but may vote only if the representative for whom they serve as alternate is absent. The Lead Point Person may bring in additional CCP staff as needed to support the operations of and reporting on the status of the Project.

3.3 Operations Advisory Subcommittee Leadership.

3.3.1 The Project Participants shall on an annual basis elect through a Normal Vote of the Operations Advisory Subcommittee a "**Chair**" and "**Vice Chair**" from among the Project Participants to coordinate the Operations Advisory Subcommittee meetings with the Lead Point Person and provide more regular feedback and guidance to the Lead Point Person on the operation of the Project and management of the Operations Advisory Subcommittee.

3.3.2 The Chair and Vice Chair shall review and curate materials to be presented to the Operations Advisory Subcommittee by the Lead Point Person, as appropriate.

3.3.3 The Chair and Vice Chair roles shall each be subject to a continuous term limit of two (2) years and shall be representatives from different Project Participants.

3.4 Operations Advisory Subcommittee Responsibilities.

3.4.1 Unless otherwise agreed to by the Operations Advisory Subcommittee and Lead Point Person, the Operations Advisory Subcommittee shall meet no less than monthly to review the activities of and advise the Lead Point Person upon the development and implementation of the CCP policies, procedures, protocols, and strategies relating to the operations of the Project. At least one representative from each Project Participant and the Lead Point Person shall be present at each meeting.

3.4.2 To the extent a Project Participant is unable to attend a meeting, such Project Participant shall delegate his or her advisory vote.

3.4.3 Any Project Participant may call for a meeting of the Operations Advisory

Subcommittee during normal business hours

3.5 Operations Advisory Subcommittee Voting Procedures. All advisory votes by the Project Participants within the Operations Advisory Subcommittee for any policies, procedures, protocols, and strategies relating to the operations of the Project, shall proceed pursuant to the "**Normal Vote**" process:

3.5.1 Quorum. No Normal Vote of the Operations Advisory Subcommittee shall be taken unless a representative is present or a vote is delegated for at least fifty percent (50%) of the total number of Project Participants; provided, however, that the Lead Point Person, Chair, and Vice Chair may call for a Normal Vote to be conducted by email, in which case at least fifty percent (50%) of the total number of Project Participants shall participate in the Normal Vote for a quorum to be met. For avoidance of doubt, the Lead Point Person shall not be a voting party, unless delegated a vote(s) by a Project Participant(s), pursuant to Exhibit D, Section 3.7.

3.5.2 Initial Normal Vote. All advisory guidance shall be informed by an affirmative vote of at least fifty-one percent (51%) of the total number of Project Participants, without regard to each Project Participant's Entitlement Share; provided, however, any representative of the Operations Advisory Subcommittee may request an Alternate Normal Vote.

3.5.3 Alternate Normal Vote. Any representative of the Operations Advisory Subcommittee may request that any Normal Vote be taken on an Entitlement Share basis (referred to as an "**Alternate Normal Vote**"). If a representative requests an Alternate Normal Vote, such Alternate Normal Vote shall replace and take precedence over any Normal Vote that may have been taken on the applicable matter. The following vote requirements shall apply to an Alternate Normal Vote:

3.5.3.1 If any individual Project Participant has an Entitlement Share exceeding fifty percent (50%), then all advisory guidance for which an Alternate Normal Vote is taken, shall require that the Project Participant with an Entitlement Share exceeding fifty percent (50%) plus any other Project Participant vote in the affirmative.

3.5.3.2 If no individual Project Participant has an Entitlement Share exceeding fifty percent (50%), then all advisory guidance for which an Alternate Normal Vote is taken, shall require an affirmative vote of Project Participants having Entitlement Shares aggregating at least fifty-one percent (51%) of the total Entitlement Shares

3.6 Inaction. If the Operations Advisory Subcommittee is unable or fails to agree

with respect to any matter or dispute which it is authorized to advise upon or otherwise act upon after a reasonable opportunity to do so, then the Lead Point Person or CCP Manager shall notify the CCP Board of such matter or dispute, provided, however, the CCP Manager may take such action as, in their discretion, they determine is necessary for the timely performance of any requirement pursuant to the Offtake Agreement.

3.7 Delegation. Duties and responsibilities of the Operations Advisory Subcommittee may be delegated to any individual in the Operations Advisory Subcommittee, including the Lead Point Person, upon agreement according to a Normal Vote among the Project Participants. Any Project Participant may delegate its vote to the Lead Point Person or another Project Participant prior to any meeting by giving Notice to all of the Project Participants.

3.8 Role of CCP Board. The rights and obligations of the Operations Advisory Subcommittee, CCP Manager, and Lead Point Person under this Coordinated Operations Agreement shall be subject to the ultimate control at all times of the CCP Board.

BUYER LIABILITY PASS THROUGH AGREEMENT

This Buyer Liability Pass Through Agreement (this "**BLPTA**") is entered into as of [Effective Date] (the "**BLPTA Effective Date**") by and between the [Member Name], a California [joint powers authority] (togetherwith its successors and permitted assigns "**Project Participant**"), California Community Power, a California joint powers authority ("**CC Power**"), and GEM A-CAES LLC a Delaware limited liability company (together with itssuccessors and permitted assigns "**Seller**"). Seller, CC Power, and Project Participant are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**."

RECITALS

WHEREAS, CC Power and Seller have entered into that certain Resource Adequacy and TB4 energy settlement ("RA+TB4") (as amended, restated or otherwise modified from time to time, the "**Offtake Agreement**") dated asof [Offtake Agreement Effective Date];

WHEREAS, Project Participant is entering into this BLPTA to secure, in part, California Community Power's obligations under the Offtake Agreement;

WHEREAS, Project Participant is named as a Project Participant under the Offtake Agreement and will derive substantial direct and indirect benefits from the execution and delivery of the Offtake Agreement;

WHEREAS, Seller and CC Power will derive substantial and direct benefits from the execution and delivery of this BLPTA; and

WHEREAS, initially capitalized terms used but not defined herein have the meaning set forth in the Offtake Agreement.

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

AGREEMENT

1. Project Participant Covenants. For value received, Project Participant does hereby unconditionally, absolutely, and irrevocably guarantee, as obligor and not as a surety, to Seller the complete and prompt payment of [Project Participation Entitlement Share]% (the "**Liability Share**"), as the same may be adjusted pursuant to Section 4, of all obligations and liabilities for payment now or hereafter owing from CC Power to Seller under the Offtake Agreement, including liabilities for Monthly Capacity Payments, the Damage Payment or Termination Payment, as applicable, and any other damage payments or reimbursement amounts (each such obligation or liability of CC Power under the Offtake Agreement, a "**Guaranteed Amount**"). Any payment made directly from CC Power to Seller under the Offtake Agreement shall reduce Project Participant's liability hereunder by reducing the total amount that is used to calculate the Guaranteed Amount pursuant to the preceding sentence. This BLPTA is an irrevocable, absolute, unconditional, and continuingguarantee of the punctual payment and performance, and not of collection, of Project Participant's Liability Share of the Guaranteed Amount. In the event CC Power shall fail to duly, completely, or punctually pay any amount owed by Buyer pursuant to the

terms and conditions of the Offtake Agreement, and such failure is not remedied within ten (10) Business Days after Notice thereof pursuant to Sections 11.1 or 11.4 of the Offtake Agreement, as applicable, Project Participant shall promptly pay Project Participant's Liability Share of the Guaranteed Amount, as required herein.

2. **Seller Waiver**. In consideration of the foregoing, Seller unconditionally waives:

a) all right to recover directly from CC Power any Damage Payment or Termination Payment that is not paid by CC Power pursuant to Sections 11.3 and 11.4 of the Offtake Agreement, but the foregoing waiver does not apply to any other right or remedy of Seller under the Offtake Agreement, including the right to recover accrued Monthly Capacity Payments, other amounts payableor reimbursable under the Offtake Agreement or any other amounts incurred or accrued prior to termination ofthe Offtake Agreement and the right to terminate the Offtake Agreement as the result of an Event of Default by Buyer.

3. **Demand Notice**. For avoidance of doubt, Seller may demand payment from Project Participant for purposes of this BLPTA only when and if a payment is not duly, completely,or punctually paid by CC Power pursuant to the terms and conditions of the Offtake Agreement and such failureis not remedied by CC Power within ten (10) Business Days after Notice thereof is issued pursuantto Sections 11.1 or 11.4 of the Offtake Agreement, as applicable. If CC Power fails to pay any amount when due pursuant to the Offtake Agreement, and such failure is not remedied by CC Power within ten (10) Business Days after Notice thereof, then Seller may exercise its rights under this BLPTA and make a payment demandupon Project Participant to pay Project Participant's Liability Share of the unpaid Guaranteed Amount (a "**Payment Demand**"). A Payment Demand shall be in writing and shall reasonably specify (a) in what manner and what amount CC Power has failed to pay, (b) an explanation of why such payment is due and owing, (c) a calculation of the Guaranteed Amount due from Project Participant, and (d) a specific statement that Seller is requesting that Project Participant pay its Guaranteed Liability Share of the unpaid Guaranteed Amount under this BLPTA. Project Participant shall, within fifteen (15) Business Days following its receipt of the Payment Demand,pay to Seller Project Participant's Liability Share of the unpaid Guaranteed Amount.

4. **Step-Up Events.** Within thirty (30) days after the occurrence of a Step-Up Event, Project Participant and CC Power will tender to Seller a duly executed and binding replacement Buyer Liability Pass Through Agreement in the same form as this Agreement, but for a Liability Share equal to the Project Participant's Revised Liability Share. Upon receipt of such executed replacement Buyer Liability Pass Through Agreement, Seller will cancel this Buyer Liability Pass Through Agreement, effective upon the effectiveness of the replacement Buyer Liability Pass Through Agreement. For the avoidance of doubt, the cancellation of an existing Buyer Liability Pass Through Agreement shall not be effective unless and until the replacement Buyer Liability Pass Through Agreement has become effective and binding. Following delivery of such replacement Buyer Liability Pass Through Agreement and cancellation of this Buyer Liability Pass Through Agreement, Exhibit S to the Offtake Agreement will be deemed amended to reflect the Project Participant's Revised Liability Share; *provided* that the Project Participant's Revised Liability Share shall not exceed one hundred twenty-five percent (125%) of the Project Participant's Initial Liability Share.

5. **Scope and Duration of BLPTA**. The obligations under this BLPTA are

independent of the obligations of CC Power under the Offtake Agreement, and an action may be brought to enforce this BLPTA whether or not action is brought against CC Power under the Offtake Agreement. This BLPTA shall continue in full force and effect from the BLPTA Effective Date until both of the following have occurred: (a) the Delivery Term of the Offtake Agreement has expired or terminated early, and (b) either (i) all payment obligations of CC Power due and payable under the Offtake Agreement are paid in full(whether directly or indirectly such as through set-off or netting) or (ii) Project Participant has paidthe maximum Guaranteed Amount (i.e. based on its maximum Revised Liability Share as providedin Section 4) in full. This BLPTA shall also continue to be effective or be reinstated, as the case may be, if at any time any payment of any Guaranteed Amount by CC Power is rescinded or mustotherwise be returned by Seller upon the insolvency, bankruptcy or reorganization of CC Power or similar proceeding, all as though such payment had not been made, and Project Participant's Liability Share of such Guaranteed Amount shall be subject to payment following a Payment Demand issued pursuant to this BLPTA. Without limiting the generality of the foregoing, and tothe extent that the Project Participant has not paid its maximum Guaranteed Amount in full, the obligations of the Project Participant hereunder shall not be released, discharged, or otherwise affected, and this BLPTA shall not be invalidated or impaired or otherwise affected for the following reasons:

a) The extension of time for the payment of any Guaranteed Amount; or

b) Any amendment, modification or other alteration of the Offtake Agreement; or

c) Any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount; or

d) Any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting CC Power, including but not limited to any rejection or other discharge of CC Power's obligations under the Offtake Agreement imposed byany court, trustee or custodian or any similar official or imposed by any law, statue or regulation,in each such event in any such proceeding; or

e) Any reorganization of CC Power or Project Participant, or any merger or consolidation of CC Power or Project Participant into or with any other Person; or

f) The receipt, release, modification or waiver of, or failure to pursue or seek relief under or with respect to, any other BLPTA, guaranty, collateral, pledge or security device whatsoever; or

g) CC Power's inability to pay any Guaranteed Amount or perform its obligations under the Offtake Agreement; or

h) Any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction; *provided* that Project Participant reserves the right to assert for itself any defenses, setoffs or counterclaims that CC Power is or may be entitled to assert against Seller, including with respect to disputes regarding the calculation of a Guaranteed Amount.

6. **Waivers by Project Participant**. Project Participant hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exceptionof the requirements in Paragraphs 2 and 3, (a) notice of acceptance, presentment or protest, noticeof any of the events described in Paragraph 5, or any other notice or demand of any kind with respect to the Guaranteed Amounts and this BLPTA, (b) any requirement that Seller pursue or exhaust any right, power or remedy or proceed against California Community Power under the Offtake Agreement or against any other Person, including any obligation to pursue any other BLPTAs, or to marshal assets, (c) any defense based on any of the matters described in Paragraph 4, (d) all rightsof subrogation or other rights to pursue CC Power for payments made under this BLPTA until allamounts owing under the Offtake Agreement have been paid in full, and (e) any duty of Seller to disclose any information or other matters relating to the business, operations or finances or other condition of CC Power or any other Person who has provided a BLPTA or other security or guaranty with respect to the Offtake Agreement now or hereafter known to Seller. Project Participant further acknowledges and agrees that it is and will be bound by actions taken and elections made by CC Power under theOfftake Agreement and waives any defense based on CC Power's authority or lack thereof or the validity, regularity or advisability of the actions taken or elections made.

7. **Project Participant Representations and Warranties**. Project Participant herebyrepresents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Project Participant's organizational documents, any applicable Law or any contractual provisions bindingon or affecting Project Participant, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Project Participant, threatened, against or affecting Project Participant or any of its properties or revenues which may,in any one case or in the aggregate, adversely affect the ability of Project Participant to enter intoor perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of the Project Participant), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Project Participant.

8. **Seller Representations and Warranties**. Seller hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute anddeliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceabilitymay be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Seller's organizational documents, any applicable Law or any contractual provisions binding on or affecting Seller, (d) there are no actions, suits or proceedings pending before any court,

governmental agency or arbitrator, or, to the knowledge of the Seller, threatened, against or affecting Seller or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Seller to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any stockholder or creditor of the Seller), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Seller.

9. **California Community Power Representations and Warranties**. California Community Power hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under,this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable againstit in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency,moratorium and other similar laws affecting enforcement of creditors' rights or general principlesof equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene California Community Power's organizational documents, any applicable Law or anycontractual provisions binding on or affecting California Community Power, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the California Community Power, threatened, against or affecting California Community Power or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of California Community Power to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of California Community Power), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by California Community Power.

10. **Notices**. Notices under this BLPTA shall be deemed received if sent to the addressspecified below: (i) on the day received if served by overnight express delivery, and (ii) four (4) Business Days after mailing if sent by certified, first-class mail, return receipt requested. Any Partymay change its address or facsimile to which notice is given hereunder by providing notice of thesame in accordance with this Paragraph 8.

If delivered to Seller:

Street: 333 Bay Street, Suite 520
City: Toronto, ON M5H 2R2, Canada
Attn: Jordan Cole, Chief Commercial Officer

Phone: +1 (416) 409-8549
Email: jordan.cole@hydrostor.ca

If delivered to Project Participant:

[Project Participant Notice Provisions]

If delivered to CC Power:

Attn: General Manager
California Community Power
901 H Street, Suite 120
PMB 157
Sacramento, CA 95814
Phone: 310-617-3441
amorris@cacommunitypower.org
with cc to: joshua.nelson@bbklaw.com

11. Governing Law and Forum Selection. This BLPTA shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its affiliates or designees) with respect to or arising out of this BLPTA shall be brought in the federal courts of the United States or the courts of the State ofCalifornia sitting in the county of Sacramento.

12. Miscellaneous. This BLPTA shall be binding upon the Parties and their respectivesuccessors and assigns and shall inure to the benefit of the Parties and their successors and permitted assigns. No provision of this BLPTA may be amended or waived except by a written instrument executed by Seller, CC Power, and Project Participant. No provision of this BLPTA confers, nor is any provision intended to confer, upon any third party (other than the Parties' successors and permitted assigns) any benefit or right enforceable at the option of that third party.This BLPTA embodies the entire agreement and understanding of the Parties hereto with respect tothe subject matter hereof and supersedes all prior or contemporaneous agreements and understandingsof the Parties hereto, verbal or written, relating to the subject matter hereof. If any provision of thisBLPTA is determined to be illegal or unenforceable (i) such provision shall be deemed restated inaccordance with applicable Laws to reflect, as nearly as possible, the original intention of the Partieshereto, and (ii) such determination shall not affect any other provision of this BLPTA and all otherprovisions shall remain in full force and effect. This BLPTA may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of saidcounterparts taken together shall be deemed to constitute one and the same instrument. This BLPTAmay be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

13. Assignment. Except as provided below in this Paragraph 12, no Party may assign this BLPTA or its rights or obligations under this BLPTA, without the prior written consent of theother Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Seller may, without the prior written consent of Project Participant and CC Power, transfer or assign thisBLPTA to any Person to whom Seller may assign its rights or obligations under the

Offtake Agreement, including assignments for financing purposes, including a Portfolio Financing; *provided*, Seller shall give Project Participant and CC Power Notice at least fifteen (15) Business Days before the date of such proposed assignment and, except in the case of a collateral assignment or other assignment for financing purposes, provide Project Participant and CC Power a written agreementsigned by the Person to which Seller wishes to assign its interests that provides that such Person will fully assume all of Seller's obligations and liabilities under this BLPTA, including obligationsand liabilities that arose prior to the date of transfer or assignment, upon such transfer orassignment. Project Participant may, without the prior written consent of Seller and CC Power, transfer or assign this BLPTA to any member of CC Power that (A) has a Credit Rating of at leastBBB- from S&P or Baa3 from Moody's, and (B) is a load serving entity; *provided*, Project Participant shall give Seller and CC Power Notice at least fifteen (15) Business Days before the date of such proposed assignment and provide to Seller and CC Power a written agreement signedby the Person to which Project Participant wishes to assign its interests that provides that such Person will fully assume all of Project Participant's obligations and liabilities, including obligations and liabilities that arose prior to the date of transfer or assignment, under this BLPTAupon such transfer or assignment.

14. No Recourse to Members of Project Participant. Project Participant is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its joint powers agreement and isa public entity separate from its constituent members. Project Participant shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this BLPTA. Sellerand CC Power shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Project Participant's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Project Participant or its constituent members, in connection with this BLPTA.

15. No Recourse to Members of CC Power. CC Power is organized as a Joint PowersAuthority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Except as expressly set forth in the Offtake Agreement and this BLPTA, CC Power shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this BLPTA, and as such, Seller and Project Participant shall have no rights andshall not make any claims, take any actions or assert any remedies against any of CC Power's constituent members, or the officers, directors, advisors, contractors, consultants or employees ofProject Participant or its constituent members, in connection with this BLPTA.

16. CleanPowerSF as Project Participant. Paragraph 14 shall not apply if CleanPowerSF is the Project Participant, but the following shall apply:

a) Designated Fund. CleanPowerSF payment obligations under this BLPTA are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. CleanPowerSF's payment obligations under this BLPTA are not a charge upon the revenues or general fund of the San Francisco Public Utility Commission ("**SFPUC**") or the City and County of San Francisco or upon any non- CleanPowerSF moneys or other property of the SFPUC or the City and County of San Francisco.

b) Controller Certification. CleanPowerSF's obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in suchcertification. Except as may be provided by laws governing emergency procedures, officers and employees of CleanPowerSF are not authorized to request, and CleanPowerSF is not required to reimburse Seller for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of CleanPowerSF are not authorized to offer or promise, nor is CleanPowerSF requiredto honor, any offered or promised additional funding in excess of the maximum amount of fundingfor which the contract is certified without certification of the additional amount by the Controller.The Controller is not authorized to make payments on any contract for which funds have not beencertified as available in the budget or by supplemental appropriation.

c) Biennial Budget Process. For each City and County of San Francisco biennial budget cycle during the term of this BLPTA, CleanPowerSF agrees to take all necessary action to include the maximum amount of its annual payment obligations under this BLPTA in itsbudget submitted to the City and County of San Francisco's Board of Supervisors for each year ofthat budget cycle.

d) Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws in any manner affecting the performance of its obligationsunder this BLPTA, and must at all times materially comply with such applicable laws as they maybe amended from time to time.

e) Prohibition on Political Activity with City Funds. In performing any services required under this BLPTA, Seller shall comply with San Francisco Administrative CodeChapter 12G, which prohibits funds appropriated by the City for this BLPTA from being expendedto participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco.

f) Non-discrimination in Contracts. Seller shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Seller shall incorporate by reference in all subcontracts the provisions of Sections12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Seller is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

g) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Seller does not as of the date of this BLPTA, and will not during theterm of this BLPTA, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States,discriminate in the provision of employee benefits between employees with domestic partners andemployees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

h) Submitting False Claims. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for

the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (1) knowingly presentsor causes to be presented to an officer or employee of the City a false claim or request for paymentor approval; (2) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (3) conspires to defraud the City by getting a false claim allowed or paid by the City; (4) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (5) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

i) Consideration of Salary History. Seller shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay ParityAct." Seller is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicantis applying for employment to be performed on this BLPTA or in furtherance of this BLPTA, andwhose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property.

j) Consideration of Criminal History in Hiring and Employment Decisions. Seller agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to Seller's operations to the extent those operations are in furtherance of theperformance of this BLPTA, shall apply only to applicants and employees who would be or are performing work in furtherance of this BLPTA, and shall apply when the physical location of theemployment or prospective employment of an individual is wholly or substantially within the City.Chapter 12T shall not apply when the application in a particular context would conflict with federalor state law or with a requirement of a government agency implementing federal or state law.

k) Conflict of Interest. By executing this BLPTA, Seller certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this BLPTA.

l) Campaign Contributions. By executing this BLPTA, Seller acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official ifthe contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a

candidate for that City electiveoffice, or (iii) a committee controlled by such elected official or a candidate for that office, at anytime from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. Theprohibition on contributions applies to each prospective party to the contract; each member of Seller's board of directors; Seller's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Seller; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Seller. Seller shall inform the relevant persons of the limitation on contributions imposed by Section 1.126.

m) MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urgesSan Francisco companies to do business with corporations that abide by the MacBride principles.

n) Tropical Hardwood and Virgin Redwood Ban. The City and County of SanFrancisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order isfor wood products or a service involving wood products: (a) Chapter 8 of the Environment Codeis incorporated herein and by reference made a part hereof as though fully set forth. (b) Except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of the EnvironmentCode, Seller shall not provide any items to the City in performance of this BLPTA which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products. (c)Failure of Seller to comply with any of the requirements of Chapter 8 of the Environment Code shall be deemed a material breach of contract.

o) Effect on Payment Obligations. The Parties agree that, although breach ofan obligation set forth in Sections 16(d) through 16(n) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, andno breach of or default by Seller under Sections 16(d) through 16(n) will relieve Project Participantof its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

17. City of San José (San José Clean Energy) as Project Participant. Paragraph 14shall not apply if the City of San José, as administrator of San José Clean Energy ("**SJCE**") is theProject Participant, but the following shall apply:

a) Designated Fund. The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies without an appropriation for such obligation, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of the Agreement; *provided, however*, that the City of San José has created and set aside a designated fund (being the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4,

Part 63, Section 4.80.4050 *et. seq.*) ("**Designated Fund**") for payment of its obligations under this BLPTA. Subject to the requirements and limitations of applicable law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to the SJCE'sobligations, SJCE agrees to establish rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this BLPTA.

b) Limited Obligations. SJCE's payment obligations under this BLPTA are special limited obligations of the SJCE payable solely from the Designated Fund and are not a charge upon the revenues or general fund of the City of San José or upon any non- San José CleanEnergy moneys or other property of the Community Energy Department or the City of San José.

c) Nondiscrimination/Non-Preference. In performing its obligations under this BLPTA, Seller shall not, and shall not cause or allow its subcontractors to, discriminate againstor grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringebenefits, advancement, training, apprenticeship and other terms, conditions, or privileges ofemployment, subcontracting and purchasing. Seller will inform all subcontractors of these obligations. This prohibition is subject to the following conditions: (i) the prohibition is not intended to preclude Seller from providing a reasonable accommodation to a person with a disability; (ii) the City's Compliance Officer may require Seller to file, and cause any Seller's subcontractor to file, reports demonstrating compliance with this section. Any such reports shall be filed in the form and at such times as the City's Compliance Officer designates. They shall contain such information, data and/or records as the City's Compliance Officer determines is needed to show compliance with this provision.

d) Conflict of Interest. Seller represents that it is familiar with the local and state conflict of interest laws and agrees to comply with those laws in performing this BLPTA. Seller certifies that, as of the Effective Date, it was unaware of any facts constituting a conflict ofinterest or creating an appearance of a conflict of interest. Seller shall avoid all conflicts of interest or appearances of conflicts of interest in performing this BLPTA. Seller has the obligation of determining if the manner in which it performs any part of this BLPTA results in a conflict of interest or an appearance of a conflict of interest and shall immediately notify SJCE in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict ofinterest. Seller's violation of this subsection (ii) is a material breach.

e) Environmentally Preferable Procurement Policy. Seller shall perform its obligations under this BLPTA in conformance with San José City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and San José City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy," as those policies may be amended from time to time. The Parties acknowledge and agree that in no event shall a breach of this Section 13.1(g) be a material breach of this BLPTA or otherwise give rise to an Event of Default or entitle SJCE to terminate this BLPTA.

f) Gifts Prohibited. Seller represents that it is familiar with Chapter 12.08

of the San José Municipal Code, which generally prohibits a City of San José officer or designated employee from accepting any gift. Seller shall not offer any City of San José officer or designatedemployee any gift prohibited by Chapter 12.08. Seller's violation of this subsection (iv) is a material breach.

g) Disqualification of Former Employees. Seller represents that it is familiar with Chapter 12.10 of the San José Municipal Code, which generally prohibits a former City of San José officer and former designated employee from providing services to the City of San Joséconnected with his/her former duties or official responsibilities. Seller shall not use either directlyor indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10.

h) Effect on Payment Obligations. The Parties agree that, although breach ofan obligation set forth in Sections 17(d) through 17(g) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, andno breach of or default by Seller under Sections 17(c) through 17(h) will relieve Project Participantof its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this BLPTA to be duly executed and delivered by their duly authorized representatives on the date first above written.

[PROJECT PARTICIPANT],
a California [joint powers authority]

By:_____

Printed Name:_____
Title:_____

CALIFORNIA COMMUNITY POWER,
a California joint powers authority

By:_____

Printed Name:_____
Title:_____

GEM A-CAES LLC

a Delaware limited liability company

By:_____

Printed Name:_____
Title:_____

RESOURCE ADEQUACY AND TB4 AGREEMENT

COVER SHEET

Seller: GEM A-CAES LLC, a Delaware limited liability company ("**Seller**")

Buyer: California Community Power, a California joint powers authority ("**Buyer**")

Description of Facility: A 500 MW / 4,000 MWh compressed air energy storage facility, located in Kern County, in the State of California, as further described in Exhibit A.

Milestones:

Milestone	Date for Completion
Seller's receipt of Phase I and Phase II Interconnection study results for Seller's Interconnection Facilities	Phase I: 1/25/2021 - Complete Phase II: 11/22/2021 - Complete
Full Capacity Deliverability Status obtained	3/18/2022 - Complete
Executed Interconnection Agreement	12/29/2023 - Complete
Evidence of Site Control	2/29/2024 - Complete
Documentation of Conditional Use Permit if required: [x] CEQA, [ ] Cat Ex, [ ]Neg Dec, [ ] Mitigated Neg Dec, [ ] EIR	12/31/2025 - Complete
Material Permits obtained	[redacted]
Financial Close	[redacted]
Guaranteed Construction Start Date	[redacted]
Major Equipment procured	[redacted]
Delivery Network Upgrades completed	[redacted]
Initial Synchronization	[redacted]
Expected Commercial Operation Date	[redacted]
Guaranteed Commercial Operation Date	12/31/2030

Delivery Term: Twenty (20) Contract Years

Guaranteed Contract Capacity: 50 MW-AC at eight (8) hours of continuous discharge (the "**Resource Duration**")

Dedicated Interconnection Capacity: 500 MW

Guaranteed Efficiency Rate: [redacted]

Minimum Efficiency Rate: [redacted]

Contract Price:

Contract Year	Contract Price
1 – 20	[redacted]

Product:

- ☒ Energy Settlement Revenue
- ☒ Capacity Attributes including Resource Adequacy Benefits

Scheduling Coordinator: Seller/Seller Third Party

Security Amount:

Development Security: [redacted]

Performance Security: [redacted]

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RESOURCE ADEQUACY AND TB4 AGREEMENT

This Resource Adequacy and TB4 Agreement ("**Agreement**") is entered into as of [_____], 2026 (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

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

WHEREAS, Buyer is entering into the Agreement with the intention that the Facility will be counted toward the Project Participants' Long Duration Storage obligations set forth in CPUC D.21-06-035 (as may be revised by further decisions), the Mid-Term Reliability Obligations and other potential future CPUC decisions mandating procurement, and/or another existing or future compliance program administered by any regulatory agency to which Buyer is accountable; and

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

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

ARTICLE 1
DEFINITIONS

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

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.7(d).

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

"**Administrative NQC Reduction**" has the meaning set forth in Exhibit C.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control", "controlled by", and "under common control with", as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person. Notwithstanding the foregoing, the Parties hereby agree and acknowledge that with respect to Buyer the public entities designated as members or participants under the Joint Powers Agreement creating Buyer shall not constitute or otherwise be deemed an "Affiliate" for purposes of this Agreement.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Ancillary Services**" means all ancillary services, products and other attributes, if any, associated with the Installed Capacity of the Facility, including spinning reserve, non-spinning reserve, regulation up, regulation down, and voltage support as each is defined in the CAISO Tariff.

"Arbitrage Component" has the meaning set forth in Exhibit C.

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

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets and such appointment is not removed within ninety (90) days.

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. Pacific Prevailing Time (PPT).

"**Buyer**" means California Community Power, a California joint powers authority.

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

"**Buyer Liability Pass Through Agreement**" means the form set forth in Exhibit L.

"**Buyer's Designees**" means the Project Participants or a Subsequent Purchaser.

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 16.1(a).

"**Buyer's Share**" means the Guaranteed Contract Capacity as adjusted in accordance with Section 5 of Exhibit B divided by the Installed Capacity.

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

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

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

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

"**Capacity Attribute**" means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the ability of Buyer's Share of the Installed Capacity to provide reliability or to charge, discharge and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules or used for any current or future compliance or reporting purpose including the Compliance Obligations and the Mid-Term Reliability Obligations. Capacity Attributes include Resource Adequacy Benefits, Imbalance Reserves, Reliability Capacity Up, and Reliability Capacity Down.

"Capacity Commitments" means written contracts that obligate Seller to deliver Capacity Attributes from the Facility to Persons other than Seller's Affiliates over a period of time that includes the Delivery Term.

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

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

"**CEQA**" means the California Environmental Quality Act, as amended or supplemented from time to time.

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

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

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

"Charging Energy" means the Energy delivered to the Facility from the CAISO Grid as measured at the Facility Meter Point by the Facility Meter, as such meter readings are adjusted by the CAISO for any applicable electrical losses and station use.

"**CIRA Tool**" means the CAISO Customer Interface for Resource Adequacy.

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

"**Collateral Assignment Agreement**" has the meaning set forth in Section 14.2.

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

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

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

"**Commercial Operation Delay Damages**" means [redacted]

"**Compliance Actions**" has the meaning set forth in Section 3.7(c).

"**Compliance Deadline**" has the meaning set forth in Section 6 of Exhibit B.

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.7(b).

"**Compliance Obligation**" means the RAR, Local RAR, Flexible RAR, Mid Term Reliability Obligations and any other resource adequacy or capacity procurement requirements imposed on load serving entities by the CPUC, CAISO, WECC, or any other Governmental Authority having jurisdiction.

"**Compliant Project Participant**" means a Project Participant that is not a Defaulted Project Participant.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Construction Delay Damages**" means [redacted]

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Capacity**" means the Effective Capacity multiplied by Buyer's Share.

"**Contract Price**" has the meaning set forth on the Cover Sheet.

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

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

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

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

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

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

"**CPUC Master Resource Database**" means the CPUC database of generation, energy storage and other resources qualified to provide Resource Adequacy Benefits capacity to load serving entities.

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

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

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount set forth in Section 11.3(a).

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

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

"**Defaulted Liability Share**" means the Liability Share of a Defaulted Project Participant.

"**Defaulted Project Participant**" means a Project Participant that has incurred but not cured a Project Participant Payment Default, including any Project Participant whose rights under the Project Participation Share Agreement have been suspended or terminated.

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

"**Delivered Storage RA**" has the meaning set forth in Exhibit C.

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

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

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

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

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

"**Discharging Energy**" means all Energy delivered from the Facility to the Delivery Point, as measured at the Facility Meter Point by the Facility Meter, as such meter readings are adjusted by the CAISO for station use and electrical losses to the Delivery Point.

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

"**Early Commercial Operation Date**" has the meaning set forth in Section 3.2.

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

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

"**Effective Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for the number of hours of continuous discharge corresponding to the Resource Duration, as measured in MW AC at the Delivery Point (i.e., measured at the Facility Meter and adjusted for electrical losses to the Delivery Point to the extent such electrical losses are not already reflected in the Facility Meter measurements) as determined pursuant to the most recent Capacity Test (including the Commercial Operation Capacity Test, and as evidenced by a certificate substantially in the form attached as Exhibit I hereto).

"**Efficiency Rate**" means the measured round-trip efficiency rate of the Facility, expressed as a percentage, calculated pursuant to a Capacity Test, and which for a given calendar month shall be prorated as necessary if more than one Efficiency Rate applies during such calendar month.

"**Emergency**" means an event or condition in which continued operation of the Facility is reasonably likely to endanger life or property and necessitates immediate action to avert injury to persons or serious damage to property.

"**Emission Reduction Credits**" or "**ERCs**" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby a district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"**Energy**" means alternating current electrical energy measured in MWh.

"**Energy Settlement Revenues**" means the sum of all Monthly Energy Settlement Amounts, calculated in accordance with Exhibit C.

"**Entitlement Share**" means a Project Participant's share of the Contract Capacity as set forth in the Project Participant Share Agreement.

"**Environmental Cost**" means (i) costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Facility, and the Facility's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Facility, (ii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iii) costs of permit maintenance fees and emission fees as applicable, (iv) the costs of all Emission Reduction Credits or Marketable Emission Trading Credits required by any applicable environmental laws, rules, regulations, and permits to operate the Facility, (v) the costs associated with the use, disposal, and clean-up of Hazardous Substances introduced to the Site, and (vi) the costs associated with decontamination or remediation, on or off the Site, necessitated by the maintenance, use, or release of such Hazardous Substances on the Site.

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

"**Expected Facility Capacity**" means 500 MW.

"**Expected Commercial Operation Date**" is the date set forth on the Cover Sheet by which Seller reasonably expects to achieve Commercial Operation.

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

"**Facility Meter**" means a CAISO-approved meter, along with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Charging Energy delivered to the Facility Meter Point and the amount of Discharging Energy discharged

from the Facility at the Facility Meter Point to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. The Facility may contain multiple measurement devices that will make up the Facility Meter, and, unless otherwise indicated, references to the Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

"**Facility Meter Point**" means the location or locations of the Facility Meter.

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

"**Financial Close**" means Seller or one of its Affiliates has obtained debt or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

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

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

"**Forced Labor**" has the meaning set forth in Section 13.4(c).

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

"**Gains**" means, with respect to any Non-Defaulting Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner, which economic benefit (if any) shall be deemed the gain (if any) to such Non-Defaulting Party represented by, (a) if Buyer is the Non-Defaulting Party, the positive difference between the present value of the payments required to be made by Buyer during the remaining Contract Term of this Agreement and the present value of the payments that would be required to be made by Buyer under any transaction(s) replacing this Agreement, and (b) if Seller is the Non-Defaulting Party, the positive difference between the present value of the payments that would be required to be made to, or that would otherwise be received by, Seller under any transaction(s) replacing this Agreement and the present value of the payments required to be made to Seller during the remaining Contract Term of this Agreement. Factors used in determining the economic benefit to a Non-Defaulting Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term, and include the value of Capacity Attributes.

"**GHG Regulations**" means Title 17, Division 3 (Air Resources), Chapter 1 (Air Resources Board), Subchapter 10 (Climate Change), Article 5 (Emissions Cap), Sections 95800 to 96023 of the California Code of Regulations, as amended or supplemented from time to time.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided, however*, "Governmental Authority" shall not in any event include any Party.

"**Greenhouse Gas**" or "**GHG**" has the meaning set forth in the GHG Regulations or in any other applicable Laws.

"**Guaranteed Amount**" has the meaning set forth in Exhibit L.

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

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

"**Guaranteed Contract Capacity**" has the meaning set forth on the Cover Sheet as it may be adjusted pursuant to Section 5 of Exhibit B.

"**Guaranteed Efficiency Rate**" has the meaning set forth on the Cover Sheet.

"**Guaranteed Storage RA Amount**" has the meaning set forth in Exhibit C.

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

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

"**Imbalance Reserves**" has the meaning set forth in the pending CAISO Tariff language available at https://www.caiso.com/documents/pendingtarifflanguage-dame-edam-tariff-amendment-er23-2686.pdf and approved by FERC in Cal. Indep. Sys. Operator Corp., 185 FERC ¶ 61,210 (2023) (December 2023 Order).

"**Indemnified Party**" shall mean (i) Buyer, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(a), and (ii) Seller, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(b).

"**Indemnifying Party**" shall mean (i) Seller, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(a), and (ii) Buyer, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(b).

"**Initial Liability Share**" means the Liability Share of each Project Participant shown on Exhibit S as of the Effective Date.

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

"**Installed Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for the number of hours of continuous discharge corresponding to the Resource Duration, as measured in MW AC at the Facility Meter Point by the Delivery Point (i.e., measured at the Facility Meter and adjusted for electrical losses to the Delivery Point), that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I hereto, as such capacity may be adjusted pursuant to Section 5 of Exhibit B, but in either case (a) or (b) up to but not in excess of the Expected Facility Capacity.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or Seller's Affiliate pursuant to which the Facility will be interconnected with the Transmission System, providing for interconnection capacity available or allocable to the Facility at the Interconnection Point that is no less than the Dedicated Interconnection Capacity, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

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

"**Interconnection Point**" means the point at which Seller's Interconnection Facilities interconnect with the Transmission System pursuant to the Interconnection Agreement, which point is identified in Exhibit A.

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

"**Investment Grade Credit Rating**" means a Credit Rating of BBB- or higher by S&P or Baa3 or higher by Moody's.

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

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

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated January 29, 2021, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

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

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

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, in a form substantially similar to the letter of credit set forth in Exhibit K.

"**Liability Share**" means the percentage amount set forth for each Project Participant in Exhibit S.

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

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

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

"**Long Duration Storage**" means a resource that meets the requirements of CPUC Decision 21-06-035 as of the Effective Date, including that such resource (a) is able to deliver the Guaranteed Contract Capacity for at least eight (8) hours, (b) is incremental to the CPUC's baseline list, and (iii) is a Resource Adequacy Resource that is eligible to provide Resource Adequacy Benefits as set forth in the Resource Adequacy Rulings.

"**Losses**" means, with respect to Non-Defaulting Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this

Agreement for the remaining Contract Term, determined in a commercially reasonable manner, which economic loss (if any) shall be deemed to be the loss (if any) to such Party represented by (a) if Buyer is the Non-Defaulting Party, the positive difference between the present value of the payments that would be required to be made by Buyer under any transaction(s) replacing this Agreement, and the present value of the payments required to be made by Buyer during the remaining Contract Term of this Agreement and (b) if Seller is the Non-Defaulting Party, the positive difference between the present value of the payments required to be made to Seller during the remaining Contract Term of this Agreement and the present value of the payments that would be required to be made to, or that would otherwise be received by, Seller under any transaction(s) replacing this Agreement. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term.

"**Major Equipment**" means the items of equipment and machinery with purchase value higher than [redacted] and/or have a delivery lead time exceeding twelve (12) months as set forth in Exhibit P.

"**Marketable Emission Trading Credits**" means emissions trading credits or units issued pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market-based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (42 U.S.C. § 7651b (a) to (f)).

"**Material Permits**" means all permits required for Seller to commence construction, as set forth on Exhibit T.

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

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

"**Maximum State of Charge**" means the maximum State of Charge to which the Facility may be charged, as set forth in Exhibit Q.

"**Maximum Stored Energy Level**" means the maximum Stored Energy Level the Facility is capable of achieving, expressed in MWh, as set forth in Exhibit Q.

"**Mid-Term Reliability Obligations**" means the mandatory procurement obligations for incremental zero-emissions capacity pursuant to CPUC Decision 21-06-035 and CPUC Decision 23-02-040 as such decisions may be amended, supplemented, or revised.

"**Meter Service Agreement**" means "Meter Service Agreement for CAISO Metered Entities" or "Meter Service Agreement for Scheduling Coordinators", as applicable, as each are defined in the CAISO Tariff.

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

"**Minimum Efficiency Rate**" means the percentage specified on the Cover Sheet.

"**Minimum State of Charge**" means the minimum State of Charge to which the Facility may be discharged, as set forth in Exhibit Q.

"**Minimum Stored Energy Level**" means the minimum Stored Energy Level the Facility is capable of achieving, expressed in MWh, as set forth in Exhibit Q.

"**Monthly Capacity Payment**" means the payment required to be made by Buyer to Seller each month commencing on the Commercial Operation Date and throughout the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C.

"**Monthly Energy Settlement Amount**" has the meaning set forth in Exhibit C.

"**Moody's**" means Moody's Investors Service, Inc.

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

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

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

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

"**Network Upgrade**" means collectively Delivery Network Upgrades and Reliability Network Upgrades.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail) in accordance with Exhibit N.

"**Notification Deadline**" means twenty (20) Business Days before the relevant deadlines for the corresponding RA Compliance Showings applicable to the relevant Showing Month.

"**NP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region NP15 as set forth in the CAISO Tariff.

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

"**Outage**" means a Planned Outage or Unplanned Outage.

"**Outage Event**" has the meaning set forth in Exhibit C, Section (f).

"**Outage Schedule**" has the meaning set forth in Section 4.6(a)(i).

"**Participating Generator Agreement**" has the meaning set forth in the CAISO Tariff.

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

"**Payment Demand**" has the meaning set forth in Exhibit L.

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

"**Permitted Transferee**" means [redacted]

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

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.6(a).

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

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

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

"**Portfolio**" means the portfolio of electrical energy generating, electrical energy storage, or other assets and entities, including the Facility (or the interests of Seller or Seller's Affiliates or the interests of their respective direct or indirect parent companies), that is pledged as collateral security in connection with a Portfolio Financing.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a Portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Prevailing Wage Requirement**" has the meaning set forth in Section 13.4(b).

"**Pro Rata**" means, for purposes of calculating a Project Participant's Revised Liability Share, the ratio of (i) such Project Participant's Initial Liability Share to (ii) the sum of the Initial Liability Shares of all of the Compliant Project Participants.

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

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

"**Project Labor Agreement**" has the meaning set forth in Section 13.4(b).

"**Project Participant**" means each Person identified in Exhibit S that shall execute a Buyer Liability Pass Through Agreement in the form set forth in Exhibit L.

"**Project Participant Approval**" means each Project Participant has obtained all necessary approvals from its board or governing authority necessary to execute a Buyer Liability Pass Through Agreement and the Project Participation Share Agreement, and that Buyer has delivered to Seller the Buyer Liability Pass Through Agreements and the Project Participation Share Agreement executed by each Project Participant and countersigned by Buyer.

"**Project Participant Payment Default**" means any failure by a Project Participant to pay any material amount under the Project Participation Share Agreement as and when due (without giving effect to any extensions of time, waivers or late notices), including monthly amounts collected to fund, or to reserve funds for, payment of Buyer's obligations under this Agreement.

"**Project Participation Share Agreement**" means that certain Willow Rock Project Participation Share Agreement executed by and among Buyer and all of the Project Participants relating to their allocation among themselves of Buyer's responsibilities and liabilities under this Agreement, and any successor agreement.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with

applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

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

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

"RA Component" has the meaning set forth in Exhibit C.

"**RA Deficiency Amount**" has the meaning set forth in Exhibit C.

"**RA Guarantee Date**" means the Commercial Operation Date.

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

"**Ramp Rate**" means the ability of the Facility to change between power output levels, expressed in MW$_{AC}$/min.

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Reliability Capacity Down**" has the meaning set forth in the pending CAISO Tariff language available at https://www.caiso.com/documents/pendingtarifflanguage-dame-edam-tariff-amendment-er23-2686.pdf and approved by FERC in Cal. Indep. Sys. Operator Corp., 185 FERC ¶ 61,210 (2023) (December 2023 Order).

"**Reliability Capacity Up**" has the meaning set forth in the pending CAISO Tariff language available at https://www.caiso.com/documents/pendingtarifflanguage-dame-edam-tariff-amendment-er23-2686.pdf and approved by FERC in Cal. Indep. Sys. Operator Corp., 185 FERC ¶ 61,210 (2023) (December 2023 Order).

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

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

"**Replacement RA**" has the meaning set forth in Exhibit C.

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's Resource Adequacy Requirements, as those obligations are set forth in any ruling issue by a Governmental Authority, including the Resource Adequacy Rulings, or the

CAISO Tariff, and shall include RAR, Flexible RAR, and Local RAR, and any successor criteria applicable to the Facility, including any Resource Duration attributes.

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

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

"**Resource Adequacy Resource**" has the meaning set forth in the CAISO Tariff.

"**Resource Adequacy Rulings**" means any applicable CPUC ruling or decision relating to resource adequacy, or any other resource adequacy Law, rules or regulations enacted, adopted or promulgated by the CPUC or the CAISO, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**Resource Duration**" means the number of continuous hours of discharge as set forth on the Cover Sheet.

"**Revised Liability Share**" means the sum of a Project Participant's Initial Liability Share plus its Pro Rata portion of all Defaulted Liability Shares, [redacted]

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

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

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

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

"**Seller's Indemnified Parties**" has the meaning set forth in Section 16.1(b).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount shall not include consequential, incidental, punitive, exemplary or indirect or business interruption damages, unless such damages are part of a Party's Gains, Losses or Costs as those terms are explicitly defined herein.

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

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

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

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

"**Shown Unit**" means the Facility or any unit providing Replacement RA specified by Seller in a Supply Plan.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, that any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion.

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

"**Slice-of-Day**" or "**SOD**" has the meaning set forth in the Resource Adequacy Rulings.

"**Slice-of-Day Capacity**" has the meaning set forth in Exhibit C.

"**State of Charge**" or "**SOC**" means the ratio of (a) the Stored Energy Level of the Facility to (b) the Effective Capacity multiplied by the Resource Duration, expressed as a percentage.

"**Step-Up Event**" means the forty-fifth (45th) day following the occurrence of a Project Participant Payment Default if such Project Participant Payment Default has not been cured by that date, regardless of whether or not notice was given to the Defaulted Project Participant under the Project Participation Share Agreement or otherwise or by Buyer hereunder.

"**Storage RA Shortfall**" has the meaning set forth in Exhibit C.

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

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

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

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

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or the Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tangible Net Worth**" means the tangible assets (for example, not including intangibles such as goodwill and rights to patents or royalties) that remain after deducting liabilities as determined in accordance with generally accepted accounting principles.

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

"**Tax Credits**" means any (a) federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit, including the ITC, specific to investments in energy storage facilities and (b) any refundable credit, grant, or other cash payment in lieu of an incentive described in clause (a).

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

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

"**Throughput**" means, at any point in time during any day or Contract Year, as applicable, the total cumulative amount of Discharging Energy from the Facility at such point in time during such day or Contract Year, as applicable (expressed in MWh).

"**Transmission Provider**" means any entity or entities transmitting or transporting the Charging Energy and Discharging Energy, as applicable, on behalf of Seller or Buyer to or from the Delivery Point but excluding Seller or any Seller's Affiliate responsible for operating any gen-tie line to any point of interconnection to a Transmission Provider's transmission system or distribution system. For purposes of this Agreement, the Transmission Provider is set forth in Exhibit A.

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

"**Ultimate Parent**" means Hydrostor Inc., an Ontario business corporation registered in Ontario, Canada.

"**Unplanned Outage**" means a period during which the Facility is not capable of providing service due to the need to maintain or repair a component thereof or pursuant to Section 4.7, which period is not a Planned Outage.

1.2 **Rules of Interpretation**. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

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

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

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

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

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

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

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

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

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

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

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

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

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein, including Section 2.1(b) ("**Contract Term**"); *provided*, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Notwithstanding anything to the contrary in this Agreement, if Project Participant Approval of this Agreement is not obtained within one hundred twenty (120) days following the Effective Date, then either Party may terminate this Agreement upon written Notice to the other Party provided that such Notice is issued before Project Participant Approval occurs. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(c), and Buyer shall promptly return to Seller any Development Security then held by Buyer, if any, less any amounts drawn in accordance with this Agreement.

(c) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. [redacted]

2.2 **Commercial Operation; Conditions Precedent**. Seller shall provide Notice to Buyer of the expected Commercial Operation Date, which shall occur on the first day of the applicable calendar month for RA Compliance Showing purposes, at least sixty (60) days in advance of such date. Seller shall provide Notice to Buyer when Seller believes it has provided the required documentation to Buyer and met all the conditions precedent set forth below for achieving Commercial Operation. Following Buyer's receipt of such Notice, Buyer shall have five (5) Business Days to approve or reject Seller's request for confirmation of Commercial Operation,

which, if confirmed, shall be deemed to have occurred as of the date of such Notice. Upon Buyer's approval (or deemed approval) of Seller's achievement of Commercial Operation, Buyer shall provide Seller with written acknowledgement of the Commercial Operation Date. If Buyer fails to respond within such five (5) Business Day period, Buyer shall be deemed to have approved Commercial Operation.

(a) Seller has delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I setting forth the Installed Capacity and Efficiency Rate on the Commercial Operation Date and demonstrating that the Installed Capacity is sufficient to provide no less Contract Capacity than [redacted] of the Guaranteed Contract Capacity (without giving effect to any adjustment pursuant to Section 5 of Exhibit B) to Buyer;

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO have been executed and delivered and are in full force and effect, and a copy of each such agreement has been delivered to Buyer;

(c) Seller has executed an Interconnection Agreement with the Transmission Provider, which shall be in full force and effect, and a copy of the Interconnection Agreement has been delivered to Buyer;

(d) All applicable regulatory authorizations, approvals and permits for operation of the Facility have been obtained and shall be in full force and effect, and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect, and Seller has delivered to Buyer an attestation certificate from an officer of Seller certifying to the satisfaction of this condition;

(e) Seller has Site Control;

(f) Seller has obtained CAISO Certification for the Facility, and a copy of the CAISO Certification has been delivered to Buyer;

(g) Seller has obtained Full Capacity Deliverability Status and all Delivery Network Upgrades are complete such that Seller can deliver the Guaranteed Storage RA Amount;

(h) The Facility has successfully completed all testing required by Prudent Operating Practice or any requirement of Law to operate the Facility;

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

(j) Insurance requirements for the Facility have been met, with evidence provided in writing to Buyer, in accordance with Section 17.1;

(k) Seller has paid Buyer for all amounts owing under this Agreement as of the Commercial Operation Date, if any, including Construction Delay Damages and Commercial Operation Delay Damages;

(l) Seller has taken all actions and executed all documents and instruments required to authorize Seller (or its designated agent) to act as Scheduling Coordinator under this Agreement, and Seller (or its designated agent) is authorized to act as Scheduling Coordinator and has full capability to schedule and dispatch the Facility; and

(m) The Facility is shown on the CAISO and CPUC NQC lists and is able to be shown on Buyer's Designees' RA Compliance Showings as of the Commercial Operation Date.

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

2.4 **Remedial Action Plan**. If Seller misses a Milestone by more than [redacted], except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days of the end of such [redacted] period following the missed Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in reasonable detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and to achieve Commercial Operation by the Guaranteed Commercial Operation Date, as it may be extended pursuant to Exhibit B, *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B and except as provided in Section 11.1(b)(ii), so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone; *provided*, in the event Seller misses any Milestone and Seller provides Notice to Buyer that it is not likely to be able to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date, as it may be extended pursuant to Exhibit B, then, unless such failure is the result of a Buyer Default, Buyer shall have the right to terminate this Agreement and retain the Development Security as liquidated damages. Such termination right must be exercised or reserved by Buyer in writing for due cause, if at all, within thirty (30) days after Buyer's receipt of Seller's Notice that it is not likely to be able to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date (as may be extended pursuant to Exhibit B). Failure of Buyer to exercise or reserve its termination right within such deadline shall result in Buyer waiving its termination right until and unless Buyer has a termination right under this Agreement arising subsequent to such deadline.

ARTICLE 3
PURCHASE AND SALE

3.1 **Purchase and Sale of Product**. Subject to the terms and conditions of this Agreement, during each day of the Delivery Term, Buyer shall have the exclusive right to the Product associated with the Guaranteed Contract Capacity and the Contract Capacity. Seller represents and warrants that it will deliver the Product to Buyer free and clear of all liens, security interests, claims and encumbrances. Seller shall not substitute or purchase any energy storage capacity or Capacity Attributes from any other resource or the market for delivery hereunder except as provided in Exhibit C, nor shall Seller sell, assign or otherwise transfer any Capacity Attributes associated with the Contract Capacity, or any portion thereof, to any third party other than to Buyer or Buyer's Designees or the CAISO pursuant to this Agreement or as otherwise required by Law.

3.2 **Sales Prior to Expected Commercial Operation Date**. If Seller is able to achieve Commercial Operation and commence producing Product prior to the Expected Commercial Operation Date, Seller shall provide Notice to Buyer at least ninety (90) days prior to the date that Seller anticipates commencement of production of Product ("**Early Commercial Operation Date**") and shall offer to sell Product to Buyer under the terms and conditions of this Agreement as of the Early Commercial Operation Date. If Buyer rejects or fails to respond to such offer within ten (10) Business Days of Seller's Notice under this Section 3.2, Seller may sell all Product and otherwise participate in any available markets without liability to Buyer until the Expected Commercial Operation Date. If Buyer accepts such offer, the Delivery Term shall commence as of the Early Commercial Operation Date.

3.3 **Capacity Attributes**. Seller has received Full Capacity Deliverability Status for the Facility for the Expected Facility Capacity in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Reliability Network Upgrades and/or Delivery Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

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

(b) Throughout the Delivery Term, Seller shall maintain Full Capacity Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits to Buyer or Buyer's Designees in the amount of the Guaranteed Contract Capacity. Throughout the Delivery Term, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits relating to the Contract Capacity from the Facility to Buyer or Buyer's Designees unless otherwise directed by Buyer.

(c) For the duration of the Delivery Term, Seller shall take all commercially reasonable actions, including complying with all applicable Laws, including registration and reporting requirements, and execute all documents or instruments necessary to enable Buyer or Buyer's Designees, to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement to allow (i) Buyer's or Buyer's Designees' rights to the Guaranteed Storage RA

Amount of Product for the sole benefit of Buyer or Buyer's Designees and (ii) that Buyer or Buyer's Designees may use the Product to meet their Compliance Obligations. Such commercially reasonable actions shall include, without limitation, (1) cooperating with and providing, and causing each Shown Unit's SC, owner, or operator to cooperate with and provide, requested and supporting documentation to the CAISO or the CPUC, including such documentation to demonstrate that the Guaranteed Storage RA Amount can be delivered to the CAISO controlled grid for the Resource Duration, pursuant to the "deliverability" standards established by the CAISO or the CPUC, and (2) upon reasonable request of Buyer, providing additional information and documentation to Buyer to assist Buyer or Buyer's Designees to meet compliance with regulatory agency requests and requirements to document that the Facility and the Capacity Attributes meet the requirements of all existing or future compliance programs administered by any regulatory agency to which Buyer is accountable. If necessary, the Parties further agree to negotiate in good faith to amend this Agreement to conform to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Authority to maintain the benefits of the Agreement.

3.4 **[Reserved]**.

3.5 **Resource Adequacy Failure**. For each month in which there is a Storage RA Shortfall, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages as calculated pursuant to Exhibit C, in each case. Except as set forth in Sections 11.1(b)(ii), (iii), (v) and (vi), payment of the RA Deficiency Amount shall be the sole remedy for the Resource Adequacy Benefits Seller failed to convey to Buyer.

3.6 **Buyer's Re-Sale of Product**. Buyer shall have the exclusive right in its sole discretion to convey, use, market, or sell the Product, or any part of the Product, to any Subsequent Purchaser; and Buyer shall have the right to all revenues generated from the conveyance, use, re-sale or remarketing of the Product, or any part of the Product. If the CAISO or CPUC develops a centralized capacity market, Buyer shall have the exclusive right to offer, bid, or otherwise submit the Capacity Attributes for re-sale into such market, and Buyer shall retain and receive all revenues from such re-sale. Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow Subsequent Purchasers to use such resold Product, but without increasing Seller's obligations or liabilities under this Agreement. If Buyer incurs any liability to a Subsequent Purchaser due to the failure of Seller to comply with this Section 3.6, Seller shall be liable to Buyer for the amounts Seller would have owed Buyer under this Agreement if Buyer had not resold the Product.

3.7 **Compliance Expenditure Cap**.

(a) The Parties acknowledge that an essential purpose of this Agreement is to provide Resource Adequacy Benefits associated with Buyer's Share of the Installed Capacity to Buyer and the Project Participants that comply with the Resource Adequacy Rulings. The Parties acknowledge that Governmental Authorities, including the CPUC and CAISO, may undertake actions to implement changes in Law. Seller agrees, subject to the provisions of this Section 3.7, to use commercially reasonable efforts to take all Compliance Actions and to cooperate with respect to any future changes to this Agreement needed to satisfy requirements of Governmental Authorities associated with changes in Law to maximize benefits to Buyer, including: (i) the

modification of the description of Capacity Attributes as may be required, including updating the Agreement to reflect any mandatory contractual language required by Governmental Authorities; or (ii) submission of any reports, data, or other information required by Governmental Authorities; *provided*, Seller shall have no obligation to modify this Agreement, or take other actions not required under this Agreement, if such modifications or actions would materially adverse affect, or could reasonably be expected to have or result in a material adverse effect on, any of Seller's rights, benefits, risks and/or obligations under this Agreement. If a change in Law occurring after the Effective Date has increased Seller's known or reasonably expected costs to obtain, maintain, convey or effectuate Buyer's use of any Resource Adequacy Benefits, then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Contract Term to comply with all of such obligations shall be capped at [redacted] ("**Compliance Expenditure Cap**").

(b) Any actions required for Seller to comply with its obligations set forth in Section 3.7(a), the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "**Compliance Actions**."

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

(d) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (i) agree to reimburse Seller for all of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (ii) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.7 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, these Compliance Actions for the remainder of the Contract Term.

(e) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

3.8 **Change in Long Duration Storage Requirements.** [redacted]

[redacted]

3.9 **No Electrical Output**. Neither the purchase of the Product nor receipt of the Energy Settlement Revenue confers to Buyer any right to the electrical output or Energy from the Facility. Rather, the Product includes Buyer's Share of the Capacity Attributes and Resource Adequacy Benefits from the Installed Capacity and the Energy Settlement Revenue which confers the right for Buyer to receive payments regardless of whether the Facility is charged or discharged. Specifically, no Energy or Ancillary Services associated with the Facility are required to be made available to Buyer, and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Agreement. Seller retains the right to sell any Capacity Attributes from the Facility other than those Capacity Attributes related to the Contract Capacity.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery**. Subject to the provisions of this Agreement, during the Delivery Term, Seller shall supply and deliver the Product to Buyer, and Buyer shall take delivery of the Product in accordance with the terms of this Agreement. Delivery to and receipt by Buyer's Designees of Buyer's Share of the Resource Adequacy Benefits shall fulfill Seller's delivery obligations under this Section 4.1 of this Agreement. Seller shall be responsible for paying or satisfying when due all costs or charges imposed in connection with the delivery of Product, any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations, transmission line losses, and Imbalance Energy charges. Seller shall provide Buyer or Buyer's Designees with the Guaranteed Storage RA Amount of Product for each Showing Month consistent with the following:

(a) No later than the Notification Deadline corresponding to each Showing Month of the Delivery Term, Seller shall deliver the Guaranteed Storage RA Amount by submitting, or causing each Shown Unit's Scheduling Coordinator to submit, Supply Plans to identify the characteristics of the Shown Unit and confirm the Capacity Attributes provided to the Buyer or Buyer's Designees for each Showing Month, with each Project Participant being allocated its Entitlement Share of the Guaranteed Storage RA Amount, unless specifically requested not to do so by Buyer.

(b) Seller shall cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the CAISO Tariff. Seller shall submit, or cause each Shown Unit's SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the CAISO Tariff and CPUC requirements to identify and confirm the Capacity Attributes delivered to the Project Participants for each Showing Month of the Delivery Period.

(c) Seller shall identify the Shown Unit(s) and Guaranteed Storage RA Amount for a Showing Month by providing Buyer with the specific Shown Unit information set forth in Exhibit M no later than the Notification Deadline for such Showing Month.

(d) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Guaranteed Storage RA Amount for the Shown Unit(s) in any Showing Month, Seller and Buyer 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.

(e) The Resource Adequacy Benefits are delivered and received when the CIRA Tool shows that the Supply Plan submitted in compliance with Buyer's instructions, including Buyer's instructions to withhold all or part of the Guaranteed Storage RA Amount from Seller's Supply Plan for any Showing Month during the Delivery Period, has been accepted for the Resource Adequacy Benefits from the Shown Unit(s) by CAISO. Seller has failed to deliver the Resource Adequacy Benefits if (i) Buyer has elected to submit the Resource Adequacy Benefits from the Shown Unit(s) in the applicable 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 4.1(d) or (ii) Seller fails to submit the volume of Guaranteed Storage RA Amount for any Showing Month in such amount as instructed by Buyer for the applicable Showing Month. Buyer and the Project Participants will have received the Guaranteed Storage RA Amount if Seller's Supply Plan is accepted by the CAISO for the applicable Showing Month.

(f) Buyer is to receive and retain all revenues associated with the Guaranteed Storage RA Amount of Capacity Attributes during the Delivery Period, including any capacity and availability revenues from Imbalance Reserves, Reliability Capacity Up, and Reliability Capacity Down, or their successors. Seller shall promptly report receipt of any such revenues to Buyer. Seller shall pay to Buyer 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, Buyer may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the Agreement.

(g) CAISO Requirements. During the Delivery Period, Seller shall comply with the CAISO Tariff and any Business Practice Manuals and shall perform all, or cause the Shown Unit's SC, owner, or operator to perform all, obligations under applicable law and the CAISO Tariff that are associated with the sale of the Product hereunder. Seller shall be solely responsible for any CAISO penalties, fines or costs related to this Agreement including those penalties, fines or costs imposed on Seller or the Shown Unit's SC, owner, or operator for noncompliance with the CAISO Tariff or any Business Practice Manuals.

4.2 **Interconnection**. Seller shall be responsible for all costs and charges associated with Interconnection Facilities and Network Upgrades necessitated by the interconnection of the Facility. Throughout the Delivery Term, Seller shall provide under the Interconnection Agreement interconnection capacity and rights to the Facility of not less than the Dedicated Interconnection Capacity.

4.3 **Efficiency Rate.** During the Delivery Term, Seller shall use reasonable commercial efforts consistent with Prudent Operating Practices to cause the Facility to maintain an Efficiency Rate, calculated pursuant to a Capacity Test, of no less than the Guaranteed Efficiency Rate. [redacted]

[redacted]

4.4 **Capacity Test.** Prior to the Commercial Operation Date, Seller shall schedule and complete a Commercial Operation Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Capacity Tests in accordance with Exhibit O.

(a) Buyer shall have the right to send one or more representative(s) to witness all Capacity Tests. Alternatively, to the extent that any Capacity Tests are done remotely, and no representatives are needed on site, Seller shall arrange for both Parties to have access to all data and other information arising out of such tests. Seller shall notify Buyer no later than five (5) Business Days prior to any Capacity Test (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practices).

(b) Following each Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity or efficiency rate of the Facility determined pursuant to a Capacity Test varies from the then-current Effective Capacity and/or Efficiency Rate, as applicable, then the actual capacity and/or efficiency rate, as applicable, determined pursuant to such Capacity Test (not to exceed the Installed Capacity) shall become the new Effective Capacity and/or Efficiency Rate, as applicable, at the beginning of the day following the completion of the test for all purposes under this Agreement, including compensation under Exhibit C, until a revised Effective Capacity and/or Efficiency Rate, as applicable, is determined pursuant to a subsequent Capacity Test.

4.5 **Resource Duration Augmentation**. At any time during the Term of this Agreement, Buyer may request augmentation of the Facility to increase the Resource Duration of the Guaranteed Contract Capacity to up to twelve (12) hours. Buyer shall provide Notice to Seller requesting such augmentation and Seller shall provide a good faith estimate of the cost and timing for such augmentation and the impacts on Facility operation during construction within forty-five (45) days after receipt of such Notice. Buyer shall provide Notice to Seller within thirty (30) days after receipt of Seller's estimate to (i) commence negotiations based on Seller's good faith estimate or (ii) decline to move forward with the augmentation. If Buyer wishes to commence negotiations, the Parties shall negotiate in good faith on necessary amendments to this Agreement. If the Parties fail to reach agreement on such amendments, neither Party shall have any further obligation under this Section 4.5; provided however, that Buyer may make one request for augmentation per Contract Year during the Term.

4.6 **Outages**

(a) Planned Outages.

(i) No later than January 15, April 15, July 15 and October 15 of each Contract Year, and at least sixty (60) days prior to the Commercial Operation Date, Seller shall submit to Buyer Seller's schedule of proposed Planned Outages ("**Outage Schedule**") for the following twelve (12)-month period in a form reasonably agreed to by Buyer. Within twenty (20) Business Days after its receipt of an Outage Schedule, Buyer shall give Notice to Seller of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Operating Practices, use reasonable commercial efforts to accommodate Buyer's requests

regarding the timing of any Planned Outage. Seller shall deliver to Buyer the final Outage Schedule no later than ten (10) days after receiving Buyer's comments.

(ii) If reasonably required in accordance with Prudent Operating Practices, Seller shall have the right, on no less than ninety (90) days advance Notice to Buyer, to propose changes to the Outage Schedule developed pursuant to Section 4.6(a)(i) and 4.6(b); *provided*, Seller shall schedule all Planned Outages within the time period determined by the CAISO for the Facility, as a Resource Adequacy Resource that is subject to the Availability Standards, to qualify for an "Approved Maintenance Outage" under the CAISO Tariff. Buyer may provide comments no later than ten (10) days after receiving Seller's Notice of proposed changes to the Outage Schedule and shall permit any changes if doing so would not have a material adverse impact on Buyer or Buyer's Designees and Seller agrees to reimburse Buyer for any costs or charges associated with such changes.

(b) No Planned Outages During Summer Months. Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned from each May 1 through October 31 during the Delivery Term, unless approved by Buyer in writing in its sole discretion. In the event Seller has a previously Planned Outage that becomes coincident with a System Emergency that requires resources to be available for dispatch, Seller shall make all reasonable efforts to reschedule such Planned Outage.

(c) Planned Outage Timing. To the extent commercially reasonable, Seller shall schedule maintenance Outages (i) within a single month, rather than across multiple months, (ii) during periods in which CAISO does not require resource substitution or replacement, and (iii) otherwise in a manner to avoid reductions in the Resource Adequacy Benefits available from the Facility to Buyer.

(d) RA Substitute Capacity. Seller shall provide RA Substitute Capacity as required by CAISO in connection with Facility outages. Seller acknowledges and agrees that any failure by Seller to provide such RA Substitute Capacity may result in CAISO rejecting or cancelling Seller's request for CAISO to approve such Facility outage. If Seller fails to provide RA Substitute Capacity, then Buyer may elect to not include the Facility (or, if applicable, the portion of the Facility) in its Supply Plan and such failure shall be deemed an "RA Shortfall" for the purpose of Section 3.5 and Exhibit C.

(e) Pro Rata Reductions. If an Outage of the Facility is only for a portion of the Effective Capacity of the Facility, Seller shall assign the reduction in deliveries of Product on no less than a pro rata basis to Buyer based on Buyer's Share of the Effective Capacity.

4.7 **Reduction in Delivery Obligation**.

(a) Unplanned Outage. When Unplanned Outages of the Facility occur, Seller shall orally notify Buyer of the existence, nature, cause and expected duration of the Unplanned Outage as soon as practical by contacting Buyer by telephone and shall use reasonable commercial efforts to provide such notice within twenty-four (24) hours after the Unplanned Outage commences. Seller shall, in accordance with Prudent Operating Practice, inform Buyer of material changes in the expected duration of the Unplanned Outage. Seller shall be permitted to reduce

deliveries of Product during any Unplanned Outage. Seller shall provide Buyer with Notice and expected duration of (if known) and plans to remediate any Unplanned Outage within five (5) Business Days of the occurrence of the Unplanned Outage.

(b) Force Majeure Event. Seller shall be permitted to reduce deliveries of RA Product during any Force Majeure Event.

(c) Health and Safety. Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety in the event of an Emergency or System Emergency ordered by the CAISO or Transmission Provider that requires the Facility to ramp down or shut off, with evidence thereof provided to Buyer, provided, however, that Seller's failure to deliver Product shall not be excused due to any Outage of the Facility due to an Emergency caused by Seller's negligence or willful misconduct.

ARTICLE 5
TAXES AND ENVIRONMENTAL COSTS

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided, however*, that neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefore from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

5.3 **Environmental Costs**. Seller shall be solely responsible for:

(a) All Environmental Costs;

(b) All taxes, charges or fees imposed on the Facility or Seller by a Governmental Authority for Greenhouse Gas emitted by or attributable to the Facility during the Delivery Term, but expressly excluding any taxes, charges or fees related to Greenhouse Gases imposed on Energy used to charge the Facility or Energy discharged from the Facility;

(c) Seller's obligations listed under "Compliance Obligation" in the GHG Regulations; and

(d) All other costs associated with the implementation and regulation of Greenhouse Gas emissions (whether in accordance with the California Global Warming Solutions Act of 2006, Assembly Bill 32 (2006) and the regulations promulgated thereunder, including the GHG Regulations, or any other current or future federal, state or local legislation, regulations, decisions or other action to address, offset or reduce any Greenhouse Gas emissions implemented and regulated by a Governmental Authority) with respect to the Facility and/or Seller.

ARTICLE 6
MAINTENANCE AND REPAIR OF THE FACILITY

6.1 **Maintenance of the Facility**.

(a) Seller shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility, the delivery and sale of Product, and the disposal and recycling of any equipment associated with the Facility.

(b) Seller shall maintain accurate records with respect to all Capacity Tests.

(c) Seller shall maintain and make available to Buyer records, including logbooks, demonstrating that the Facility is operated in accordance with Prudent Operating Practices.

(d) Seller shall use reasonable commercial efforts consistent with Prudent Operating Practices (i) to promptly make all necessary repairs to the Facility, and any portion thereof, and (ii) to take all actions necessary in order to provide the Product to Buyer in accordance with the terms of this Agreement (and, at a minimum, the Guaranteed Contract Capacity and the Guaranteed Efficiency Rate).

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions consistent with Prudent Operating Practices with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Notice to Buyer's emergency contact identified on Exhibit N of such condition. Such action may include disconnecting and removing all or a portion of the Facility or suspending the supply of Energy discharged from the Facility to the Delivery Point.

6.3 **Shared Facilities**. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties. Seller agrees that any agreements regarding Shared Facilities shall permit Seller to perform or satisfy, and shall not purport to limit, Seller's obligations hereunder, including providing interconnection capacity for the Facility's sole use in an amount not less than the Dedicated Interconnection Capacity. Seller shall not, and shall not permit any Affiliate to, allocate to other Persons a share of the total interconnection capacity under the Interconnection Agreement in excess of an amount equal to the total interconnection capacity under the Interconnection Agreement minus the Dedicated Interconnection Capacity.

ARTICLE 7
METERING

7.1 **Metering.** The Facility Meter will be operated pursuant to applicable CAISO-approved calculation methodologies and maintained at Seller's cost. The Facility Meter shall be kept under seal, such seals to be broken only when the Facility Meter is to be tested, adjusted, modified or relocated.

7.2 **Meter Data**. Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer or Buyer's SC obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product within ten (10) days after the end of the prior monthly delivery period. Each invoice shall (a) include records of Day-Ahead Market LMP data, Capacity Attributes transaction data, and Replacement RA delivered to Buyer (if any) sufficient to document and verify the amount of Product delivered by the Facility for the preceding month; and (b) be in a format reasonably specified by Buyer, covering the Product delivered in the preceding month as determined in accordance with the applicable provisions of this Agreement. Seller shall, and shall cause its Scheduling Coordinator to, provide Buyer with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO and other information, all as may be necessary from time to time for Buyer to verify the accuracy of all invoices. The invoice shall be delivered by electronic mail in accordance with Exhibit N.

8.2 **Payment**. Buyer shall make payments to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts within thirty (30) days of Buyer's receipt of Seller's invoices; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) not to exceed the maximum rate permitted by Law (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years following their creation or as otherwise

required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds Ten Thousand Dollars ($10,000).

8.4 **Invoice Adjustments**. Invoice adjustments shall be made if (a) there have been good faith inaccuracies in invoicing or payment that are not otherwise disputed under Section 8.5 or (b) an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest at the Interest Rate, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and C, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver Development Security to Buyer within thirty (30) days of the Effective Date. Seller shall maintain the Development Security in full force and effect and Seller shall within five (5) Business Days after any draw thereon replenish the Development Security in the event Buyer collects or draws down any portion of the Development Security for any reason permitted under

this Agreement other than to satisfy a Damage Payment or a Termination Payment; provided, however, that the aggregate amounts of such replenishments shall not exceed the full amount of the Development Security. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating specified in the definition of Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Development Security; *provided, however*, if Seller has failed to provide Beneficiary with a substitute Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date, Buyer shall have the right to draw on the full amount of the Letter of Credit.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within five (5) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. If the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating set forth in the definition of Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Performance Security; *provided, however*, if Seller has failed to provide Beneficiary with a substitute Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date, Buyer shall have the right to draw on the full amount of the Letter of Credit.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral**. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest ("**Security Interest**") in, and lien on (and right to net against), and assignment of the Development Security, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer's Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

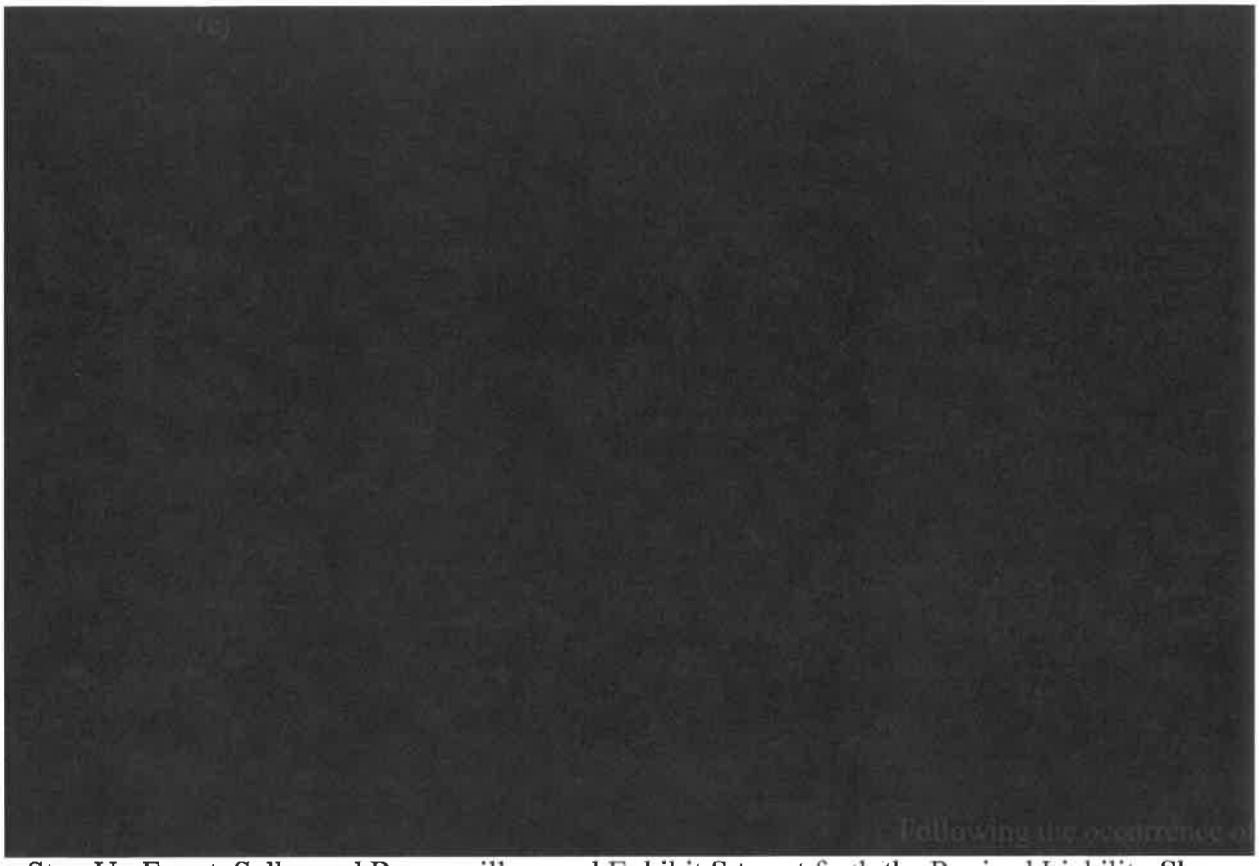
Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement (Seller remains liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

8.10 **Buyer Credit Arrangements**.

(a) To secure its obligations under this Agreement, Buyer shall deliver to Seller, within one hundred twenty (120) days after the Effective Date, Buyer Liability Pass Through Agreements from the Project Participants with Liability Shares as set forth on Exhibit S. Seller shall countersign each Buyer Liability Pass Through Agreement within ten (10) days of receipt of Buyer's delivery of each such Buyer Liability Pass Through Agreement executed by Buyer and the applicable Project Participant; *provided* that no delay in countersigning any such Buyer Liability Pass Through Agreement shall affect Seller's, Buyer's or the Project Participant's rights or obligations thereunder. Buyer shall maintain such Buyer Liability Pass Through Agreements in full force and effect until both of the following have occurred: (i) the Delivery Term has expired or terminated early; and (ii) all payment obligations of Buyer due and payable under this Agreement are paid in full (whether directly or indirectly such as through set-off or netting).

(b) Buyer may propose amendments to Exhibit S, including with respect to the identity of Project Participants and the amount of each Project Participant's Liability Share. Seller shall have ten (10) Business Days to evaluate any such proposed amendments to Exhibit S in its sole but good faith discretion. If Seller approves such proposed amendments to Exhibit S, Buyer shall have sixty (60) days to provide Seller with replacement Buyer Liability Pass Through Agreements with Liability Shares executed by Buyer and the applicable Project Participants that incorporate the Liability Shares set forth in the amended Exhibit S. Seller shall countersign each such Buyer Liability Pass Through Agreement executed by Buyer and the applicable Project Participant within ten (10) Business Days after Buyer's delivery of such Buyer Liability Pass Through Agreements to Seller; *provided* that no delay in countersigning any such Buyer Liability Pass Through Agreement shall affect Seller's, Buyer's or the Project Participant's rights or

obligations thereunder.



a Step-Up Event, Seller and Buyer will amend Exhibit S to set forth the Revised Liability Shares of the remaining Project Participants.

ARTICLE 9
NOTICES

9.1 **Addresses for the Delivery of Notices**. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice**. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows:

(a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail;

(b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier;

(c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 p.m. PPT, on the next Business Day provided that in each case the sender does not receive a delivery failure notification; or

(d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of Outages or other scheduling or dispatch information or requests may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition**.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to

work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; (viii) events otherwise constituting a Force Majeure Event that prevents Seller from achieving Construction Start or Commercial Operation of the Facility, except to the extent expressly permitted as a Development Cure Period under this Agreement; or (ix) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Reliability Network Upgrades, except to the extent expressly permitted as a Development Cure Period under this Agreement.

10.2 **No Liability If a Force Majeure Event Occurs**. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. If a Force Majeure Event causes a partial Outage to the Facility, Seller shall assign the reduction in deliveries of Product on a pro rata basis to Buyer based on Buyer's Share of the Installed Capacity. Buyer shall not be obligated to make payments under this Agreement for any Product that is not delivered during a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of Seller to achieve the Guaranteed Construction Start Date or the Guaranteed Commercial Operation Date beyond the extensions provided in Section 4 of Exhibit B, or (b) limit Buyer's right to declare an Event of Default pursuant to Section 11.1(b)(i) after all applicable extensions of the Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date and receive a Damage Payment upon exercise of Buyer's remedies pursuant to Section 11.2.

10.3 **Notice of Force Majeure Event.** Within two (2) Business Days of the commencement of Force Majeure Event, the claiming Party shall provide the other Party with oral notice of the event of Force Majeure, and within two (2) weeks of the commencement of a Force Majeure Event the claiming Party shall provide the other Party with notice in the form of a letter describing in detail the occurrence giving rise to the Force Majeure Event, including the nature, cause, estimated date of commencement thereof, and the anticipated extent of any delay or interruption in performance. Failure to provide timely written notice constitutes a waiver of the Force Majeure Event. Upon written request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that each day of the claimed delay was the result of a Force Majeure Event and did not result from Seller's actions or failure to exercise due diligence or take reasonable actions. The claiming party shall promptly notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure Event.

10.4 **Termination Following Force Majeure Event**. If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any further liability to the other Party, save and except for those obligations specified in Section 2.1(c) and 11.6, as applicable, and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

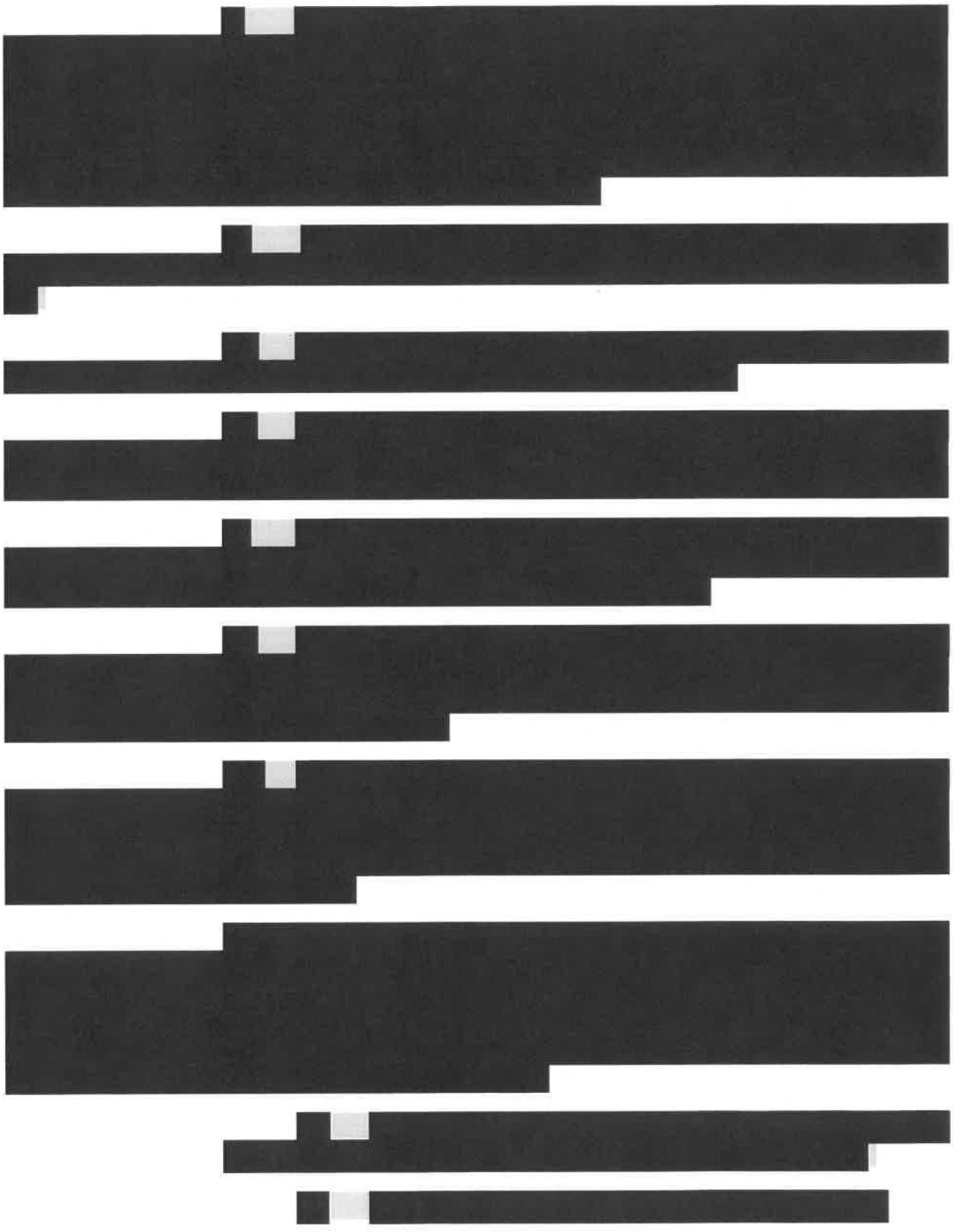
(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1, and except for failure to provide Resource Adequacy Benefits, the exclusive remedies for which are set forth in Exhibit C and Sections 11.1(b)(ii), (iii), (v) and (vi), and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional ninety (90) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) day period despite exercising best efforts);

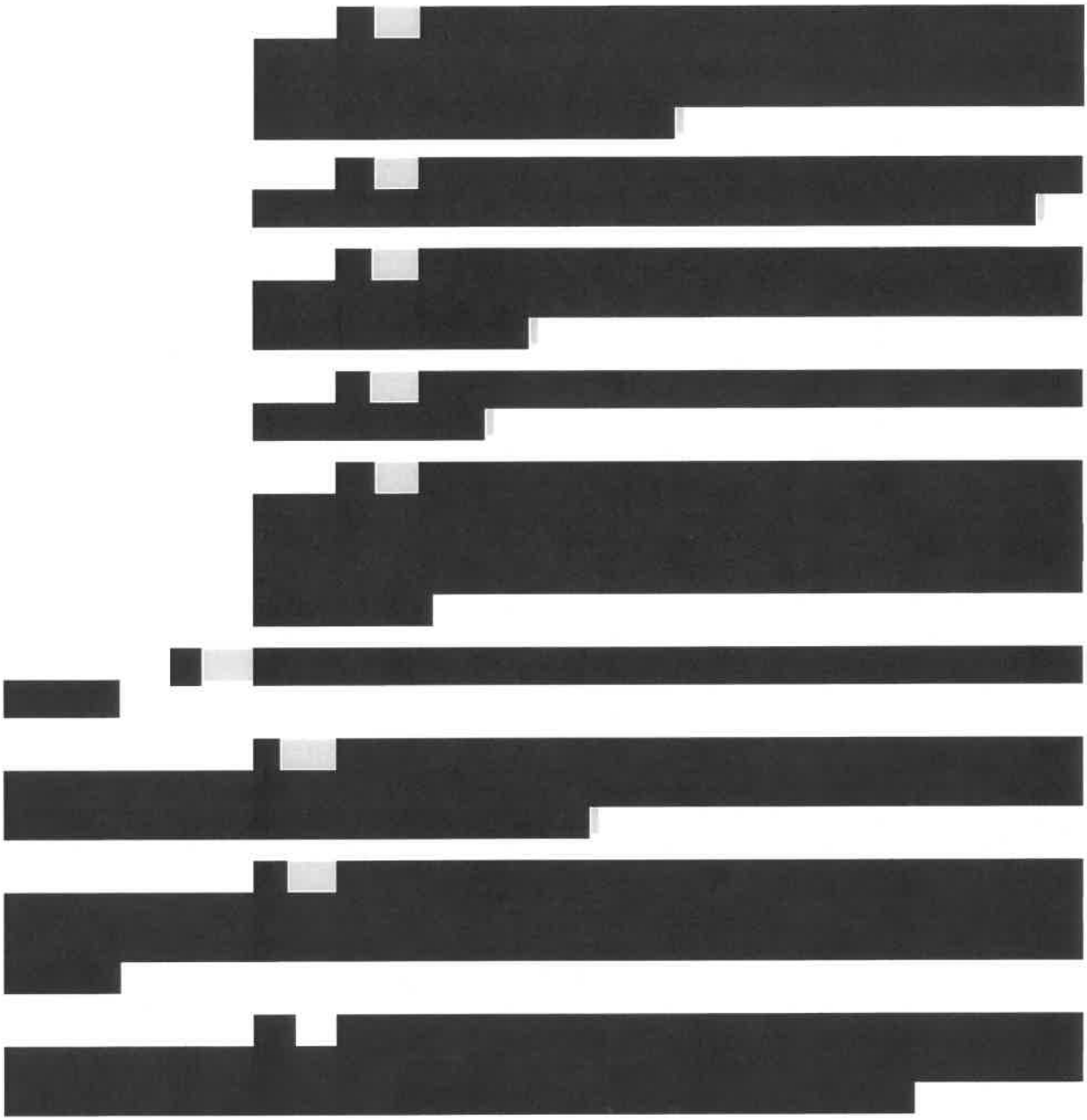
(iv) such Party becomes Bankrupt;

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

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

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





11.2 **Remedies; Declaration of Early Termination Date**. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;

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

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive monetary remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Damage Payment; Termination Payment**. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) [redacted]

event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's Event of Default would be difficult or impossible to determine, that the damages set forth in this Section 11.3(a)(i) are liquidated damages and not a penalty, and are a reasonable approximation of Buyer's harm or loss.

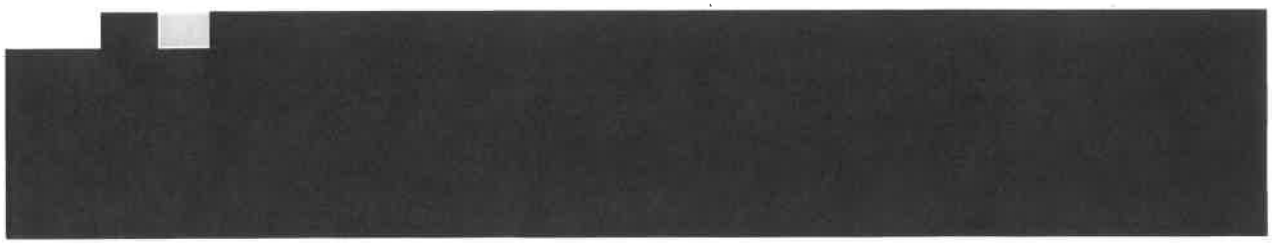
(ii) [redacted] The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in this Section

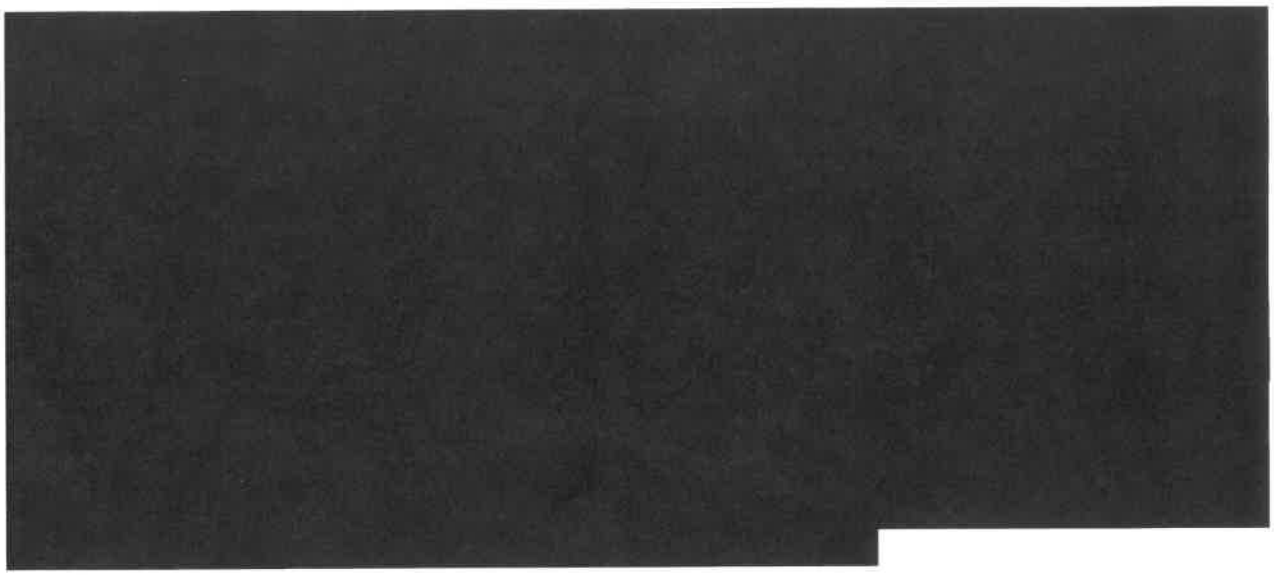
11.3(a)(ii) are liquidated damages and not a penalty and are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment or Damage Payment**. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date (or such longer additional period, not to exceed an additional sixty (60) days, if the Non-Defaulting Party is unable, despite using commercially reasonable efforts, to calculate the Termination Payment or Damage Payment, as applicable, within such initial sixty (60)-day period despite exercising commercially reasonable efforts), Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment or Damage Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.





11.7 **Rights And Remedies Are Cumulative**. Except where an express and exclusive remedy or measure of damages is provided, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation**. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

11.9 **Pass Through of Buyer Liability**. Notwithstanding any other provision of this Agreement, if Buyer fails to make when due any payment required pursuant to this Agreement, and such failure is not remedied within ten (10) Business Days after Notice thereof, Seller may, without waiving any of its rights with respect to Buyer except as expressly provided herein, pursue remedies under any or all of the Buyer Liability Pass Through Agreements as provided therein. Seller hereby waives the right to recover directly from Buyer any Damage Payment or Termination Payment owed by Buyer that is not paid by Buyer pursuant to Sections 11.3 and 11.4, but the foregoing waiver does not apply to any other right or remedy of Seller under this Agreement, including the right to recover accrued amounts payable or reimbursable under this Agreement or any other amounts incurred or accrued prior to termination of this Agreement, and the right to terminate the Agreement as the result of an Event of Default by Buyer.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT (A) PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) PART OF A THIRD-PARTY INDEMNITY CLAIM UNDER ARTICLE 16, (C) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (D) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES

FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. [redacted]

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX CREDITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF TAX CREDITS, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.5, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT C. THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; COVENANTS

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility will be located in the State of California.

(f) Seller shall maintain Site Control throughout the Contract Term.

(g) Seller will be responsible for obtaining all permits necessary to construct and operate the Facility and Seller will be the applicant on any CEQA documents, if applicable.

(h) As of the Effective Date, the Facility as designed is eligible to qualify as a Long Duration Storage resource.

(i) The Product is an incremental resource and includes the exclusive right of Buyer and Buyer's Designees, including the Project Participants, to claim the Capacity Attributes of the Facility as an incremental resource for purposes of CPUC Decision 21-06-03, as such Decision may be revised, updated or amended from time to time.

(j) Seller will provide additional information and documentation to Buyer if necessary to enable Project Participants to demonstrate that the Product meets the procurement mandates set forth in CPUC Decision 21-06-035.

13.2 **Buyer's Representations and Warranties**. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority validly existing and in good standing under the laws of the State of California and is qualified to conduct business pursuant to its duly authorized Joint Powers Agreement. All Persons making up the governing body of Buyer are appointed in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court (provided that such court is located within a venue permitted in Law and under the Agreement), (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment; *provided, however*, that nothing in this Agreement

shall waive the obligations or rights set forth in the California Tort Claims Act (California Government Code Section 810 *et seq.*).

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

(a) It shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and to be qualified to conduct business in California and each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

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

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

13.4 **Seller's Covenants**. Seller covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) Compliance with Laws. To the extent applicable to Seller or the Facility, Seller shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, including, without limitation those related to employment discrimination and prevailing wage, non-discrimination and non-preference; conflict of interest; environmentally preferable procurement; single serving bottled water; gifts; and disqualification of former employees. Seller shall not discriminate against any employee or applicant for employment on the basis of the fact or perception of that person's race, color, religion, ancestry, national origin, age, sex (including pregnancy, childbirth or related medical conditions), legally protected medical condition, family care status, veteran status, sexual orientation, gender identity, transgender status, domestic partner status, marital status, physical or mental disability, or AIDS/HIV status.

(b) Workforce Development. Seller shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations and orders and decrees of any courts or administrative bodies or tribunals, including, without limitation, employment discrimination and prevailing wage laws. Although the Facility is not a public work as defined by California Labor Code Section 1720, any construction work contracted by Seller in furtherance of this Agreement shall (i) comply with California prevailing wage provisions applicable to public works projects, including but not limited to those set forth in California Labor Code Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, 1775, 1776, 1777.5, and 1777.6, as they may be amended from time to time ("**Prevailing Wage Requirement**"); and (ii) be conducted using a project labor agreement, community workforce agreement, work site agreement, collective bargaining agreement, or similar agreement providing for terms and conditions of employment with applicable labor organizations ("**Project Labor Agreement**").

(c) Prohibition Against Forced Labor. Seller represents and warrants that it has not and will not knowingly utilize equipment or resources for the construction, operation or maintenance of the Facility that rely on work or services exacted from any person under the threat

of a penalty and for which the person has not offered himself or herself voluntarily ("**Forced Labor**"). Consistent with the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020, equipment or resources sourced from the Xinjiang region of China are presumed to involve Forced Labor.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below in this Article 14, neither Party may assign this Agreement or its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer to the same extent that Buyer's consent to an assignment is required, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Buyer will have no obligation to provide any consent, or enter into any agreement, that materially and adversely affects any of Buyer's rights, benefits, risks or obligations under this Agreement, or to modify the Agreement, except as set forth below. The assigning Party shall pay the other Party's reasonable expenses associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by the assigning Party, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility. In connection with any financing or refinancing of the Facility by Seller, upon request of Seller, Buyer shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement ("**Collateral Assignment Agreement**"). The Collateral Assignment Agreement shall include the following provisions:

(a) Buyer shall give Notice of an Event of Default by Seller to the Person(s) to be specified by Lender in the Collateral Assignment Agreement, before exercising its right to terminate this Agreement as a result of such Event of Default; provided that such notice shall be provided to Lender at the time such notice is provided to Seller and the cure period of Lender shall not commence until Lender has received notice of such Event of Default;

(b) Following an Event of Default by Seller under this Agreement, Buyer may require Seller or Lender to provide to Buyer a report concerning:

(i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;

(ii) Impediments to the cure plan or its development;

(iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and

(iv) Any other information which Buyer may reasonably require related to the development, implementation and timetable of the cure plan.

Seller or Lender must provide the report to Buyer within ten (10) Business Days after Notice from Buyer requesting the report. Buyer will have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;

(c) Lender will have the right to cure an Event of Default on behalf of Seller, only if Lender sends a written notice to Buyer before the later of (i) the expiration of any cure period, and (ii) ten (10) Business Days after Lender's receipt of notice of such Event of Default from Buyer, indicating Lender's intention to cure. Lender must remedy or cure the Event of Default within the cure period under this Agreement and any additional cure periods agreed in the Collateral Assignment Agreement, which shall not exceed a maximum of sixty (60) days (or one hundred twenty (120) days in the event of a Bankruptcy of Seller, or any foreclosure or similar proceeding if required by Lender to cure any Event of Default);

(d) Lender will have the right to consent before any termination of this Agreement which does not arise out of an Event of Default;

(e) Lender will receive prior Notice of and the right to approve material amendments to this Agreement, which approval will not be unreasonably withheld, delayed or conditioned;

(f) If Lender, directly or indirectly, takes possession of, or title to the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender must assume all of Seller's obligations arising under this Agreement and all related agreements (subject to such limits on liability as are mutually agreed to by Seller, Buyer, and Lender as set forth in the Collateral Assignment Agreement); *provided*, before such assumption, if Buyer advises Lender that Buyer will require that Lender cure (or cause to be cured) any Event of Default capable of being cured existing as of the possession date in order to avoid the exercise by Buyer (in its sole discretion) of Buyer's right to terminate this Agreement with respect to such Event of Default, then Lender at its option, and in its sole discretion, may elect to either:

(i) Cause such Event of Default to be cured, or

(ii) Not assume this Agreement;

(g) If Lender elects to sell or transfer the Facility (after Lender directly or indirectly, takes possession of, or title to the Facility), or sale of the Facility occurs through the actions of Lender (for example, a foreclosure sale where a third party is the buyer, or otherwise), then Lender shall cause the transferee or buyer to assume all of Seller's obligations arising under this Agreement and all related agreements as a condition of the sale or transfer. Such sale or transfer may be made only to an entity that (i) meets the definition of Permitted Transferee and (ii) is an entity that Buyer is permitted to contract with under applicable Law; and

(h) Subject to Lender's cure of any Events of Defaults under the Agreement in accordance with Section 14.2(f), if (i) this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith, Lender shall have the right to elect within thirty (30)

days after such rejection or termination, to cause Buyer to enter into a replacement agreement with Seller having the same terms as this Agreement for the remaining term thereof, or (ii) if Lender or its designee, directly or indirectly, takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) after any such rejection or termination of this Agreement, promptly after Buyer's written request, Lender must itself or must cause its designee to promptly enter into a new agreement with Buyer having the same terms as this Agreement for the remaining term thereof, provided that in the event a designee of Lender, directly or indirectly, takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), such designee shall be approved by Buyer, not to be unreasonably withheld.

14.3 **Permitted Assignment**. Except as may be precluded by, or would cause Buyer to be in violation of the Political Reform Act (California Government Code Section 81000 *et seq.*) or the regulations thereto, California Government Code Section 1090, or any other conflict of interest Law:

(a) Seller may, without the prior written consent of Buyer, transfer or assign this Agreement directly or indirectly to an Affiliate of Seller if, and only if:

(i) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(ii) Seller has provided Buyer with a written agreement signed by the Affiliate to which Seller wishes to assign its interests that provides that such Affiliate will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment.

(b) Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to any Person succeeding to all, or substantially all, of the assets of Seller (whether voluntary or by operation of law), if, and only if:

(i) The assignee is a Permitted Transferee;

(ii) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(iii) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

(c) Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and confirmed by Buyer.

(d) Buyer may, without the prior written consent of Seller, transfer or assign this Agreement to any member of Buyer that (i) has a Credit Rating of at least BBB- from S&P and Baa3 from Moody's, and (ii) is a load serving entity; *provided*, Buyer shall give Seller Notice at least fifteen (15) Business Days before the date of such proposed assignment and provide to

Seller a written agreement signed by the Person to which Buyer wishes to assign its interests that provides that such Person will assume all of Buyer's obligations and liabilities under this Agreement upon such transfer or assignment. Notwithstanding the foregoing, any assignment by Buyer, its successors or assigns under this Section 14.3(d) shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Seller.

14.4 **Portfolio Financing**. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (a) utilizing tax equity investment, and/or (b) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **Buyer Financing Assignment**. Buyer may assign this Agreement to a financing entity that will pre-pay all of Buyer's payment obligations under this Agreement with Seller's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned; *provided* that Seller reasonably determines that the terms and conditions of such pre-payment arrangements are satisfactory to Seller and its Lenders and do not adversely affect Seller or its arrangements with Lenders in any respect and that Seller is reimbursed for all costs and expenses incurred by Seller and its Lenders in connection with such transaction.

ARTICLE 15
DISPUTE RESOLUTION

15.1 **Governing Law; Venue**. 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. The Parties agree that any suit, action or other legal proceeding by or against any Party with respect to or arising out of this Agreement shall be brought in the federal or state courts located in the State of California in a location to be mutually chosen by Buyer and Seller, or in the absence of mutual agreement, the County of Sacramento.

15.2 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall hold a meeting of executives (Vice President-level or above) to meet, negotiate and attempt, in good faith, to resolve the dispute quickly and informally without significant legal costs. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, the Parties shall submit the dispute to mediation prior to seeking any and all remedies available to them at Law in or equity. The Parties shall cooperate in selecting a qualified neutral mediator selected from a panel of neutrals and in scheduling the time and place of the mediation as soon as reasonably possible, but in no event later than thirty (30) days after the request for mediation is made. The

Parties agree to participate in the mediation in good faith and to share the costs of the mediation, including the mediator's fee, equally, but such shared costs shall not include each Party's own attorneys' fees and costs, which shall be borne solely by such Party. If the mediation is unsuccessful, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Seller agrees to indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, attorneys, employees, representatives and agents (collectively, the "**Buyer's Indemnified Parties**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees and expert witness fees), howsoever described, to the extent arising out of, resulting from, or caused by (i) Seller's breach of this Agreement (including inaccuracy of any Seller representation of warranty made hereunder), (ii) a violation of applicable Laws by Seller or its Affiliates, including but not limited to violations of any laws in constructing or operating the Facility and failure to comply with the CAISO Tariff, or (iii) negligent or willful misconduct by Seller or its Affiliates, directors, officers, employees, or agents.

(b) Buyer agrees to indemnify, defend and hold harmless Seller and its Affiliates, directors, officers, attorneys, employees, representatives and agents (collectively, the "**Seller's Indemnified Parties**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees and expert witness fees), howsoever described, to the extent arising out of, resulting from, or caused by (i) Buyer's breach of this Agreement (including inaccuracy of any representation of warranty made hereunder), (ii) a violation of applicable Laws by Buyer, or (iii) negligent or willful misconduct of Buyer .

(c) Notwithstanding any other provision of this Agreement, Seller shall indemnify, defend, and hold harmless Buyer's Indemnified Parties, from any claim, liability, loss, injury (including personal injury) or damage arising out of, or in connection with Environmental Costs and any environmental matters associated with the Facility, including the use, storage, release, disposal and transportation of Hazardous Substances, or the contamination of land, water, or air, including but not limited to the Site, with any Hazardous Substances resulting from or related to Seller's performance of this Agreement.

(d) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting solely from its own negligence, intentional acts or willful misconduct. These

indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims**. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which an indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

17.1 **Insurance**.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of [redacted] per occurrence, and an annual aggregate of not less than [redacted] endorsed to provide contractual liability in said amount, specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured; and (ii) an umbrella insurance policy in a minimum limit of liability of [redacted] Defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions.

(b) Employer's Liability Insurance. Seller, if it has employees, shall maintain Employers' Liability insurance with limits of not less than [redacted] for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the [redacted] policy limit will apply to each employee.

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

(d) Business Auto Insurance. Seller shall maintain, or cause to be maintained, at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of [redacted] per occurrence. Such insurance shall cover liability arising out of Seller's or Seller's contractors and subcontractors, as applicable, use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement and shall name Buyer as an additional insured and contain standard cross-liability and severability of interest provisions.

(e) Pollution Liability. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, Pollution Legal Liability Insurance in the amount of Two Million Dollars ($2,000,000) per occurrence and in the aggregate, naming Seller (and Lender if any) as additional named insured.

(f) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, construction all-risk form property insurance covering the Facility during such construction periods, and naming Seller (and Lender if any) as the loss payee.

(g) Subcontractor Insurance. Seller shall require all of its subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than [redacted]; (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of [redacted] per occurrence. All subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (g)(i) and (g)(iii). All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(g).

(h) Property Insurance. On and after the Commercial Operation Date, Seller shall maintain or cause to be maintained insurance against loss or damage from all causes under standard "all risk" property insurance coverage in amounts that are not less than the actual replacement value of the Facility; *provided*, however, with respect to property insurance for natural catastrophes, Seller shall maintain limits equivalent to a probable maximum loss amount determined by a firm with experience providing such determinations. Such insurance shall include business interruption coverage in an amount equal to [redacted] of expected revenue from this Agreement.

(i) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage with insurers with ratings comparable to A-VII or higher, and that are authorized to do business in the State of California, in form evidencing all coverages set forth above. Such certificates shall specify that Buyer shall be given at least thirty (30) days' prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Buyer. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer. The general liability, auto liability and workers' compensation policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and sub-contractors.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**", whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality**.

(a) The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's members, employees, lenders or investors, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable Law, regulation, to support RA Compliance Showings or to otherwise show it has met its Compliance Obligations, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

(b) The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (California Government Code Section 7920 *et seq.*). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

(c) Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical notify Seller in writing via email that such request has been made. Seller shall be solely

responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer and Buyer's Indemnified Parties from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer or Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Further Permitted Disclosure**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 **Press Releases**. Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such press release.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented

by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, that, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender, Indemnified Party and/or Project Participant.

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)). Delivery of an executed counterpart in .pdf electronic version shall be binding as if delivered in the original. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and as provided for in any applicable law.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (California Government Code Section 6500 *et seq.*) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Except as set forth in Section 11.9 and any Buyer Liability Pass Through Agreements issued by one or more Project Participants pursuant to Section 8.10, Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement, and Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

19.11 **Forward Contract**. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

19.12 **Dodd-Frank Act.** The Parties intend this Agreement to be a "Forward Capacity Transaction" within the meaning of Commodity Futures Trading Commission, *Final Order in Responseto 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). Notwithstanding the prior sentence, if and to the extent that this Agreement and the performance of the Parties' obligations requires any reporting to the Commodity Futures Exchange Commission (together with any successor body, the "**CFTC**") pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Seller shall be responsible for all such reporting (and Seller shall bear all costs and expenses associated therewith) and shall be the reporting counterparty for purposes of any applicable parts of the regulations of the CFTC promulgated under the Commodity Exchange Act. Buyer shall promptly provide information reasonably required by Seller for any such reporting and Seller shall be entitled to report and disclose information concerning all swaps transacted under this Agreement (including information regarding the economic terms and valuations of this Agreement) to any applicable Governmental Authority (or a third party swap data repository as required by a Governmental Authority), from time to time, to the extent required by any applicable Laws. Additionally, to the extent either Party needs additional information or details from the other Party in order to comply with any such applicable Laws (including information concerning such other Party's organization, corporate status, status under the CFTC's regulations and/or unique entity identifier), such other Party shall promptly provide such additional information or details to the first Party upon request. Buyer shall promptly reimburse Seller for any costs, fines or penalties Seller incurs as a result of Buyer's failure to comply with this Section 19.12. Seller shall promptly reimburse Buyer for any costs Buyer incurs as a result of Seller's failure to comply with this Section 19.12 and the Commodity Exchange Act, except to the extent such costs are a result of any action

or omission of Buyer. Notwithstanding any provision of this Agreement to the contrary, no Event of Default, termination event, or other similar event shall be deemed to occur under this Agreement solely on the basis of a breach of any covenant or agreement in this Section 19.12 other than the obligation to make reimbursement payments.

19.13 **Further Assurances**. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

19.14 **Change in Electric Market Design**. If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

GEM A-CAES LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

CALIFORNIA COMMUNITY POWER, a California joint powers authority

By: _____
Name: _____
Title: _____

Approved as to form:

By: _____
Name: _____
Title: _____

EXHIBIT A

FACILITY DESCRIPTION

Site Name: Willow Rock Energy Storage Center

Site includes all or some of the following APNs: [redacted]

County: Kern County, California

Zip Code: 93501

Latitude and Longitude: [redacted]

Facility Description: The Facility will be a net 500 MW / 4,000 MWh compressed air energy storage facility located in Kern County, California. The Facility will be connected to the grid through the SCE Whirlwind Substation via an approximately nineteen (19)-mile long 220 kV generation tie (gen-tie) line.

Lead Permitting Agency: California Energy Commission

CEQA Lead Agency: California Energy Commission

Interconnection Point: Whirlwind Substation

Delivery Point: PNode

PNode: [redacted]

Transmission Provider: Southern California Edison Company

Additional Information: Site Plan and Single Line Diagram current as of the Effective Date follow. These are subject to adjustment.

Site Plan

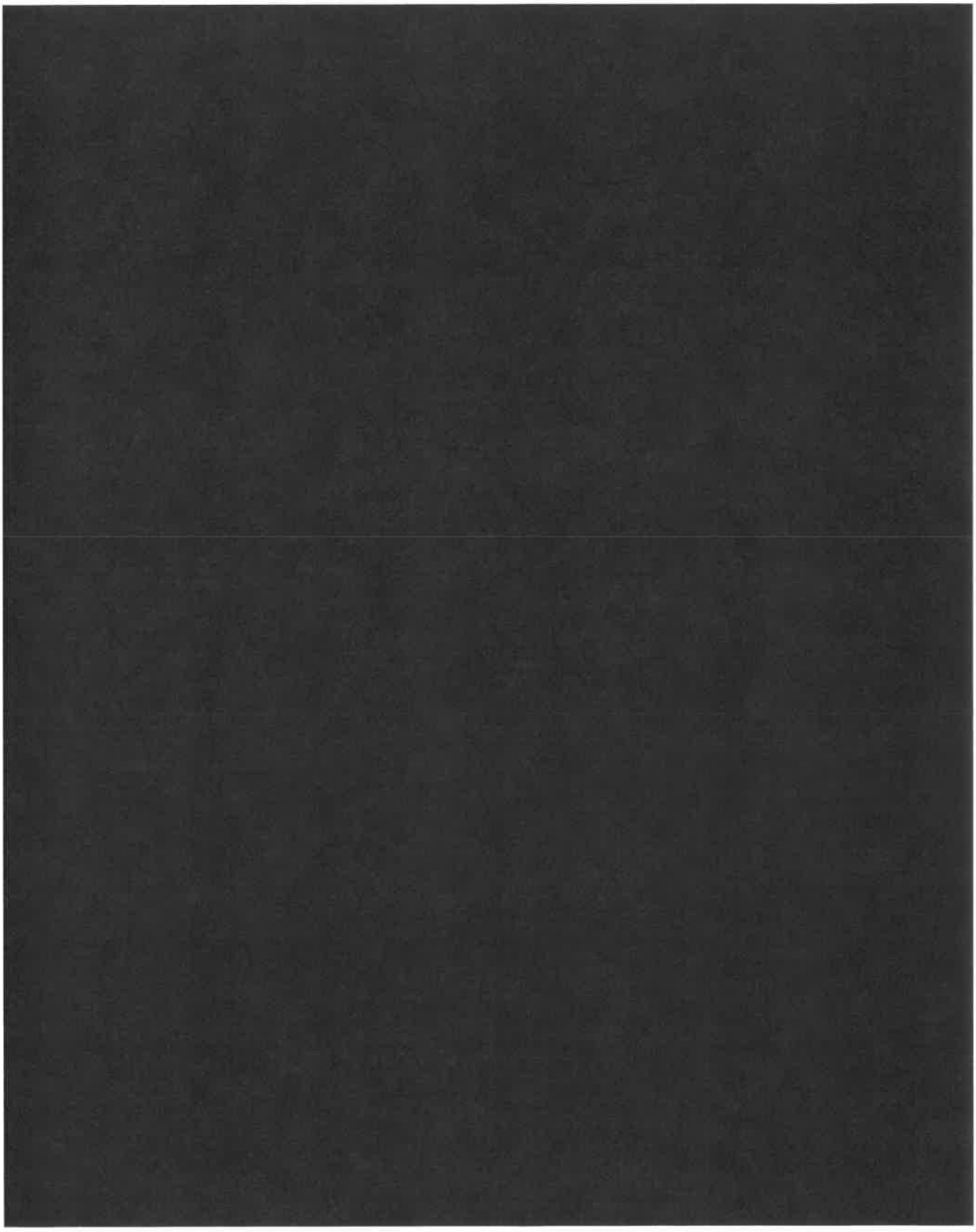


Exhibit A - 2

Single Line Diagram

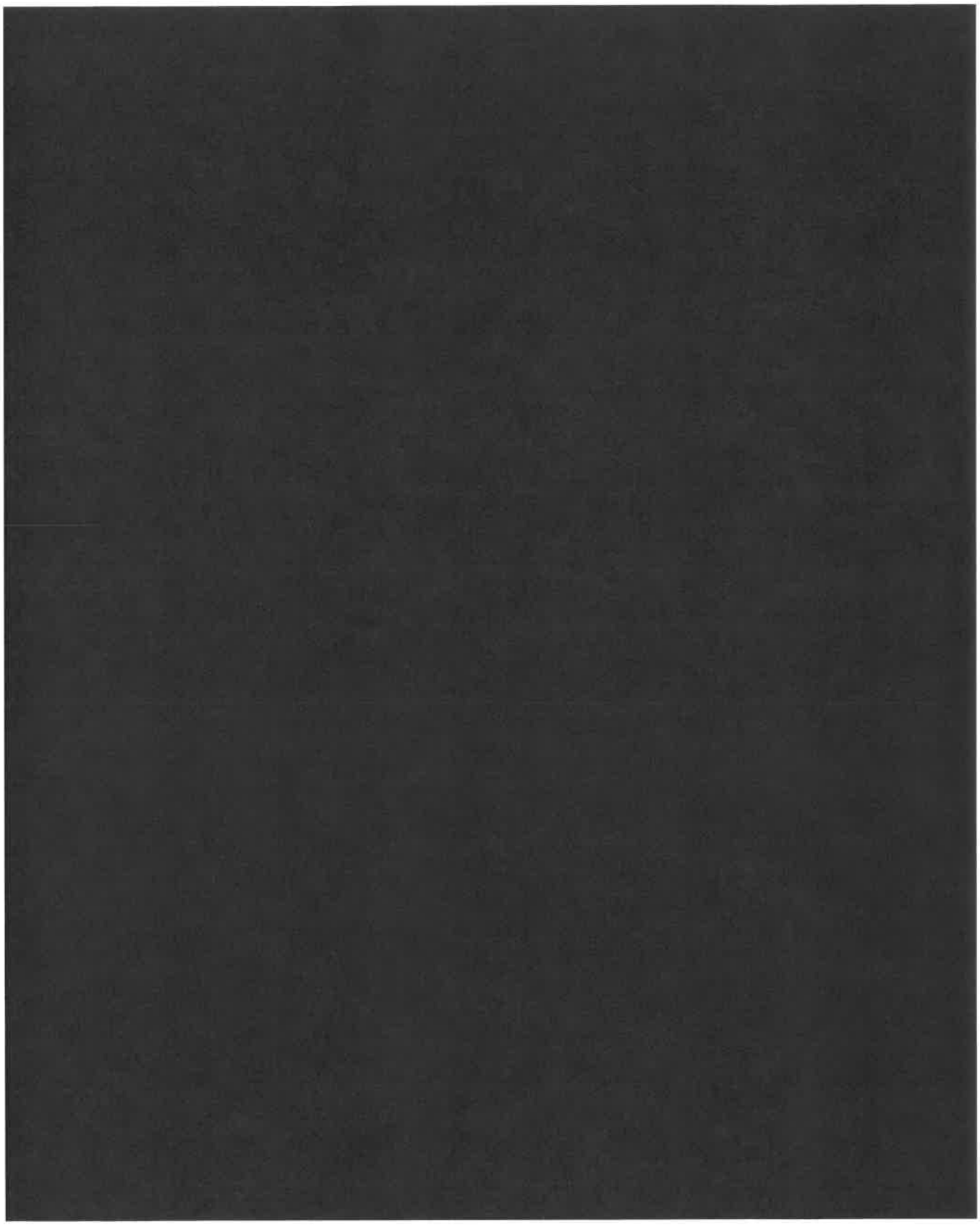


Exhibit A - 3

EXHIBIT B

MAJOR PROJECT DEVELOPMENT MILESTONES AND COMMERCIAL OPERATION

1. **Construction of the Facility**.

   a. "**Construction Start**" will occur upon Seller's acquisition of the conditional use permit and other applicable regulatory authorizations, approvals and permits for the construction of the Facility, and once Seller has executed an engineering, procurement, and construction contract and issued thereunder a notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**." Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date, as may be extended by Seller's payment of Construction Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B.

   b. In addition to extensions pursuant to a Development Cure Period, Seller shall extend the Guaranteed Construction Start Date by paying Construction Delay Damages in advance to Buyer for each day Seller extends the Guaranteed Construction Start Date, not to exceed a total of [redacted] of extensions by such payment of Construction Delay Damages. If Seller extends the Guaranteed Construction Start Date, on or before the date that is ten (10) days prior to the then-current Guaranteed Construction Start Date, Seller shall provide notice and payment to Buyer of the Construction Delay Damages for the number of days of extension to the Guaranteed Construction Start Date. If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Construction Delay Damages, Buyer shall refund to Seller the Construction Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Construction Delay Damages, not to exceed the total amount of Construction Delay Damages paid by Seller pursuant to this Section 1(b) of Exhibit B. Construction Delay Damages shall be refundable to Seller pursuant to Section 2(b) of Exhibit B.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when (i) Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**") (ii) Seller has notified Buyer in writing that it has provided the required documentation to Buyer and met the conditions for achieving Commercial Operation, and (iii) Buyer has acknowledged to Seller in writing that Buyer agrees that Commercial Operation has been achieved in accordance with Section 2.2. The "**Commercial Operation Date**" shall be the later of (x) the Expected Commercial Operation Date, or (y) the date on which Commercial Operation is achieved.

a. Seller shall cause Commercial Operation to occur no later than the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B. Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date. If Seller achieves Commercial Operation for the Facility by the Guaranteed Commercial Operation Date, as may be extended by a Development Cure Period but not by the payment of Commercial Operation Delay Damages, all Construction Delay Damages paid by Seller shall be refunded to Seller. Seller shall include a request for refund of the Construction Delay Damages with the first invoice to Buyer after Commercial Operation.

b. In addition to extensions pursuant to a Development Cure Period, Seller shall extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages in advance to Buyer for each day Seller extends the Guaranteed Commercial Operation Date, not to exceed a total of [redacted] of extensions by such payment of Commercial Operation Delay Damages. If Seller extends the Guaranteed Commercial Operation Date, on or before the date that is ten (10) days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date, as extended by the payment of Commercial Operation Delay Damages, Buyer shall refund to Seller the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date times the Commercial Operation Delay Damages, not to exceed the total amount of Commercial Operation Delay Damages paid by Seller pursuant to this Section 2(b) of Exhibit B.

3. **Termination for Failure to Timely Achieve Construction Start and/or Commercial Operation**. If the Facility has not achieved Construction Start on or before the Guaranteed Construction Start Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(i) and 11.2. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(i) and 11.2.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, both be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines:

a. a Force Majeure Event occurs; or

b. Seller has not acquired the Material Permits by the Guaranteed Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

c. the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date despite the exercise of diligent and commercially reasonable efforts by Seller; or

d. Buyer has not made all necessary arrangements to receive the Product at the Delivery Point by the Guaranteed Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4.d above) shall not exceed [redacted], for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4.d above) shall not exceed [redacted] nor allow the Guaranteed Commercial Operation Date to extend beyond the Compliance Deadline. Notwithstanding anything to the contrary, no Development Cure Period extension shall be given if (i) the delay was the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, or (ii) Seller failed to provide requested documentation as provided below. Except as set forth in Section 10.3 regarding Force Majeure Event notice requirements, Seller shall provide prompt written notice to Buyer of a Development Cure Period delay, but in no case more than ten (10) Business Days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Guaranteed Commercial Operation Date, or after such date, Seller must provide written notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed Contract Capacity**. If, at Commercial Operation, the Installed Capacity of the Facility is such that Seller is unable to satisfy the total aggregate quantity of Capacity Commitments for the Facility, Seller shall have [redacted] after the Commercial Operation Date to install additional capacity such that the Installed Capacity is sufficient to satisfy the Facility's Capacity Commitments, including satisfying the Guaranteed Contract Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I hereto specifying the new Installed Capacity. If Seller fails to increase the Installed Capacity by such date, Seller may elect to reduce the Guaranteed Contract Capacity [redacted] and identifying, in writing, the new adjusted Guaranteed Contract Capacity (the "**Adjusted Guaranteed Capacity**"). If Seller makes this election, then Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to [redacted]. Thereafter, the Guaranteed Contract Capacity

shall equal the Adjusted Guaranteed Capacity and applicable portions of the Agreement, including Exhibit Q, shall be adjusted accordingly.

6. **Compliance Deadline**. The Parties acknowledge and agree that the CPUC has currently established a deadline of June 1, 2031, for Buyer to procure and commence operations of a contracted new long-duration energy storage (as such date may be extended by the CPUC, the "**Compliance Deadline**"). Notwithstanding Seller's right to extend the Development Cure Period and the Guaranteed Commercial Operation Date, in the event that the Commercial Operation Date has not occurred by the Compliance Deadline, Buyer may terminate this Agreement and collect the Damage Payment on written notice to Seller issued prior to the Commercial Operation Date; provided, however, Buyer shall not be permitted to exercise this termination right if, prior to the Compliance Deadline, the CPUC has adopted mitigation or alternate compliance options that do not require the Project Participants to be deemed in non-compliance for satisfying Buyer's obligation to procure long-duration energy storage, and Seller agrees in writing to reimburse Buyer for the costs or penalties associated with such mitigation or alternate compliance options. Any new Compliance Deadline determined by the CPUC shall be the Compliance Deadline for purposes of this Paragraph 6.

EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Monthly Capacity Payment. Each month of the Delivery Term, Buyer shall pay Seller a Monthly Capacity Payment minus the Monthly Energy Settlement Amount for such month. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Product. If the Contract Capacity and/or Efficiency Rate are adjusted pursuant to a Capacity Test effective as of a day other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Contract Capacity and/or Efficiency Rate are applicable. The Monthly Capacity Payment shall be calculated as follows:

Monthly Capacity Payment = Arbitrage Component + RA Component

Where:

Arbitrage Component = (A x [redacted] x B x 1000)

RA Component = (A x [redacted] x C x 1000)

A = Contract Price

B = Contract Capacity

C = Guaranteed Contract Capacity

(b) Monthly Settlement Amount. The "**Monthly Energy Settlement Amount**" is calculated as follows to account, on a daily basis, for the Day-Ahead Market LMPs associated with the top four (4) hours of prices associated with discharging and the bottom number of hours equal to four (4) divided by the Guaranteed Efficiency Rate; provided, that if there would be no or negative value associated with energy arbitrage tied to an incremental hour of discharging and the commensurate incremental hours of charging, that such hours be omitted from the energy arbitrage calculation for such day:

Monthly Energy Settlement Amount = ES = $\sum_{i=1}^{D} S_i$

where,

D = the number of days in month

S_i = Daily Energy Settlement of ith day in a month ($)

Daily Energy Settlement = $S_i = B \times \left\{\sum_{n=1}^{N} max\left[\left(P_n^H - \int_j^J P_j^L dj\right), 0\right]\right\}$

where,

B = Contract Capacity (MW)

n = nth hour of N

N = financial settlement discharging duration (4 hours)

$j = (n - 1) / RTE$

$J = n / RTE$

dj = the fraction of the hour j for which price P_j^L applies

P_n^H = The nth highest Day-Ahead Market LMPs ($/MWh) within day i

P_j^L = The jth lowest Day-Ahead Market LMP ($/MWh) within day i required to charge the Facility for discharge during P_n^H

RTE = Guaranteed Efficiency Rate

Day-Ahead Market LMP = the LMP reported by the CAISO at the PNode associated with the Project for each Settlement Period in a day during the Day-Ahead Market.

(c) RA Shortfall Damages Calculation.

The following definitions shall apply to this Exhibit C:

"**Administrative NQC Reduction**" means a reduction in the maximum achievable Net Qualifying Capacity of the Facility that cannot be avoided by and is beyond the reasonable control of and without the fault or negligence of Seller for each hour of the Resource Duration due to a reduction that has been generally applied to resources materially similar to the Facility in terms of technology type, market and operational characteristics (including those characteristics specified in the CPUC Master Resource Database), including any methodology that incorporates fleet averages or other average outage rates. If an Administrative NQC Reduction occurs, Seller shall assign the reduction in NQC on a pro rata basis to the Facility based on Buyer's Share of the Installed Capacity. Notwithstanding anything herein to the contrary, Seller shall not be required to modify the Facility in order to mitigate the effects of an event that otherwise qualifies as an Administrative NQC Reduction.

"**Delivered Storage RA**" means an amount, expressed in MW, calculated for the applicable Showing Month as the lesser of (i) the amount of the Net Qualifying Capacity of the Facility and any Replacement RA for such Showing Month made available by Seller to be shown for each hour of the Resource Duration on Buyer or Buyer's Designees' monthly Resource Adequacy Plans to the CAISO, and (ii) the Slice-of-Day Capacity that Seller makes available to be shown from the Facility and any Replacement RA for each hour of the Resource Duration in such Showing

Month to the CPUC and is able to be counted as Resource Adequacy Benefits by both the CAISO and CPUC.

"**Guaranteed Storage RA Amount**" means, for any Showing Month, an amount of Qualifying Capacity that may be shown for each hour of the Resource Duration, expressed in MW, equal to the Guaranteed Contract Capacity minus the Administrative NQC Reduction, if any, in the applicable Showing Month.

"**Replacement RA**" means Resource Adequacy Benefits from a Resource Adequacy Resource that are equivalent in all material respects to that which would have been provided by the Facility with respect to the applicable Showing Month in which an RA Deficiency Amount would be due to Buyer, including, as applicable, Flexible RAR, the same Slice-of-Day generation profile and related characteristics, any successor criteria applicable to the Facility, and any Local RAR, unless Buyer consents to accept Replacement RA from another facility that provides non-equivalent Resource Adequacy Benefits. In addition, if the CPUC requires Replacement RA to be provided by an incremental resource for purposes of CPUC Decision 21-06-035 in order for Buyer's purchase of the Product to comply with the requirements of CPUC Decision 21-06-035, then the Replacement RA must also be provided by an incremental resource, including any sub-category attributes of D.21-06-035, to the extent required, if such sub-categories are contracted for under the Agreement.

"**Slice-of-Day Capacity**" means the maximum amount of Resource Adequacy capacity that can be shown on the Slice-of-Day Resource Adequacy Plan filing to the CPUC, assuming that the Resource Duration is constant, but subject to the Efficiency Rate. The Slice-of-Day Capacity shall be calculated as follows:

SODC = NQC × (ER/GE), where:

SODC = Slice-of-Day Capacity

NQC = Net Qualifying Capacity

ER = Efficiency Rate

GE = Guaranteed Efficiency Rate

"**Storage RA Shortfall**" means, for a given Showing Month, the difference, expressed in MW, of (a) the Guaranteed Storage RA Amount minus (b) Delivered Storage RA. If the result of the calculation is a negative number, the Storage RA Shortfall shall be deemed to be zero (0) MW for such Showing Month.

Commencing on the RA Guarantee Date, for any Showing Month during the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, during which there is a Storage RA Shortfall, Seller shall pay to Buyer an amount (the "**RA Deficiency Amount**") equal

[redacted]

[redacted]

If Seller anticipates it will have an RA Deficiency Amount in any month of the Delivery Term due to an Outage of the Facility, Seller may, as an alternative to paying RA Deficiency Amounts, provide Replacement RA up to the anticipated Storage RA Shortfall; provided, any Replacement RA capacity shall be communicated by Seller to Buyer with Replacement RA product information in a written notice substantially in the form of Exhibit M at least [redacted] before the applicable Showing Month, and further provided, that the aggregate Replacement RA capacity shall not exceed [redacted]

[redacted]

(e) Effect of Force Majeure. [redacted]

(f) Effect of Health and Safety Outage. [redacted]

EXHIBIT D

[RESERVED]

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.
2. Facility description.
3. Site plan of the Facility.
4. Description of any material planned changes to the Facility or the Site.
5. Gantt chart schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.
7. Forecast of activities scheduled for the current calendar quarter.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.
9. List of issues that are reasonably likely to affect Seller's Milestones.
10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.
11. A detailed description of all actions taken by Seller to comply with Prevailing Wage Requirement and Project Labor Agreement requirements of this Agreement.
12. Progress and schedule of all material agreements, contracts, permits (including Material Permits), approvals, technical studies, financing agreements and Major Equipment purchase orders showing the start dates, completion dates, and completion percentages.
13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.
14. Workforce Development reporting (if applicable). Format to be provided by Buyer.
15. Any other documentation reasonably requested by Buyer.

EXHIBIT F

[RESERVED]

EXHIBIT G

[RESERVED]

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by [*LICENSED PROFESSIONAL ENGINEER*] ("**Engineer**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Resource Adequacy and TB4 Agreement dated [*DATE*] ("**Agreement**") by and between [*SELLER*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [*DATE*], Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, interconnected, and synchronized with the Transmission System in accordance with the Interconnection Agreement.

2. Seller has installed equipment for the Facility with an Installed Capacity sufficient to permit Seller to provide no less than [redacted] of the Guaranteed Contract Capacity (without giving effect to any adjustments pursuant to Section 5 of Exhibit B).

3. Seller has demonstrated that the actual Efficiency Rate is equal to or greater than [redacted]

4. Seller has commissioned all equipment in accordance with its respective manufacturer's specifications.

5. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on [*DATE*].

6. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation on [*DATE*].

7. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on [*DATE*].

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]
this _____day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]
By:_____

Its:_____

Date:_____

EXHIBIT I

FORM OF INSTALLED CAPACITY AND EFFICIENCY RATE TEST CERTIFICATE

This certification ("**Certification**") of Installed Capacity and Efficiency Rate is delivered by [*LICENSED PROFESSIONAL ENGINEER*] ("**Engineer**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Resource Adequacy and TB4 Agreement dated [*DATE*] ("**Agreement**") by and between [*SELLER*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

(a) The Capacity Test conducted on [*DATE*] demonstrated a maximum dependable operating capability that can be sustained for [*Insert Resource Duration (#)*] consecutive hours to discharge electric energy of __MW AC to the Delivery Point, in accordance with the testing procedures, requirements and protocols set forth in Exhibit O (the "**Installed Storage Capacity**"); and

(b) The Capacity Test conducted on [*DATE*] demonstrated an Efficiency Rate of _%, all in accordance with the testing procedures, requirements and protocols set forth in Exhibit O.

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Printed Name: _____

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [*SELLER ENTITY*] ("**Seller**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Resource Adequacy and TB4 Agreement dated [*DATE*] ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on _____(the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site:

_____.

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as this _____ day of _____, 20__.

[SELLER ENTITY]

By: _____

Printed Name: _____

Title: _____

EXHIBIT K

FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]

Date:

Bank Ref.:

Amount: US$[XXXXXXXXX]

Beneficiary:

California Community Power,
a California joint powers authority
[Address]

Ladies and Gentlemen:

By the order of _____("Applicant"), we, [insert bank name and address] ("Issuer") hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of California Community Power, a California joint powers authority ("Beneficiary"), [Address], for an amount not to exceed the aggregate sum of U.S. $[XXXXXX] (United States Dollars [XXXXX] and 00/100) (the "Available Amount"), pursuant to that certain Resource Adequacy and TB4 Agreement dated as of _____and as amended (the "Agreement") between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall be of no further force or effect at 5:00 p.m., California time, on [Date] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit, the "Expiration Date").

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in Sacramento, California.

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before 5:00 p.m. California time, on or before the Expiration Date of a copy of this Letter of Credit No. [XXXXXXX] and all amendments accompanied by Beneficiary's dated statement purportedly signed by Beneficiary's duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

Any full or partial drawing hereunder may be requested by transmitting copies of the requisite documents as described above to the Issuer by facsimile at [facsimile number for draws] or such other number as specified from time-to-time by the Issuer.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Issuer before the Expiration Date. All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Issuer address/contact]. Issuer undertakes to make payment to Beneficiary under this Standby Letter of Credit within three (3) business days of receipt by Issuer of a properly presented Drawing Certificate. The Beneficiary shall receive payment from Issuer by wire transfer to the bank account of the Beneficiary designated in the Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; *provided*, the Available Amount shall be reduced by the amount of each such drawing.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter) beginning on the present Expiration Date hereof and upon each anniversary for such date (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter), unless at least ninety (90) days prior to any such Expiration Date Issuer has sent Beneficiary written notice by overnight courier service at the address provided below that Issuer elects not to extend this Letter of Credit, in which case it will expire on its then current Expiration Date. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: California Community Power, a California joint powers authority, Attn: General Manager, 901 H Street, Suite 120, PMB 157, Sacramento, CA 95814. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

_____
[Insert officer name]
[Insert officer title]

EXHIBIT A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of California Community Power, [ADDRESS], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Resource Adequacy and TB4 Agreement dated as of _____, 20__(the "Agreement").

2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____because a Seller Event of Default (as such term is defined in the Agreement) has occurred or other occasion provided for in the Agreement where Beneficiary is authorized to draw on the letter of credit has occurred.

or

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of [ ] and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to [ ] by wire transfer in immediately available funds to the following account:

[Specify account information]

[ ]

_____

Name and Title of Authorized Representative

Date_____

EXHIBIT L

BUYER LIABILITY PASS THROUGH AGREEMENT

This Buyer Liability Pass Through Agreement (this "**BLPTA**") is entered into as of [Effective Date] (the "**BLPTA Effective Date**") by and between the [Member Name], a California [joint powers authority] (togetherwith its successors and permitted assigns "**Project Participant**"), California Community Power, a California joint powers authority ("**CC Power**"), and GEM A-CAES LLC, a Delaware limited liability company (together with itssuccessors and permitted assigns "**Seller**"). Seller, CC Power, and Project Participant are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**."

RECITALS

WHEREAS, CC Power and Seller have entered into that certain Resource Adequacy and TB4 Agreement (as amended, restated or otherwise modified from time to time, the "**Offtake Agreement**") dated asof [Offtake Agreement Effective Date];

WHEREAS, Project Participant is entering into this BLPTA to secure, in part, CaliforniaCommunity Power's obligations under the Offtake Agreement;

WHEREAS, Project Participant is named as a Project Participant under the Offtake Agreement and will derive substantial direct and indirect benefits from the execution and delivery of the Offtake Agreement;

WHEREAS, Seller and CC Power will derive substantial and direct benefits from the execution and delivery of this BLPTA; and

WHEREAS, initially capitalized terms used but not defined herein have the meaning set forth in the Offtake Agreement.

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

AGREEMENT

1. Project Participant Covenants. For value received, Project Participant does hereby unconditionally, absolutely, and irrevocably guarantee, as obligor and not as a surety, to Seller the complete and prompt payment of [Project Participation Entitlement Share]% (the "**Liability Share**"), as the same may be adjusted pursuant to Section 4, of all obligations and liabilities for payment now or hereafter owing from CC Power to Seller under the Offtake Agreement, including liabilities for Monthly Capacity Payments, the Damage Payment or Termination Payment, as applicable, and any other damage payments or reimbursement amounts (each such obligation or liability of CC Power under the Offtake Agreement, a "**Guaranteed Amount**"). Any payment made directly from CC Power to Seller under the Offtake Agreement shall reduce Project Participant's liability hereunder by reducing the total amount that is used to calculate the Guaranteed Amount pursuant to the preceding sentence. This BLPTA is an

irrevocable, absolute, unconditional, and continuing guarantee of the punctual payment and performance, and not of collection, of Project Participant's Liability Share of the Guaranteed Amount. In the event CC Power shall fail to duly, completely, or punctually pay any amount owed by Buyer pursuant to the terms and conditions of the Offtake Agreement, and such failure is not remedied within ten (10) Business Days after Notice thereof pursuant to Sections 11.1 or 11.4 of the Offtake Agreement, as applicable, Project Participant shall promptly pay Project Participant's Liability Share of the Guaranteed Amount, as required herein.

2. **Seller Waiver**. In consideration of the foregoing, Seller unconditionally waives all right to recover directly from CC Power any Damage Payment or Termination Payment that is not paid by CC Power pursuant to Sections 11.3 and 11.4 of the Offtake Agreement, but the foregoing waiver does not apply to any other right or remedy of Seller under the Offtake Agreement, including the right to recover accrued Monthly Capacity Payments, other amounts payable or reimbursable under the Offtake Agreement or any other amounts incurred or accrued prior to termination of the Offtake Agreement and the right to terminate the Offtake Agreement as the result of an Event of Default by Buyer.

3. **Demand Notice**. For avoidance of doubt, Seller may demand payment from Project Participant for purposes of this BLPTA only when and if a payment is not duly, completely, or punctually paid by CC Power pursuant to the terms and conditions of the Offtake Agreement and such failure is not remedied by CC Power within ten (10) Business Days after Notice thereof is issued pursuant to Sections 11.1 or 11.4 of the Offtake Agreement, as applicable. If CC Power fails to pay any amount when due pursuant to the Offtake Agreement, and such failure is not remedied by CC Power within ten (10) Business Days after Notice thereof, then Seller may exercise its rights under this BLPTA and make a payment demand upon Project Participant to pay Project Participant's Liability Share of the unpaid Guaranteed Amount (a "**Payment Demand**"). A Payment Demand shall be in writing and shall reasonably specify (a) in what manner and what amount CC Power has failed to pay, (b) an explanation of why such payment is due and owing, (c) a calculation of the Guaranteed Amount due from Project Participant, and (d) a specific statement that Seller is requesting that Project Participant pay its Guaranteed Liability Share of the unpaid Guaranteed Amount under this BLPTA. Project Participant shall, within fifteen (15) Business Days following its receipt of the Payment Demand, pay to Seller Project Participant's Liability Share of the unpaid Guaranteed Amount.

4. **Step-Up Events.** Within thirty (30) days after the occurrence of a Step-Up Event, Project Participant and CC Power will tender to Seller a duly executed and binding replacement Buyer Liability Pass Through Agreement in the same form as this Agreement, but for a Liability Share equal to the Project Participant's Revised Liability Share. Upon receipt of such executed replacement Buyer Liability Pass Through Agreement, Seller will cancel this Buyer Liability Pass Through Agreement, effective upon the effectiveness of the replacement Buyer Liability Pass Through Agreement. For the avoidance of doubt, the cancellation of an existing Buyer Liability Pass Through Agreement shall not be effective unless and until the replacement Buyer Liability Pass Through Agreement has become effective and binding. Following delivery of such replacement Buyer Liability Pass Through Agreement and cancellation of this Buyer Liability Pass Through Agreement, Exhibit S to the Offtake Agreement will be deemed amended to reflect the Project Participant's Revised Liability Share; *provided* that the Project Participant's Revised Liability Share shall not exceed one hundred twenty-five percent (125%) of the Project

Participant's Initial Liability Share.

5. **Scope and Duration of BLPTA**. The obligations under this BLPTA are independent of the obligations of CC Power under the Offtake Agreement, and an action may be brought to enforce this BLPTA whether or not action is brought against CC Power under the Offtake Agreement. This BLPTA shall continue in full force and effect from the BLPTA Effective Date until both of the following have occurred: (a) the Delivery Term of the Offtake Agreement has expired or terminated early, and (b) either (i) all payment obligations of CC Power due and payable under the Offtake Agreement are paid in full (whether directly or indirectly such as through set-off or netting) or (ii) Project Participant has paid the maximum Guaranteed Amount (i.e. based on its maximum Revised Liability Share as provided in Section 4) in full. This BLPTA shall also continue to be effective or be reinstated, as the case may be, if at any time any payment of any Guaranteed Amount by CC Power is rescinded or must otherwise be returned by Seller upon the insolvency, bankruptcy or reorganization of CC Power or similar proceeding, all as though such payment had not been made, and Project Participant's Liability Share of such Guaranteed Amount shall be subject to payment following a Payment Demand issued pursuant to this BLPTA. Without limiting the generality of the foregoing, and to the extent that the Project Participant has not paid its maximum Guaranteed Amount in full, the obligations of the Project Participant hereunder shall not be released, discharged, or otherwise affected, and this BLPTA shall not be invalidated or impaired or otherwise affected for the following reasons:

(a) The extension of time for the payment of any Guaranteed Amount; or

(b) Any amendment, modification or other alteration of the Offtake Agreement; or

(c) Any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount; or

(d) Any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting CC Power, including but not limited to any rejection or other discharge of CC Power's obligations under the Offtake Agreement imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding; or

(e) Any reorganization of CC Power or Project Participant, or any merger or consolidation of CC Power or Project Participant into or with any other Person; or

(f) The receipt, release, modification or waiver of, or failure to pursue or seek relief under or with respect to, any other BLPTA, guaranty, collateral, pledge or security device whatsoever; or

(g) CC Power's inability to pay any Guaranteed Amount or perform its obligations under the Offtake Agreement; or

(h) Any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and

accord and satisfaction; *provided* that Project Participant reserves the right to assert for itself any defenses, setoffs or counterclaims that CC Power is or may be entitled to assert against Seller, including with respect to disputes regarding the calculation of a Guaranteed Amount.

6. **Waivers by Project Participant**. Project Participant hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraphs 2 and 3, (a) notice of acceptance, presentment or protest, notice of any of the events described in Paragraph 5, or any other notice or demand of any kind with respect to the Guaranteed Amounts and this BLPTA, (b) any requirement that Seller pursue or exhaust any right, power or remedy or proceed against CC Power under the Offtake Agreement or against any other Person, including any obligation to pursue any other BLPTAs, or to marshal assets, (c) any defense based on any of the matters described in Paragraph 4, (d) all rights of subrogation or other rights to pursue CC Power for payments made under this BLPTA until all amounts owing under the Offtake Agreement have been paid in full, and (e) any duty of Seller to disclose any information or other matters relating to the business, operations or finances or other condition of CC Power or any other Person who has provided a BLPTA or other security or guaranty with respect to the Offtake Agreement now or hereafter known to Seller. Project Participant further acknowledges and agrees that it is and will be bound by actions taken and elections made by CC Power under the Offtake Agreement and waives any defense based on CC Power's authority or lack thereof or the validity, regularity or advisability of the actions taken or elections made.

7. **Project Participant Representations and Warranties**. Project Participant hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Project Participant's organizational documents, any applicable Law or any contractual provisions binding on or affecting Project Participant, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Project Participant, threatened, against or affecting Project Participant or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Project Participant to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of the Project Participant), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Project Participant. Project Participant agrees that, solely to the extent it is acting in its capacity as a Community Choice Aggregator, it will not claim governmental immunity to avoid its contractual obligations under this BLPTA. Project Participant agrees that the courts identified in Section 11 have jurisdiction to enforce this BLPTA. Notwithstanding the foregoing, any claims against Project Participant shall be filed in accordance with the California Government Claims Act (Cal. Gov't Code § 810 et. seq.), as applicable. Except as provided in the first sentence, Project Participant retains all other immunities and defenses against claims alleging its breach of this BLPTA.

8. **Seller Representations and Warranties**. Seller hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene Seller's organizational documents, any applicable Law or any contractual provisions binding on or affecting Seller, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of Seller, threatened, against or affecting Seller or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Seller to enter into or perform its obligations under this BLPTA, (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any stockholder or creditor of Seller), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by Seller, and (f) Seller agrees that the courts identified in Section 11 have jurisdiction to enforce this BLPTA.

9. **CC Power Representations and Warranties**. CC Power hereby represents and warrants that (a) it has all necessary and appropriate powers and authority and the legal right to execute and deliver, and perform its obligations under, this BLPTA, (b) this BLPTA constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this BLPTA does not and will not contravene CC Power's organizational documents, any applicable Law or any contractual provisions binding on or affecting CC Power, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the CC Power, threatened, against or affecting CC Power or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of CC Power to enter into or perform its obligations under this BLPTA, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any member of CC Power), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this BLPTA by CC Power.

10. **Notices**. Notices under this BLPTA shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four (4) Business Days after mailing if sent by certified, first-class mail, return receipt requested. Any Party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 10.

If delivered to Seller:

Attn: Jordan Cole, Chief Commercial Officer
333 Bay Street, Suite 520
Toronto, ON M5H 2R2, Canada
Phone: +1 (416) 409-8549

Email: jordan.cole@hydrostor.ca

If delivered to Project Participant:

[Project Participant Notice Provisions]

If delivered to CC Power:

Attn: General Manager California Community Power
901 H Street, Suite 120
PMB 157
Sacramento, CA 95814
Phone: 310-617-3441
amorris@cacommunitypower.org
with cc to: joshua.nelson@bbklaw.com

11. Governing Law and Forum Selection. This BLPTA shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any Party (or its affiliates or designees) with respect to or arising out of this BLPTA shall be brought in the federal courts of the United States or the courts of the State of California sitting in the county of [Sacramento] [San Francisco].

12. Miscellaneous. This BLPTA shall be binding upon the Parties and their respective successors and assigns and shall inure to the benefit of the Parties and their successors and permitted assigns. No provision of this BLPTA may be amended or waived except by a written instrument executed by Seller, CC Power, and Project Participant. No provision of this BLPTA confers, nor is any provision intended to confer, upon any third party (other than the Parties' successors and permitted assigns) any benefit or right enforceable at the option of that third party. This BLPTA embodies the entire agreement and understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the Parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this BLPTA is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the Parties hereto, and (ii) such determination shall not affect any other provision of this BLPTA and all other provisions shall remain in full force and effect. This BLPTA may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This BLPTA may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

13. Assignment. Except as provided below in this Paragraph 13, no Party may assign this BLPTA or its rights or obligations under this BLPTA, without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned or delayed. Seller may, without the prior written consent of Project Participant and CC Power, transfer or assign this BLPTA to any Person to whom Seller may assign its rights or obligations under the Offtake

Agreement, including assignments for financing purposes, including a Portfolio Financing; *provided*, Seller shall give Project Participant and CC Power Notice at least fifteen (15) Business Days before the date of such proposed assignment and, except in the case of a collateral assignment or other assignment for financing purposes, provide Project Participant and CC Power a written agreement signed by the Person to which Seller wishes to assign its interests that provides that such Person will fully assume all of Seller's obligations and liabilities under this BLPTA, including obligations and liabilities that arose prior to the date of transfer or assignment, upon such transfer or assignment. Project Participant may, without the prior written consent of Seller and CC Power, transfer or assign this BLPTA to any member of CC Power that (A) has a Credit Rating of at least BBB- from S&P or Baa3 from Moody's, and (B) is a load serving entity; *provided*, Project Participant shall give Seller and CC Power Notice at least fifteen (15) Business Days before the date of such proposed assignment and provide to Seller and CC Power a written agreement signed by the Person to which Project Participant wishes to assign its interests that provides that such Person will fully assume all of Project Participant's obligations and liabilities, including obligations and liabilities that arose prior to the date of transfer or assignment, under this BLPTA upon such transfer or assignment.

14. No Recourse to Members of Project Participant. Project Participant is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (California Government Code Section 6500 *et seq.*) pursuant to its joint powers agreement and is a public entity separate from its constituent members. Project Participant shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this BLPTA. Seller and CC Power shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Project Participant's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Project Participant or its constituent members, in connection with this BLPTA.

15. No Recourse to Members of CC Power. CC Power is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (California Government Code Section 6500 *et seq.*) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Except as expressly set forth in the Offtake Agreement and this BLPTA, CC Power shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this BLPTA, and as such, Seller and Project Participant shall have no rights and shall not make any claims, take any actions or assert any remedies against any of CC Power's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Project Participant or its constituent members, in connection with this BLPTA.

16. CleanPowerSF as Project Participant. Paragraph 14 shall not apply if CleanPowerSF is the Project Participant, but the following shall apply:

(a) Designated Fund. CleanPowerSF payment obligations under this BLPTA are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. CleanPowerSF's payment obligations under this BLPTA are not a charge upon the revenues or general fund of the San Francisco Public Utility Commission ("**SFPUC**") or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the SFPUC or the City and County of San Francisco ("**San Francisco**").

(b) Controller Certification. CleanPowerSF's obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of CleanPowerSF are not authorized to request, and CleanPowerSF is not required to reimburse Seller for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of CleanPowerSF are not authorized to offer or promise, nor is CleanPowerSF required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

(c) Biennial Budget Process. For each City and County of San Francisco biennial budget cycle during the term of this BLPTA, CleanPowerSF agrees to take all necessary action to include the maximum amount of its annual payment obligations under this BLPTA in its budget submitted to the City and County of San Francisco's Board of Supervisors for each year of that budget cycle.

(d) Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws in any manner affecting the performance of its obligations under this BLPTA, and must at all times materially comply with such applicable laws as they may be amended from time to time.

(e) Prohibition on Political Activity with City Funds. In performing any services required under this BLPTA, Seller shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by San Francisco for this BLPTA from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco.

(f) Non-discrimination in Contracts. Seller shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Seller shall incorporate by reference in all subcontracts the provisions of Sections12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Seller is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(g) Non-discrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Seller does not as of the date of this BLPTA, and will not during the term of this BLPTA, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for San Francisco elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(h) Submitting False Claims. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to San Francisco for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to San Francisco if the contractor or subcontractor: (1) knowingly

presents or causes to be presented to an officer or employee of San Francisco a false claim or request for payment or approval; (2) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by San Francisco; (3) conspires to defraud San Francisco by getting a false claim allowed or paid by San Francisco; (4) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to San Francisco; or (5) is a beneficiary of an inadvertent submission of a false claim to San Francisco, subsequently discovers the falsity of the claim, and fails to disclose the false claim to San Francisco within a reasonable time after discovery of the false claim.

(i) Consideration of Salary History. Seller shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Seller is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this BLPTA or in furtherance of this BLPTA, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in San Francisco or on San Francisco property.

(j) Consideration of Criminal History in Hiring and Employment Decisions. Seller agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code, including the remedies provided, and implementing regulations, as may be amended from time to time. The requirements of Chapter 12T shall only apply to Seller's operations to the extent those operations are in furtherance of the performance of this BLPTA, shall apply only to applicants and employees who would be or are performing work in furtherance of this BLPTA, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

(k) Conflict of Interest. By executing this BLPTA, Seller certifies that it does not know of any fact which constitutes a violation of Section 15.103 of San Francisco's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify San Francisco if it becomes aware of any such fact during the term of this BLPTA.

(l) Campaign Contributions. By executing this BLPTA, Seller acknowledges its obligations under Section 1.126 of San Francisco's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any

time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date San Francisco approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Seller's board of directors; Seller's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Seller; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Seller. Seller shall inform the relevant persons of the limitation on contributions imposed by Section 1.126.

(m) MacBride Principles – Northern Ireland. Pursuant to San Francisco Administrative Code § 12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride principles.

(n) Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product. If this order is for wood products or a service involving wood products, (a) Chapter 8 of San Francisco's Environment Code is incorporated herein and by reference made a part hereof as though fully set forth; (b) except as expressly permitted by the application of Sections 802(B), 803(B), and 804(B) of San Francisco's Environment Code, Seller shall not provide any items to San Francisco in performance of this BLPTA which are tropical hardwoods, tropical hardwood products, virgin redwood or virgin redwood products; and (c) failure of Seller to comply with any of the requirements of Chapter 8 of San Francisco's Environment Code shall be deemed a material breach of contract.

(o) Effect on Payment Obligations. The Parties agree that, although breach of an obligation set forth in Sections 16(d) through 16(n) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, and no breach of or default by Seller under Sections 16(d) through 16(n) will relieve Project Participant of its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

17. City of San José (San José Clean Energy) as Project Participant. Paragraph 14 shall not apply if the City of San José, as administrator of San José Clean Energy ("**SJCE**") is the Project Participant, but the following shall apply:

(a) Designated Fund. The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies without an appropriation for such obligation, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City of San José to appropriate funds for purposes of the Agreement; *provided, however*, that the City of San José has created and set aside a designated fund (being the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 *et. seq.*) ("**Designated Fund**") for payment of its obligations under this BLPTA.

Subject to the requirements and limitations of applicable law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to the SJCE's obligations, SJCE agrees to establish rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this BLPTA.

(b) Limited Obligations. SJCE's payment obligations under this BLPTA are special limited obligations of the SJCE payable solely from the Designated Fund and are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

(c) Nondiscrimination/Non-Preference. In performing its obligations under this BLPTA, Seller shall not, and shall not cause or allow its subcontractors to, discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing. Seller will inform all subcontractors of these obligations. This prohibition is subject to the following conditions: (i) the prohibition is not intended to preclude Seller from providing a reasonable accommodation to a person with a disability; (ii) the City of San José's Compliance Officer may require Seller to file, and cause any Seller's subcontractor to file, reports demonstrating compliance with this section. Any such reports shall be filed in the form and at such times as the City of San José's Compliance Officer designates. They shall contain such information, data and/or records as the City of San José's Compliance Officer determines is needed to show compliance with this provision.

(d) Conflict of Interest. Seller represents that it is familiar with the local and state conflict of interest laws and agrees to comply with those laws in performing this BLPTA. Seller certifies that, as of the Effective Date, it was unaware of any facts constituting a conflict of interest or creating an appearance of a conflict of interest. Seller shall avoid all conflicts of interest or appearances of conflicts of interest in performing this BLPTA. Seller has the obligation of determining if the manner in which it performs any part of this BLPTA results in a conflict of interest or an appearance of a conflict of interest and shall immediately notify SJCE in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict of interest. Seller's violation of this subsection (d) is a material breach.

(e) Environmentally Preferable Procurement Policy. Seller shall perform its obligations under this BLPTA in conformance with San José City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and San José City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy," as those policies may be amended from time to time. The Parties acknowledge and agree that in no event shall a breach of this Section 17(e) be a material breach of this BLPTA or otherwise give rise to an Event of Default or entitle SJCE to terminate this BLPTA.

(f) Gifts Prohibited. Seller represents that it is familiar with Chapter 12.08 of the San José Municipal Code, which generally prohibits a City of San José officer or designated employee from accepting any gift. Seller shall not offer any City of San José officer or designated

employee any gift prohibited by Chapter 12.08. Seller's violation of this subsection (iv) is a material breach.

(g) Disqualification of Former Employees. Seller represents that it is familiar with Chapter 12.10 of the San José Municipal Code, which generally prohibits a former City of San José officer and former designated employee from providing services to the City of San José connected with his/her former duties or official responsibilities. Seller shall not use either directly or indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10.

(h) Effect on Payment Obligations. The Parties agree that, although breach of an obligation set forth in Sections 17(d) through 17(g) may result in Seller incurring liability for such breach, any such liability will be independent of Project Participant's liability hereunder, and no breach of or default by Seller under Sections 17(c) through 17(h) will relieve Project Participant of its liability for its Liability Share of all Guaranteed Amounts, nor may any such breach or default, or claim of breach or default, be permitted or asserted as a defense to or offset against payment of any amounts owed by Project Participant to Seller hereunder.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this BLPTA to be duly executed and delivered by their duly authorized representatives on the date first above written.

[PROJECT PARTICIPANT],

a California [joint powers authority]

By:_____

Printed Name:_____
Title:_____

CALIFORNIA COMMUNITY POWER,

a California joint powers authority

By:_____

Printed Name:_____
Title:_____

GEM A-CAES LLC,

a Delaware limited liability company

By:_____

Printed Name:_____
Title:_____

EXHIBIT M

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by [*SELLER ENTITY*] ("**Seller**") to California Community Power, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Resource Adequacy and TB4 Agreement dated [*DATE*] ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Exhibit C of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information[1]

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid ("substation or transmission line")	
Path 26 (North or South)	
LCR Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

[1] To be repeated for each unit if more than one.

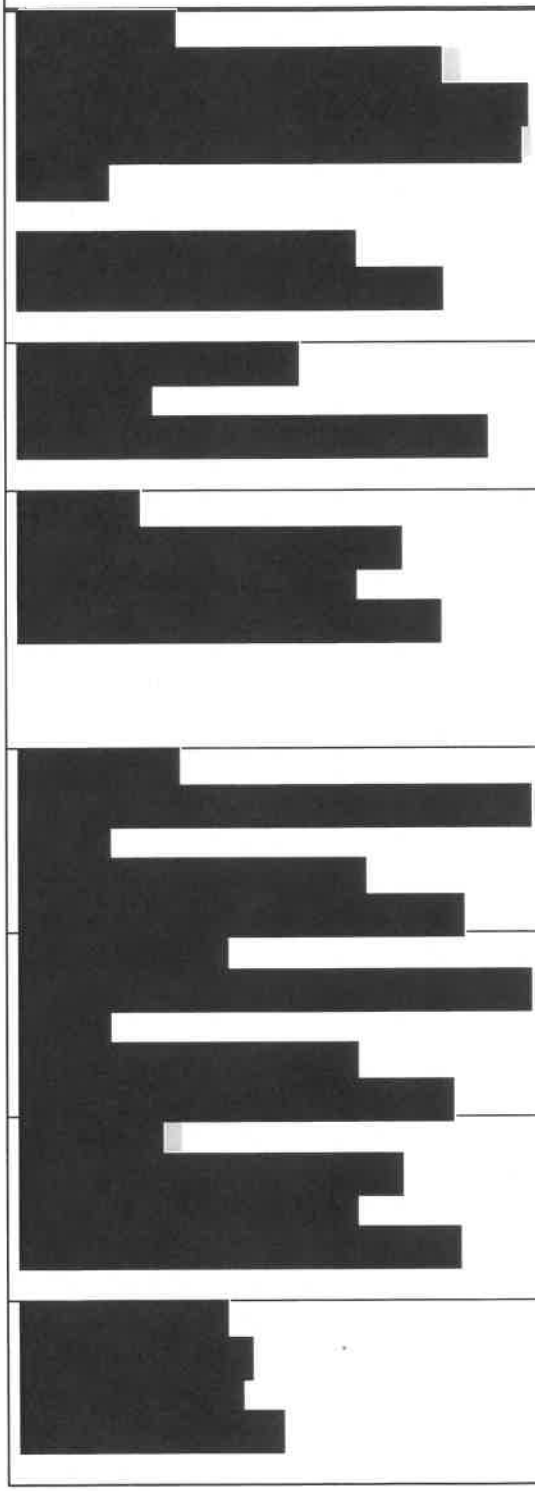
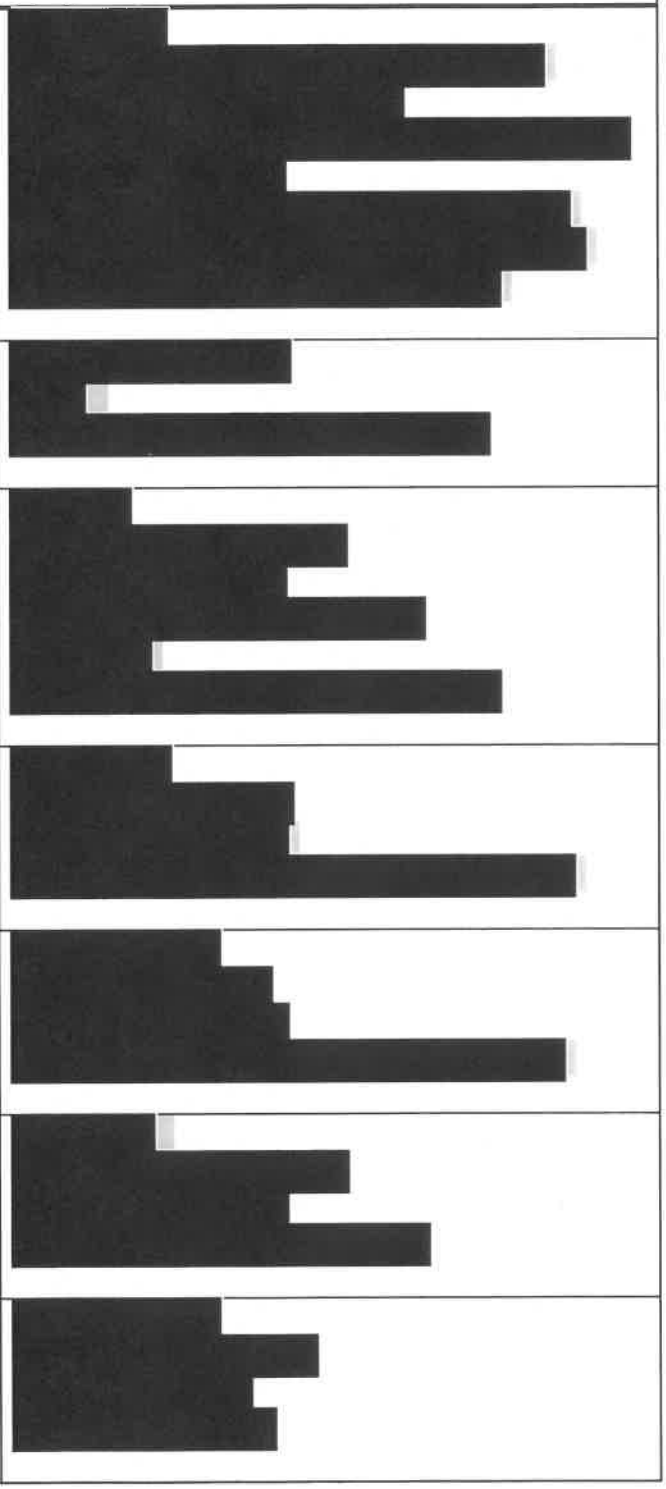
[*SELLER ENTITY*]

By:_____
Its:_____

Date:_____

EXHIBIT N

NOTICES

GEM A-CAES LLC, a Delaware limited liability company ("Seller")	**California Community Power, a California joint powers authority** ("Buyer")
	

GEM A-CAES LLC, a Delaware limited liability company ("Seller")	**California Community Power, a California joint powers authority** ("Buyer")
[redacted]	[redacted]

EXHIBIT O

CAPACITY TESTS

A. Commercial Operation Capacity Test(s). Upon no less than ten (10) Business Days' prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Capacity Test prior to the Commercial Operation Date. Such initial Commercial Operation Capacity Test (and any subsequent Commercial Operation Capacity Test permitted in accordance with Section 5 of Exhibit B) shall be performed in accordance with this Exhibit O and shall establish the initial Installed Capacity and initial Efficiency Rate hereunder based on the actual capacity and efficiency rate of the Facility determined by such Commercial Operation Capacity Test(s).

B. Subsequent Capacity Tests. Following the Commercial Operation Date, Buyer may request an additional Capacity Test once in each Contract Year. Upon no less than ten (10) Business Days after receipt of Notice from Buyer, Seller shall schedule and complete a Capacity Test. In addition, Buyer shall have the right to require a retest of the Capacity Test at any time upon no less than five (5) Business Days' prior Notice to Seller. Seller shall have the right to run a retest of any Capacity Test upon five (5) Business Days' prior Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice). The Parties shall use reasonable commercial efforts to perform no more Capacity Tests than are reasonably necessary and to coordinate Capacity Tests with Capacity Tests being performed in connection with other contracts to which the Facility is subject.

C. Test Results and Re-Setting of Effective Capacity and Efficiency Rate. No later than ten (10) Business Days following any Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include Facility Meter readings and plant log sheets verifying the operating conditions and output of the Facility. In accordance with Section 4.4 of the Agreement, the actual Efficiency Rate and Effective Capacity determined pursuant to a Capacity Test (up to, but not in excess of, the Installed Capacity) and Efficiency Rate determined pursuant to such Capacity Test shall become the new Effective Capacity and Efficiency Rate at the beginning of the day following the completion of the test for calculating the Monthly Capacity Payment and all other purposes under this Agreement.

Capacity Test Procedures

PART I. GENERAL.

A. Each Capacity Test shall be conducted in accordance with Prudent Operating Practices, the Operating Restrictions, and the provisions of this Exhibit O. For ease of reference, a Capacity Test is sometimes referred to in this Exhibit O as a "**CT**". Buyer or its representative may be present for the CT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

B. Conditions Prior to Testing.

(1) EMS Functionality. The EMS shall be successfully configured to receive data from the Storage Management System (SMS), exchange DNP3 data

with the Buyer SCADA device, and transfer data to the database server for the calculation, recording and archiving of data points.

(2) Communications. The Remote Terminal Unit (RTU) testing should be successfully completed prior to any testing. The interface between CAISO's RTU and the Facility SCADA System should be fully tested and functional prior to starting any testing, including verification of the data transmission pathway between CAISO's RTU and Seller's EMS interface and the ability to record SCADA System data.

(3) Commissioning Checklist. Commissioning shall be successfully completed per manufacturer guidance on all applicable installed Facility equipment, including verification that all controls, set points, and instruments of the EMS are configured.

PART II. REQUIREMENTS APPLICABLE TO ALL CAPACITY TESTS.

Note: Seller shall have the right and option in its sole discretion to install storage capacity in excess of the Expected Facility Capacity; provided, for all purposes of this Agreement, the amount of Buyer's Share of the Installed Capacity shall never be deemed to exceed the Guaranteed Contract Capacity, and all SOC measurements associated with a Capacity Test shall be based on the Buyer's Share of the Installed Capacity without taking into account any capacity that exceeds the Guaranteed Contract Capacity.

A. Test Elements. Each CT shall include at least the following individual test elements, which must be conducted in the order prescribed in Part III of this Exhibit O, unless the Parties mutually agree to deviations therefrom. The Parties acknowledge and agree that should Seller fall short of demonstrating one or more of the Test Elements as specified below, the CT will still be deemed "complete," and any adjustments necessary to the Effective Capacity or to the Efficiency Rate resulting from such CT, if applicable, will be made in accordance with this Exhibit O.

(1) The measurement of Charging Energy, as measured by the Facility Meter, that is required to charge the Facility from the Minimum Stored Energy Level up to the Maximum Stored Energy Level.

(2) The measurement of Discharging Energy, as measured by the Facility Meter, that is required to discharge the Facility from the Maximum Stored Energy Level down to the Minimum Stored Energy Level.

(3) Amount of time between the Facility's electrical output going from 0 to Maximum Discharging Capacity.

(4) Amount of time between the Facility's electrical input going from 0 to Maximum Charging Capacity.

B. Parameters. During each CT, the following parameters shall be measured and recorded simultaneously for the Facility, at two (2) second intervals:

(1) Time;

(2) The amount of Discharging Energy measured by the Facility Meters (MWh) (i.e., to each measurement device making up the Facility Meter);

(3) The amount of Charging Energy measured by the Facility Meters (MWh) (i.e., from each measurement device making up the Facility Meter); and

(4) Stored Energy Level (MWh).

C. Site Conditions. During each CT, the following conditions at the Site shall be measured and recorded simultaneously at thirty (30) minute intervals:

(1) Relative humidity (%);

(2) Barometric pressure (inches Hg) near the horizontal centerline of the Facility; and

(3) Ambient air temperature (°F).

D. Test Showing. Each CT shall record and report the following datapoints:

(1) That the CT successfully started;

(2) The Maximum Discharging Capacity sustained for the number of consecutive hours corresponding to the Resource Duration;

(3) The Maximum Charging Capacity sustained for the number of consecutive hours equal to the Resource Duration divided by the Minimum Efficiency Rate (or such lesser time as is required to reach 100% SOC);

(4) Amount of time between the Facility's electrical output going from 0 to the Maximum Discharging Capacity registered during the CT (for purposes of calculating the Ramp Rate);

(5) Amount of time between the Facility's electrical input going from 0 to the Maximum Charging Capacity registered during the CT (for purposes of calculating the Ramp Rate);

(6) Amount of Charging Energy, registered at the Facility Meter, to go from 0% SOC to 100% SOC; and

(7) Amount of Discharging Energy, registered at the Facility Meter, to go from 100% SOC to 0% SOC.

E. Test Conditions.

(1) General. At all times during a CT, the Facility shall be operated in compliance with Prudent Operating Practices, the Operating Restrictions, and all operating protocols recommended, required or established by the manufacturer for the Facility.

(2) Abnormal Conditions. If abnormal operating conditions prevent the testing or recordation of any required parameter during a CT, Seller may postpone or reschedule all or part of such CT in accordance with Part II.F below.

(3) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the CT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice and, as applicable, the CAISO Tariff.

F. Incomplete Test. If any CT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the CT stopped without any modification to the Effective Capacity or Efficiency Rate pursuant to Section I below; (ii) require that the portion of the CT not completed, be completed within a reasonable specified time period; or (iii) require that the CT be entirely repeated within a reasonable specified time period. Notwithstanding the above, if Seller is unable to complete a CT due to a Force Majeure Event or the actions or inactions of the CAISO or the Transmission Provider, Seller shall be permitted to reconduct such CT on dates and at times reasonably acceptable to the Parties.

G. Test Report. Within ten (10) Business Days after the completion of any CT, Seller shall prepare and submit to Buyer a written report of the results of the CT, which report shall include:

(1) A record of the personnel present during the CT that served in an operating, testing, monitoring or other such participatory role;

(2) The measured and calculated data for each parameter set forth in Part II.A through D, including copies of the raw data taken during the test; and

(3) Seller's statement of either Seller's acceptance of the CT or Seller's rejection of the CT results and reason(s) therefore.

Within ten (10) Business Days after receipt of such report, Buyer shall notify Seller in writing of either Buyer's acceptance of the CT results or Buyer's rejection of the CT and reason(s) therefore. If either Party rejects the results of any CT, such CT shall be repeated in accordance with Part II.F.

H. Supplementary Capacity Test Protocol. No later than sixty (60) days prior to Construction Start, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Capacity Tests based on the then current design of the Facility

("**Supplementary Capacity Test Protocol**"). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) any Seller recommended updates to the then-current Supplementary Capacity Test Protocol. The initial Supplementary Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed an amendment to this Exhibit O.

I. Adjustment to Effective Capacity and Efficiency Rate. The Effective Capacity and Efficiency Rate shall be updated as follows:

(1) The total amount of the Discharging Energy delivered to the Delivery Point (expressed in MWh AC) at the Maximum Discharging Capacity during the first Resource Duration number of hours of discharge (up to, but not in excess of, the product of (i) the Expected Facility Capacity as of the Effective Date, multiplied by (ii) the Resource Duration) shall be divided by the Resource Duration number of hours to determine the Effective Capacity, which shall be expressed in MW AC, and shall be the new Effective Capacity in accordance with Section 4.4(b) of the Agreement.

(2) The total amount of Discharging Energy (as reported under Section II.D(7) above) divided by the total amount of Charging Energy (as reported under Section II.D(6) above), and expressed as a percentage, shall be recorded as the new Efficiency Rate.

J. Partial Capacity Tests. To the extent that a Capacity Test is being performed solely for Buyer that is not part of a Capacity Test applicable to the full Facility, the Parties will cooperate, acting reasonably and in good faith, to adjust the requirements and calculations to reflect testing of at least Buyer's share of the Installed Capacity.

PART III. INITIAL SUPPLEMENTARY CAPACITY TEST PROTOCOL.

A. **Effective Capacity and Efficiency Rate Test**

- Procedure:

(1) System Starting State: The Facility will be in the on-line state at 0% SOC.

(2) Record the initial value of the SOC.

(3) Command a real power charge that results in an AC power of Facility's Maximum Charging Capacity and continue charging until the earlier of (a) the Facility has reached 100% SOC or (b) the number of hours equal to the Resource Duration divided by the Minimum Efficiency elapsed since the Facility commenced charging.

(4) Record and store the SOC after the earlier of (a) the Facility has reached 100% SOC or (b) number of hours equal to the Resource Duration divided by the Minimum Efficiency of continuous charging.

(5) Record and store the amount of Charging Energy, registered at the Facility Meter, to go from 0% SOC to 100% SOC.

(6) Following an agreed-upon rest period, command a real power discharge that results in an AC power output of the Facility's Maximum Discharging Capacity and maintain the discharging state until the earlier of (a) the Facility has discharged at the Maximum Discharging Capacity for the number of consecutive hours corresponding to the Resource Duration, or (b) the Facility has reached 0% SOC.

(7) Record and store the SOC and Discharging Energy after the number of hours corresponding to the Resource Duration of continuous discharging.

(8) If the Facility has not reached 0% SOC pursuant to Section III.A(6), continue discharging the Facility at Maximum Discharging Capacity until it reaches a 0% SOC.

(9) Record and store the Discharging Energy as measured at the Facility Meter from the commencement of discharging pursuant to Section III.A(6) until the Facility has reached a 0% SOC pursuant to either Section III.A(7) or Section III.A(8), as applicable.

- Test Results:

(1) The resulting Effective Capacity measurement is the sum of the total of Discharging Energy as reported under Section III.A(7) above at the Facility Meter divided by the Resource Duration, not to exceed the Expected Facility Capacity.

(2) The total amount of Discharging Energy (as reported under Section III.A(9) above) divided by the total amount of Charging Energy (as reported under Section III.A(5) above), and expressed as a percentage, shall be recorded as the new Efficiency Rate.

EXHIBIT P

MAJOR EQUIPMENT

Owner-Furnished Equipment

- o Turbomachinery
- o Shell and Tube Heat Exchangers

Electrical and I&C

- o Electrical Enclosures
- o GSU Transformers
- o Main Auxiliary Transformers
- o Generator Circuit Breaker
- o Compressor Transformers
- o Emergency Diesel Generator
- o Iso Phase Bus Duct
- o Battery/UPS System
- o Distributed Control System

Mechanical

- o Air Cooled Heat Exchangers
- o Compressed Air System
- o Oil Water Separators
- o HP Air Trim Cooler
- o Fire Pumps
- o General Service Pumps
- o Fire Protection
- o Cold Thermal Fluid Pumps
- o Shop Fabricated Tanks

- o Field Erected Tanks (Cylindrical and Spherical)
- o Nitrogen Generation
- o Piping
- o Expansion Joints
- o Silencers
- o Generation Conduit Gate Valve
- o Butterfly Valves
- o Sanitary Waste Tank

Structural

- o Building
- o Structural Steel

Substation

- o HV Breakers
- o Structures/Equipment
- o Relay Panels

Bulks

Transmission

- o Steel Structures
- o Conductors

EXHIBIT Q

OPERATING RESTRICTIONS

The Parties will develop and finalize the Operating Restrictions prior to the Commercial Operation Date; *provided*, the Operating Restrictions (i) may not be materially more restrictive of the operation of the Facility than as set forth below, unless agreed to by Buyer in writing, and (ii) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q.

File Update Date:	[TBD]
Technology:	**Advanced Compressed Air Energy Storage ("A-CAES") Technology**
Storage Unit Name:	**Willow Rock Energy Storage Center**
A. Contract Capacity	
Expected Facility Capacity (MW):	500
Guaranteed Contract Capacity (MW):	50
Contract Capacity (MW)	[TBD]
B. Total Unit Dispatchable Range Information	
Interconnect Voltage (kV):	220 kV
Maximum State of Charge (SOC) during Charging:	100%
Minimum State of Charge (SOC) during Discharging:	0%
Maximum Stored Energy Level (MWh):	4,000 MWh
Minimum Stored Energy Level (MWh):	0 MWh
Maximum Charging Capacity (MW):	500 MW
Maximum Discharging Capacity (MW):	500 MW
C. Maximum Throughput	
Maximum Daily Throughput:	4,000 MWh
Maximum Annual Throughput:	1,460,000 MWh
D. Charge and Discharge Rates	
	Ramp Rate (MW/minute) Description
Energy:	[redacted]
E. Ancillary Services	
Spinning reserve is included:	No
Non-spinning reserve is included:	No
Regulation up is included:	No
Regulation down is included:	No
Black start is included:	No
F. Other Services	
Voltage support is included:	No

EXHIBIT R

[RESERVED]

EXHIBIT S

PROJECT PARTICIPANTS AND LIABILITY SHARES

Project Participant	Liability Share
CleanPowerSF (CPSF)	23.00%
Peninsula Clean Energy (PCE)	30.00%
Redwood Coast Energy Authority (RCEA)	6.20%
San Jose Clean Energy (SJCE)	24.00%
Silicon Valley Clean Energy Authority (SVCE)	11.40%
Valley Clean Energy Authority (VCE)	5.40%
Total	**100.00%**

EXHIBIT T

MATERIAL PERMITS

No.	*Permits*
1	Application for Certification for the Facility by the California Energy Commission.
2	Underground Injection Control Permit for the shafts by the U.S. Environmental Protection Agency

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 8, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Jennifer Stalzer, General Counsel and Nelly Wogberg, Board Clerk

SUBJECT: Updates to Peninsula Clean Energy Public Meetings Under Senate Bill 707, Open Meetings: Meeting and Teleconference Requirements, and the Approval of a Resolution Authorizing Teleconferencing for the Board of Directors and Authorizing Remote Participation for Subsidiary Bodies (Action)

RECOMMENDATION

Approval of a Resolution Authorizing Teleconferencing for the Board of Directors and Authorizing Remote Participation for Subsidiary Bodies

BACKGROUND

Overview of SB 707 and Applicability to Peninsula Clean Energy

Senate Bill 707 (SB 707) significantly revises the Ralph M. Brown Act to modernize open meeting requirements, particularly related to teleconferencing and remote participation. Most provisions affecting joint powers authorities take effect January 1, 2026. As a joint powers authority, Peninsula Clean Energy (PCE) is considered an eligible multijurisdictional body under the Brown Act and is subject to the teleconferencing provisions specifically applicable to such entities. SB 707 does not automatically authorize remote participation. Instead, it establishes defined conditions under which teleconferencing may occur and requires formal board action to use certain options.

General Requirements Applicable to All Agencies

SB 707 establishes several new baseline requirements that apply to all agencies subject to the Brown Act, including joint powers authorities, regardless of whether they are eligible legislative bodies. Effective January 1, 2026, agencies must provide every member of their legislative bodies, whether elected or appointed, with a complete copy of the Brown Act statutes themselves, not summaries or secondary materials. This requirement applies to governing boards, committees, commissions, and any other bodies subject to the Brown Act and is intended to ensure that all members have direct access to the statutory open meeting requirements.

A significant component of SB 707 is the streamlining and standardization of emergency and special meeting procedures across all agencies. The bill eliminates prior statutory exceptions

by requiring all agencies to post agendas for special meetings on their websites, improving public access and consistency in meeting notice practices.

SB 707 also clarifies and expands agencies' authority to manage disruptions during teleconference meetings. Legislative bodies are expressly authorized to remove or limit individuals who engage in disruptive behavior while participating through two-way telephonic or audiovisual platforms, providing clearer legal support for maintaining orderly meetings when remote participation is used.

SB 707 further permanently codifies restrictions on the use of social media by members of legislative bodies. Board members are prohibited from using internet-based social media platforms to "discuss among themselves" agency business within the subject matter jurisdiction of the body. Prohibited conduct includes responding to another board member's post, comment, or shared content, as well as using digital reactions such as emojis to express a response. The restriction applies to interactions involving any other member of the same legislative body, and the threshold for a violation is low. Individual communications with members of the public and discussions outside the agency's jurisdiction remain permissible.

SB 707 also expands existing Brown Act open-session requirements related to compensation actions. In addition to longstanding requirements applicable to agency executives, the statute extends open-session approval requirements to department heads and similar administrative officers. While this provision may not be directly applicable to PCE, it reflects the Legislature's broader intent to increase transparency in compensation-related actions taken by legislative bodies.

Teleconferencing Framework Under the Brown Act

The Brown Act permits teleconferencing, defined as meetings in which members of a legislative body participate from different locations using audio or video technology. SB 707 reorganizes and expands the statutory framework governing teleconferencing by consolidating post-pandemic authorities into Government Code Section 54953.8 and related provisions. These statutes establish baseline public access requirements when teleconferencing is used, including real-time public observation and comment, disclosure obligations for remote participants, and procedures for addressing technical disruptions.

Traditional teleconferencing rules remain available and unchanged. Under these longstanding provisions, agendas must be posted at each teleconference location, all votes must be taken by roll call, each location must be open and accessible to the public, and a quorum of the legislative body must participate from locations within the agency's jurisdiction. Because these requirements are well established, SB 707 does not materially alter traditional teleconferencing practices.

SB 707 introduces several expanded and alternative teleconferencing options that may be used in specific circumstances.

Disability Accommodation Teleconferencing

SB 707 expressly authorizes members of a legislative body to participate remotely as a reasonable accommodation for a disability. Participation under this provision generally requires both audio and visual technology, unless the nature of the disability necessitates audio-only participation. Members participating under this accommodation are treated as present for all purposes, including quorum and voting. Additional disclosure requirements

apply, including identifying whether any individuals 18 years of age or older are present in the room and the general nature of their relationship to the member.

Just Cause Teleconferencing by Individual Members
SB 707 allows individual members to participate remotely for "just cause," which includes circumstances such as caregiving responsibilities, contagious illness, physical or mental conditions, official travel, military service obligations, or family medical emergencies. When this option is used, a quorum of the legislative body must be physically present at a single location that is open to the public and within the agency's jurisdiction. The remote member must notify the agency at the earliest opportunity and must participate using both audio and visual technology. Because the PCE Board meets once per month or less, SB 707 limits each Board member to using just-cause teleconferencing no more than two meetings per calendar year, and requires that the legal basis for the remote participation be reflected in the meeting minutes.

Emergency Teleconferencing During Declared Emergencies
SB 707 authorizes expanded teleconferencing during a proclaimed state or local emergency when the legislative body determines, by majority vote, that meeting in person would present imminent risks to the health or safety of attendees. Local emergencies declared by a city or county qualify under this provision. During an active emergency, the legislative body may meet without a physical meeting location and may use telephonic-only participation without simultaneous live webcasting. If the emergency persists, the legislative body must reconsider and reaffirm its findings every 45 days to continue using this authority.

Teleconferencing by Eligible Multijurisdictional Bodies (Joint Powers Authorities)
SB 707 establishes a specific teleconferencing framework for eligible multijurisdictional bodies, including joint powers authorities. Under this option, teleconferencing may be used only if the governing board adopts a resolution authorizing its use at a regular meeting held in open session. When authorized, a quorum of the board must participate from a single physical location that is open to the public and located within the agency's jurisdictional boundaries. Board members who receive compensation for their service must participate from a physical location open to the public. Other members may participate remotely only if they are more than 20 miles from the quorum location, and only when remote participation is identified on the agenda and conducted using both audio and visual technology. Because the PCE Board meets once per month or less, SB 707 limits individual Board members to participating remotely under this authority at no more than two meetings per calendar year.

Teleconferencing by Subsidiary Bodies
SB 707 authorizes certain eligible subsidiary bodies, including advisory committees, to conduct meetings using teleconferencing. For Peninsula Clean Energy, the eligible subsidiary bodies subject to this authority are the Executive Committee and the Audit and Finance Committee. This teleconferencing option is limited to subsidiary bodies that are advisory in nature, do not exercise final decision-making authority, and are not formed to address specified subject areas such as budgets, elections, or taxes.

Under SB 707, members of these subsidiary bodies may participate in meetings remotely, provided that the PCE Board of Directors authorizes remote meetings by resolution and renews that authorization every six months. When remote participation is authorized, each committee must still designate a physical meeting location that is open to the public, ensure two-way audio and visual participation in most circumstances, and have at least one agency

staff member physically present at the meeting location during the meeting.

DISCUSSION

Resolution Authorizing Teleconferencing for the PCE Board of Directors

The first resolution before the Board would authorize Peninsula Clean Energy, as an eligible multijurisdictional body, to use teleconferencing pursuant to SB 707. Adoption of this resolution is a statutory prerequisite to using the teleconferencing options available to joint powers authorities under the revised Brown Act. Without this authorization, the Board would be limited to traditional in-person meetings or traditional teleconferencing arrangements that require public access at every remote location.

Approval of this resolution does not mandate teleconferencing at any specific meeting. Instead, it enables the Board to use teleconferencing when appropriate, subject to the conditions set forth in SB 707, including quorum location requirements, public access standards, agenda disclosures, distance limitations for remote participants, and annual limits on remote participation. This authorization provides flexibility while maintaining statutory safeguards for transparency and public participation.

Resolution Authorizing Remote Participation for Subsidiary Bodies

The second resolution would authorize remote participation for PCE subsidiary bodies, specifically the Executive Committee and the Audit and Finance Committee, consistent with SB 707. Under the statute, this authorization must be adopted by the governing board and must be renewed every six months to remain effective.

Adoption of this resolution would allow these advisory committees to meet using teleconferencing technology when doing so would enhance public access and participation. The resolution acknowledges the statutory requirements that each committee maintain a physical meeting location open to the public, ensure two-way audiovisual access, and have staff physically present at the meeting location.

Renewal every six months ensures that the Board periodically reassesses whether remote participation continues to serve the public interest and statutory objectives

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

UPDATES TO PENINSULA CLEAN ENERGY PUBLIC MEETINGS UNDER SENATE BILL 707, OPEN MEETINGS: MEETING AND TELECONFERENCE REQUIREMENTS, AND THE APPROVAL OF A RESOLUTION AUTHORIZING TELECONFERENCING FOR THE BOARD OF DIRECTORS AND AUTHORIZING REMOTE PARTICIPATION FOR SUBSIDIARY BODIES (ACTION)

RESOLVED, by the Board of Directors of Peninsula Clean Energy Authority (PCEA) of the County of San Mateo and the City of Los Banos, State of California, ("Peninsula Clean Energy" or "PCE") that

WHEREAS, the Board of Directors and its subsidiary bodies, herein defined as the Executive Committee and the Audit and Finance Committee, are governed by the Ralph M. Brown Act, California Government Code Section 54950, et seq. (the "Brown Act"); and

WHEREAS, the Brown Act is written to protect and encourage the Public's access to public meetings and decision making by public entities in the State of California; and

WHEREAS, Senate Bill 707 (SB 707) significantly revises the Brown Act to modernize open meeting requirements, particularly related to teleconferencing and remote participation; and

WHEREAS, most provisions of SB 707 affecting joint powers authorities take effect January 1, 2026; and

WHEREAS, SB 707 establishes a specific teleconferencing framework for eligible multijurisdictional bodies, including joint powers authorities such as PCE; and

WHEREAS, SB707 allows the Board to authorize by resolution remote participation by members traveling from a location more than 20 miles from the meeting location and only when remote participation is identified on the agenda and conducted using both audio and visual technology; and

WHEREAS, because the PCE Board meets once per month or less, SB 707 limits individual Board members to participating remotely under the "20 mile" authority to no more than two meetings per calendar year; and

WHEREAS, SB707 also allows the the Board to authorize fully remote participation for the Executive Committee and the Audit and Finance Committee subject to the restrictions of the Brown Act; and

WHEREAS, remote authorization for the Executive Committee and the Audit and Finance Committee must be reviewed and adopted by this governing board and renewed every six months thereafter to remain effective.

NOW, THEREFORE, IT IS HEREBY RESOLVED that, consistent with SB707, the PCEA Board of Directors approves twice annual remote participation by its members traveling from a location more than 20 miles from the Board of Directors meeting location and authorizes remote participation for PCE's subsidiary bodies, specifically the Executive Committee and the Audit and Finance Committee, up to and until June 22, 2026.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Nick Bijur, Chief Financial Officer and Justin Kudo, Associate Director, Strategic Analysis & Rates

SUBJECT: Approval of Updates to Peninsula Clean Energy's Rates (Action)

RECOMMENDATION

Approve staff's proposal to reduce ECOplus rates by 47% to a system average of $0.066/kWh effective February 1, 2026, subject to a minimum rate of $0/kWh, resulting in a net 10% discount to PG&E generation rate. Additionally, direct staff to establish a temporary $0.016/kWh Rate Stabilization Credit for customers on the 2021 and 2022 Power Charge Indifference Adjustment (PCIA) Vintages.

BACKGROUND

In March 2024, the Board approved implementation of a rate setting approach based on Peninsula Clean Energy's (PCE) cost-of-service and a goal to maintain electric generation rates below that of PG&E. This approach prioritizes revenue sufficiency through a budgeted revenue requirement and rates sufficient to meet that requirement, while following prevailing rate designs to provide clear and competitive rates to PCE customers. Revenue requirements may be supported by PCE's Rate Stabilization Fund (RSF) when appropriate to maintain stable and competitive customer rates.

On June 26, 2025, the Board approved PCE's Fiscal Year 2025-2026 (FY 2026) Budget and set rates at a 10% discount to PG&E generation rates. The FY 2026 Budget included an assumption that PCE would reduce rates in February 2026 to largely match an expected decrease in PG&E generation rates and offset an expected increase in the PCIA. Staff committed to returning to the Board in January 2026 with a rates recommendation, at which time PG&E 2026 generation rates and the PCIA would be known, as well as PCE's year-to-date financial performance.

On December 31, 2025, PG&E updated its rates, which included a $0.025/kWh increase in the PCIA and a $0.036/kWh decrease in generation rates; taken together, these rate changes have the effect of decreasing "rate parity" for PCE customers by $0.061/kWh. Approximately half of these rate changes are due to one-time corrections for over-forecasted market price values in 2025; lower market prices place a larger PCIA responsibility on PCE customers,

which will now be assessed in 2026. The other half of these rate changes are driven by energy market conditions moving forward. In other words, the “true-up” of market conditions in 2025 has doubled the rate impact of market conditions for 2026. If PCE were to maintain current rates in 2026, PCE customers would be paying an approximately 40% premium ($0.046/kWh) to PG&E generation costs inclusive of the PCIA.

On January 12, 2026, PCE's Executive Committee considered the proposed rate changes contained herein, as well as various alternative scenarios, including a 5% discount that would be set for the year. While slightly higher rates and a smaller discount to PG&E were considered, which would have resulted in higher reserves and potentially stable rates for the entire calendar year, the Executive Committee approved the recommendation to set rates at a 10% discount and reduce rates by 47%. This maintains consistency with the Board-approved FY budget and provides greater savings to customers through June 2026.

DISCUSSION

Rate Setting Principles

The Board and staff have developed rate-setting principles which are consistent with industry standards and the best practices of cost-of-service ratemaking, which should be utilized in any PCE ratemaking decisions. To the extent that these principles may not be aligned with one another, staff attempts to strike a balance that best matches the values of PCE in its recommendations to the Board. These are as follows:

- **Revenue Sufficiency** – PCE rates should be sufficient to recover all costs, debt service, and other expense requirements. This includes meeting Board-approved targets for cash reserves and the Rate Stabilization Fund.
- **Rate Competitiveness** – Rates should empower PCE to retain and attract customers compared to other available service providers. This does not explicitly mean that PCE must set rates below those of PG&E, though this has been the case historically.
- **Maintain Appropriate Cost Causation** – Rate differences among customer classes should be justified by differences in their cost of service and limit cost subsidization.
- **Rate Stability** – Rates should be consistent and promote customer understanding of the costs they are paying. Rate changes should be made infrequently. In some cases, adjusting rates may promote stability through offsetting changes to PG&E rates.
- **Clarity** – PCE should aim to make complex utility rates as simple and transparent as possible for customers to understand and compare.
- **Promote Peak Load Reductions** – Rate designs which promote reductions in peak system load may significantly reduce the overall cost of service to all customers.

PG&E January 2026 Rate Change

On January 1, 2026, PG&E implemented its 2026 Annual Electric True-Up (AET), its primary annual rate change which determines generation and PCIA rates. PG&E’s generation rates decreased by $0.036/kWh. In addition, non-generation rates (often referred to as “T&D” for transmission and distribution) increased by $0.015/kWh, resulting in a net decrease of $0.020/kWh for PG&E customers on bundled (i.e., non-CCA) service.

PG&E System Avg. Rates ($/kWh)	Dec 2025	Jan 2026	Change
PG&E Generation	$0.150	$0.114	($0.036)
PG&E Non-Generation (T&D)	$0.204	$0.219	$0.015
Total PG&E Bundled Rates	**$0.354**	**$0.333**	**($0.020)**

While PG&E's reduced generation rates do not apply to PCE customers, the increases to non-generation rates do. Additionally, PCIA rates for the vast majority of PCE's customers increased by $0.025/kWh, resulting in a total increase in rates for PCE customers of $0.040/kWh. As a result, if there is no reduction in PCE rates, our rates will be $0.046/kWh higher than PG&E rates because of the January 1 PG&E rate changes.

PCE System Avg. Rates ($/kWh)	Dec 2025	Jan 2026	Change
PCE Generation	$0.124	$0.124	$0.000
PG&E PCIA (Vintage 2016)	$0.011	$0.036	$0.025
PG&E Non-Generation (T&D)	$0.204	$0.219	$0.015
Total PCE Electricity Rates	**$0.339**	**$0.379**	**$0.040**

Proposed Rate Changes

Staff recommends reducing PCE's rates by approximately 47% from a system average rate of $0.124/kWh to $0.066/kWh, thus maintaining PCE's current 10% discount to PG&E generation rates. Reducing rates effective on February 1, 2026, will result in customer savings of approximately $15 million from February through June, at which time staff will return to the Board with a recommendation to set rates in FY 2027 as part of the budget process. Taking into account year-to-date changes to revenues and expenditures, the proposed rate reduction is projected to result in FY 2026 Change in Net Position of $4.5 million, consistent with the Board-approved budget of $4.0 million.

During PCE's January Executive Committee meeting, staff noted that while this rate level is most consistent with the FY 2026 budget, it would significantly deplete the RSF if extended throughout FY 2027. As a result, staff expects to recommend a small rate increase (potentially to a 5% discount) as part of the budget approval process in June to help maintain the RSF through at least FY 2028.

Staff is currently working with our billing partner, Calpine Community Energy, to effectuate the reduced rates on February 1, 2026. Any deviation from the recommended rates would delay implementation by approximately a week due to additional prep time required by Calpine, which would reduce the customer savings realized in 2026.

Customer Bill Impacts of Proposed Rates

If the Board chooses to follow the staff and Executive Committee recommendations, resulting rates starting on February 1 would be approximately 10% less than PG&E generation costs inclusive (net) of the higher PCIA. Using basic residential rates, typical customer bills would compare as follows:

Residential Rate (E-1)	PCE 2025	PG&E 2025	PCE 2026	PG&E 2026
Generation	$0.128	$0.178	$0.069	$0.129
Non-Generation (T&D)[1]	$0.286	$0.286	$0.302	$0.302
PCIA/FF	$0.012	($0.023)	$0.037	($0.010)
Total	**$0.426**	**$0.441**	**$0.409**	**$0.421**
Average Bill	**$164.01**	**$169.79**	**$157.47**	**$162.03**

[1] Does not include the Conservation Incentive Adjustment, which vary depending on customer usage, geography, and heating source. This credit only affects PG&E non-generation charges. Based on 385 kWh monthly usage.

Rate Stabilization Credit

PCIA rates for customers are divided by PG&E into "Vintages" which independently calculate the PCIA based on the year that customers migrated to CCA service. Staff's suggested rates and the resulting 10% savings are based on the 2016 PCIA Vintage which applies to most San Mateo County customers. A small portion of PCE customers, including those in Los Banos, are instead served by 2021 and 2022 PCIA Vintages.

The 2021 and 2022 PCIA Vintaged rates are considerably higher than the 2016 Vintage rates. This is impacted by the same market factors as the other PCIA changes but is compounded by a correction to post-2019 battery storage valuation. As a result, the 2021 and 2022 PCIA Vintages are approximately $0.016/kWh higher than the 2016 PCIA Vintage and $0.072/kWh higher than the previously negative PCIA rates paid by these customers in 2025. This is shown below.

PCIA ($/kWh)	2025	2026	Difference
Vintage 2016	$0.011	$0.037	$0.026
Vintage 2021	($0.019)	$0.052	$0.071
Vintage 2022	($0.019)	$0.052	$0.071

To mitigate rate impacts and potential opt-out actions of impacted accounts, a "rate stabilization credit" is proposed to partially offset these changes by providing a $0.016/kWh credit to 15,713 customers on the 2021 and 2022 PCIA Vintages, implemented concurrently with new rates for a 12-month period. While this credit would not fully cover the increases in the PCIA, it would ensure that customers on these PCIA Vintages see billed charges and savings consistent with other PCE customers. In addition to benefiting customers directly, this makes it easier for the Marketing and Customer Care teams to communicate a consistent value proposition with customers. Staff estimate that this credit will cost $0.7 million in FY 2026, and $1.5 million in FY 2027.

$0 Minimum Rate

In rare cases applying to "super off-peak" spring usage for very large C&I customers, PCE rates would be subject to a minimum of $0/kWh. The "super off-peak" period applies to usage from March through May during the 9 a.m. to 2 p.m. period, when prevalent solar energy often results in negative wholesale prices for electricity. The distorting effect of the large PCIA in some cases would require PCE to set negative rates to provide a discount relative to PG&E's PCIA-inclusive generation costs. Staff recommend these rates be held at a minimum of $0/kWh and note that these customers will continue to see savings during other usage periods.

FISCAL IMPACT

Implementing the recommend rates, effective February 1, 2026, will result in forecasted FY 2026 Change in Net Position of $4.5 million, in line with the Board-approved budget. The forecast has been updated to account for lower forecasted customer program and energy procurement costs, offset in part by lower load. This collective proposal would maintain PCE's reserves and RSF for future fiscal years, while still providing customers with significant savings consistent with PCE's affordability goals.

	Budget	Updated	Variance	Reason
Sales Revenues	$ 381.1	$ 351.2	$ (29.8)	Lower load largely due to temperate weather
Non-Operating Revenues	$ 14.9	$ 18.9	$ 4.0	Increased interest income
Total Revenue	$ 396.0	$ 370.1	$ (25.8)	
Cost of Energy	$ 337.6	$ 320.3	$ (17.3)	Lower load and reduced procurement costs
Other Operating Expenses	$ 54.3	$ 45.3	$ (9.0)	Reduced customer programs costs
Total Costs	$ 392.0	$ 365.7	$ (26.3)	
Change In Net Position	**$ 4.0**	**$ 4.5**	**$ 0.5**	

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

APPROVAL OF UPDATES TO PENINSULA CLEAN ENERGY'S RATES (ACTION)

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo and the city of Los Banos, State of California ("Peninsula Clean Energy" or "PCE"), that

WHEREAS, the Peninsula Clean Energy Authority was formed on February 29, 2016 as a Community Choice Aggregation program ("CCA"); and

WHEREAS, the Board has established a set of strategic goals to guide PCE, including maintaining a cost-competitive electric-generation rate for residents and businesses; and

WHEREAS, on June 26, 2025, the Board approved Staff's budget proposed rates and budget for Fiscal Year 2026; and

WHEREAS, on January 1, 2026, PG&E updated its PCIA rates, increasing billed charges for PCE customers; and

WHEREAS, PCE's budgeted Change in Net Position for Fiscal Year 2026 is forecast to be met by setting PCE generation rates at a system average are of $0.066/kWh on February 1 2026;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board of Directors directs staff to reduce PCE's ECOplus rates by approximately 47% to a system average of $0.066/kWh effective February 1, 2026, subject to a minimum of $0/kWh. Additionally, the Board directs staff to establish a $0.016/kWh Rate Stabilization Credit for customers on the 2021 and 2022 PCIA Vintages through January 2027.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: Majority Vote

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Gwen Rose, Director of Marketing & Community Relations

SUBJECT: 2026 Marketing Update Regarding Rebrand and 10-Year Anniversary and Approval of an Agreement with Good Stuff Partners in an Amount Not-to-Exceed $788,950 with a Term Through December 31, 2026 (Action)

RECOMMENDATION

Receive marketing update and delegate authority to the Chief Executive Officer to finalize and execute an agreement with Good Stuff Partners in an amount not-to-exceed $788,950 with a term through December 31, 2026.

BACKGROUND

This memo provides a high-level update on 2026 marketing planning related to the WestLight Energy rebrand and Peninsula Clean Energy's 10-year anniversary activities.

The Marketing and Community Relations team spent 2025 building the foundation for 2026, including brand exploration and naming, customer engagement and outreach, Voice of Customer initiatives, and improvements to marketing operations and systems.

Looking ahead, 2026 will be a high-visibility year that combines a brand transition with a major organizational milestone. To support this work, Peninsula Clean Energy plans to engage two complementary agency partners: Owen for brand identity and website work, and Good Stuff Partners for campaigns, paid media planning and placement, community engagement, events, and media relations. Good Stuff Partners has prior experience supporting complex public-sector marketing efforts and has worked with regional partners, including the San Mateo County Sustainability Department and Public Health Department as well as the City of Menlo Park.

DISCUSSION

The primary Marketing & Community Relations objectives in 2026 are to:

- Ensure a clear, low-confusion transition for customers, partners, and stakeholders during the rebrand to WestLight Energy
- Build awareness, trust, and continuity across all customer-facing channels
- Celebrate 10 years of impact, community benefit, and clean energy leadership
- Expand community listening through the Community Feedback Forum and Voice of Customer

initiatives
- Support ongoing program participation, community engagement, and earned media visibility throughout the year

Marketing activities in 2026 will generally fall into the following areas:

- Brand identity development and transition support
- Campaign development and paid media
- Community outreach and anniversary events
- Media relations and thought leadership

These workstreams are interconnected and intentionally phased.

Rebrand & Brand Transition Overview

The rebrand to WestLight Energy will be implemented through a phased transition designed to prioritize customer clarity and operational readiness. Early phases focus on establishing and finalizing the core visual identity and brand system, led by Owen.

Timing and sequencing are dependent on several external and internal factors (e.g., PG&E billing updates, website refresh timeline). The initial customer-facing rollout will emphasize a “soft launch” approach that introduces the new name and identity clearly while minimizing disruption or confusion.

Some elements of the brand transition are well-defined at this stage, while others will be refined as the work progresses. For example, the process for developing the core brand system, website updates, and initial customer notifications are being planned now, while extended brand elements and broader creative applications may continue to evolve after the initial launch.

Campaign Strategy

Campaign efforts in 2026 are expected to focus on three areas: rebrand, 10-year anniversary storytelling, and ongoing program promotion. Campaign development and execution will be led by Good Stuff Partners.

Campaigns will be developed using a sprint-based approach, allowing work to be sequenced, evaluated, and refined over time. While overarching themes and timing windows are anticipated, specific creative executions, media mix, and asset production will be further scoped following early discovery and alignment.

Community Outreach & Events

Community engagement will remain a core component of marketing in 2026, particularly during a transition and anniversary year. Good Stuff Partners will support a mix of ongoing outreach activities and a limited number of signature anniversary events, working closely with staff and community partners.

At this stage, event types and objectives are generally defined, while specific concepts, scale, and production details will be developed closer to execution.

The Community Relations team will continue its robust calendar of responding to over 100 invitations each year from our partners to represent the agency or to sponsor existing community events, meetings, and webinars. We will also continue to collaborate with our 16 community outreach grantees on expanding our reach especially in difficult-to-reach communities. We will leverage this existing robust community presence and deep set of partnerships for the rebrand as it rolls out.

Media Relations & Public Visibility

Media relations will continue to support the rebrand, anniversary milestones, and program activities. Good Stuff Partners will lead earned media efforts, building on their experience supporting public agencies and regional initiatives. Routine media relations will continue throughout the year, while higher-touch or anniversary-specific efforts will be scoped as priorities are finalized.

Campaigns, Events & Future Scoping

Based on current planning, 2026 marketing efforts are expected to include:

- A campaign platform supporting both the WestLight Energy rebrand and Peninsula Clean Energy's 10-year anniversary
- Campaign sprints to support programs marketing
- Up to three (3) signature events aligned with policy leadership and organizational milestones
- Up to five (5) community activations (in addition to the 100+ community events PCEA already supports annually)

While these elements establish clear direction, detailed scopes of work for individual campaigns, signature events, and activations will be developed and aligned once underway, prior to execution. This allows marketing activities to remain responsive to brand readiness, operational timing, and emerging opportunities, while maintaining clarity and cost control. All campaign sprints, signature events, and major activations will be aligned on scope, timing, and budget prior to launch.

Risks, Dependencies & Open Items

The timing and scope of 2026 marketing efforts depend on several factors, including brand finalization, regulatory and legal milestones, PG&E coordination, and system readiness. Some elements remain intentionally undefined to allow for informed decision-making later in the year.

Marketing staff will continue to refine plans as these dependencies are resolved. The agreement with Good Stuff Partners in an NTE amount of 788,950 was recommended for approval by the PCE Executive Committee at its meeting on January 12, 2026.

FISCAL IMPACT

We estimate the total NTE of the engagement with Good Stuff Partners to be $788,950 for campaigns, media planning and buying, events and public relations.

- Professional services: estimated to be no more than $523,000 over the life of the contract;
- Outside supplier costs (e.g., video production, photography, printing, event vendors) are estimated to be no more than $266,000.

STRATEGIC PLAN

The 2026 marketing activities support Peninsula Clean Energy's 2026–2030 Strategic Plan by advancing key guiding principles.

- Customer-Focused Approach: The rebrand, campaigns, and outreach are designed to improve brand clarity, reduce customer confusion, and build trust, supporting goals related to participation and brand awareness.
- Environmental Impact & Innovation: Campaigns and media relations elevate electrification programs and clean energy leadership, helping motivate customer action and reinforce PCE's role

as an industry innovator.

- Organizational Excellence: A phased, coordinated marketing approach supports operational readiness and disciplined execution during a significant organizational transition.

ATTACHMENTS:

Contract PCE x GSP 1-14-26 draft.docx

RESOLUTION NO. _____

PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

2026 MARKETING UPDATE REGARDING REBRAND AND 10-YEAR ANNIVERSARY AND APPROVAL OF AN AGREEMENT WITH GOOD STUFF PARTNERS IN AN AMOUNT NOT-TO-EXCEED $788,950 WITH A TERM THROUGH DECEMBER 31, 2026 (ACTION)

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, and the city of Los Banos, State of California ("Peninsula Clean Energy" or "PCE"), that

WHEREAS, PCE was formed on February 29, 2016; and

WHEREAS, PCE has a need for strategic marketing, campaign development, community outreach, events, and media relations services to support its 2026 marketing efforts and organizational objectives; and

WHEREAS, Good Stuff Partners LLC has unique capabilities and experience in providing strategic, creative, and management services across marketing campaigns, media planning and buying, community engagement, events, and public relations; and

WHEREAS, staff is requesting that the Board approval of an agreement with Good Stuff Partners LLC in an amount not to exceed seven hundred eighty-eight thousand, nine hundred fifty dollars ($788,950) and a term from January 22, 2006 through December 31, 2026; and

WHEREAS, reference should be made to the agreement accompanying this resolution for further particulars; and

WHEREAS, the Board wishes to delegate authority to the Chief Executive Officer to execute the agreement on behalf of PCE;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Board delegates authority to the Chief Executive Officer to finalize and execute an Agreement with Good Stuff Partners LLC in an amount not to exceed $788,950, with a term through December 31, 2026, in a form approved by the General Counsel.

AGREEMENT BETWEEN THE PENINSULA CLEAN ENERGY AUTHORITY AND GOOD STUFF PARTNERS LLC

This Agreement is entered into this [day] day of [month], [year], by and between the Peninsula Clean Energy Authority, a joint powers authority of the state of California, hereinafter called "PCEA," and Good Stuff Partners LLC, hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 6508 of the Joint Exercise of Powers Act, PCEA may contract with independent contractors for the furnishing of services to or for PCEA; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of supporting PCEA's 2026 marketing efforts.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services
Exhibit B—Payments and Rates

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for PCEA in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, PCEA shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. PCEA reserves the right to withhold payment if PCEA determines that the quantity or quality of the work performed is unacceptable. In no event shall PCEA's total fiscal obligation under this Agreement exceed seven hundred eighty-eight thousand, nine hundred and fifty dollars ($788,950). In the event that the PCEA makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the PCEA at the time of contract termination or expiration.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from the date of execution through December 31, 2026.

5. Termination; Availability of Funds

This Agreement may be terminated by Contractor or by the Chief Executive Officer of the PCEA or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement that are consistent with those services described in Exhibit A and performed to the satisfaction of PCEA. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

PCEA may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or PCEA

funds by providing written notice to Contractor as soon as is reasonably possible after PCEA learns of said unavailability of outside funding.

6. Design Rights

(a) Any design, name, mark, logo, or other tangible material in final form that is delivered by Contractor or subcontractor to PCEA pursuant to this Agreement (whether delivered in electronic or reflective form) that is approved, selected, and fully paid for by Client (″Materials") will become the exclusive property of Client and as such, Contractor shall assign and transfer ownership over the Materials to PCEA upon full payment under the terms of this Agreement, Exhibits A and B, and each sprints detailed scope of work (″Scope of Work"). Contractor shall not be responsible for alterations made by PCEA to Materials delivered hereunder. All other designs, names, marks, logos, and materials developed by Contractor or subcontractors, in rendering the Services which are not selected by PCEA (″Preliminary Materials") shall remain the property of Contractor. Any and all preliminary artwork (″Comps") delivered to PCEA by Contractor or subcontractors during the performance of its Services shall be considered samples, and shall remain the property of Contractor and be promptly returned to Contractor. In the event PCEA wishes to acquire rights in other designs, names, marks, logos or other materials which are in addition to the one(s) selected pursuant to this Agreement, Exhibit A, and Scopes of Work, Contractor and PCEA shall negotiate in good faith regarding the terms of such acquisition, including, without limitation, the additional compensation to be paid to Contractor therefore; provided PCEA shall not acquire any such rights except as mutually agreed by the parties.

(b) PCEA agrees that since Contractor retains all rights to the Preliminary Materials and Comps, PCEA shall not file or attempt to file, directly or indirectly, for registration of ownership rights for any Preliminary Materials or Comps, including, but not limited to, registration of any domain/URL names relating to any Preliminary Materials and/or Comps.

7. Protection of Designs, Marks, etc.

To the best of Contractor′s knowledge, the materials created by Contractor do not infringe upon the ownership rights of any third party. However, Contractor cannot and does not warrant that PCEA will not be subject to claims of others due to the complexity of the laws and regulations governing such rights and the virtual impossibility of searching designs and names worldwide, particularly common law usage rights which are not registered. It is PCEA′s sole responsibility to consult its own legal counsel on a timely basis to determine the availability, registerability, and/or protectability of the proposed designs, names, marks, and other materials prior to final approval. PCEA

expressly acknowledges that Contractor shall have no responsibility or obligation to research, evaluate, assess, or determine the availability, registerability, and/or protectability of any of the proposed designs, names, marks, and other materials created, prepared, and/or submitted to PCEA hereunder.

8. Intellectual Property

Ownership of material provided by any third party and incorporated in Contractor′s work with PCEA′s knowledge and approval shall be as provided in any license or sale agreement governing said materials, a copy of which Contractor will provide to PCEA. To the extent that the Services performed by Contractor and any subcontractors for PCEA yield Materials in the form of intellectual property, said Materials as a whole shall be assigned to PCEA upon full payment to Contractor and therefore property of PCEA. Upon receipt of final payment, Contractor will assign and hereby assigns to PCEA all rights, title, and interest to all intellectual property rights, except those noted below, to the completed work delivered under this Agreement, Exhibit A, and Scopes of Work. PCEA may at its own discretion copyright the work in its name or assign the rights to a third party. Reciprocally, PCEA will assign, and hereby assigns, Contractor a paid-up, nonexclusive, perpetual license to use in any of Contractor′s future work, for itself or any client, all algorithms, knowledge, techniques, structures, designs (other than PCEA′s proprietary graphic designs) and functional modules of program code it develops that have applicability outside the Statement of Work. Further, Contractor′s performance of Services for PCEA shall in no way limit Contractor regarding assignments Contractor may accept from any other clients at any time. Contractor shall be allowed to show PCEA′s publicly available, finished work, or any elements of it, to existing and prospective clients for demonstration purposes with the written consent of PCEA. Contractor shall also be allowed to include in its materials a production credit, e.g. ″Produced by Good Stuff Partners", displayed on a credits page or other typical location for production credit. Contractor shall also be allowed to identify PCEA as a client in Contractor′s marketing communications with the written consent of PCEA.

9. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of PCEA and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of PCEA employees.

10. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless PCEA and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

(D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of PCEA and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which PCEA has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

PCEA shall be solely responsible for the accuracy, completeness, and propriety of information concerning its organization, products, services, industry, and the like which it provides to Contractor or approves. It will be PCEA′s responsibility to review all materials prepared by Contractor under this Agreement to confirm that representations, direct or implied, with respect to PCEA′s organization, products, services, and industry are accurate and supportable by adequate objective data then possessed by Contractor, as well as to confirm the accuracy and legality of the designs and/or descriptions of PCEA′s organization, products, services and industry, and competitive products and services.

11. <u>Assignability and Subcontracting</u>

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of PCEA. Any such assignment or subcontract without PCEA's prior written consent shall give PCEA the right to

automatically and immediately terminate this Agreement without penalty or advance notice.

12. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

13. W-9 Form and Submission of Invoices

Invoices shall only be submitted by electronic form by sending an email to both the **PCEA project contact's email address** and to **PCEA's Finance email address** (finance@peninsulacleanenergy.com). Contractor shall submit a completed W-9 form electronically to the same email addresses. Contractor understands that no invoice will be paid by PCEA unless and until a W-9 Form is received by PCEA.

14. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by PCEA, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish PCEA with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to PCEA of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

Yes	Comprehensive General Liability (Applies to all agreements)	$1,000,000
Yes/No	Motor Vehicle Liability Insurance (Yes, if motor vehicle is used in performing services)	$1,000,000
Yes	Professional Liability Insurance (Yes, if Contractor is a licensed professional)	$1,000,000

PCEA and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to PCEA and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the PCEA or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, PCEA, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

15. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth

in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

16. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to PCEA upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Employee Benefits

With respect to the provision of benefits to its employees, Contractor shall ensure that employee benefits provided to employees with domestic partners are the same as those provided to employees with spouses.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60–741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

_X_ No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.

__ Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide PCEA with a written explanation of the outcome(s) or remedy for the discrimination.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the Chief Executive Officer of PCEA the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 13, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the Chief Executive Officer, including but not limited to the following:

i. termination of this Agreement;

ii. disqualification of the Contractor from being considered for or being awarded a PCEA contract for a period of up to 3 years;

iii. liquidated damages of $2,500 per violation; and/or

iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the Chief Executive Officer.

To effectuate the provisions of this Section, the Chief Executive Officer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and PCEA.

17. Confidential Information

(a) Contractor shall maintain in confidence and not disclose to any third party or use in any manner not required or authorized under this Agreement any and all Confidential Information held by PCEA.

(b) The term “Confidential Information” includes all information, documents, and materials owned by PCEA, including technical, financial, business, or PCEA customer information, which is not available to the general public, as well as information derived from such information. Information received by Contractor shall not be considered Confidential Information if: (i) it is or becomes available to the public through no wrongful act of Contractor; (ii) it is already in the possession of Contractor and not subject to any confidentiality agreement between the Parties; (iii) it is received from a third party without restriction for the benefit of PCEA and without breach of this Agreement; (iv) it is independently developed by Contractor; (v) it is disclosed pursuant to a requirement of law, including, but not limited to, the California Public Records Act (Cal. Gov’t Code Section 6250, et seq.); or (vi) is disclosed to or by a duly empowered government agency, or a court of competent jurisdiction after due notice and an adequate opportunity to intervene is given to PCEA, unless such notice is prohibited.

(c) As practicable, PCEA shall mark Confidential Information with the words “Confidential” or “Confidential Material” or with words of similar import, or, if that is not possible, PCEA shall notify the Contractor (for example, by cover e-mail transmitting an electronic document) that the material is Confidential Information. PCEA’s failure or

delay, for whatever reason, to mark or notify Contractor at the time the material is produced shall not take the material out of the coverage of this Agreement.

(d) Contractor will direct its employees, contractors, consultants, and representatives who have access to any Confidential Information to comply with the terms of this Section.

(e) Upon termination or expiration of this Agreement, Contractor shall, at PCEA's exclusive direction, either return or destroy all such Confidential Information and shall so certify in writing, provided, however, any Confidential Information (i) found in drafts, notes, studies, and other documents prepared by or for PCEA or its representatives, or (ii) found in electronic format as part of Contractor's off-site or on-site data storage/archival process system, will be held by Contractor and kept subject to the terms of this provision or destroyed at Contractor's option. The obligations of this provision will survive termination or expiration of this Agreement.

18. Data Security

If, pursuant to this Agreement, PCEA shares with Contractor personal information as defined in California Civil Code Section 1798.81.5(d) about a California resident ("Personal Information"), Contractor shall maintain reasonable and appropriate security procedures to protect that Personal Information and shall inform PCEA immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. Contractor shall not use Personal Information for direct marketing purposes without PCEA's express written consent. For purposes of this provision, security procedures are "reasonable and appropriate" when they (i) adequately address all reasonably foreseeable threats to Personal Information, (ii) are appropriate to the quantity, sensitivity, and type of Personal Information accessed and the way that information will be accessed, and (iii) comply with all laws, regulations, and government rules or directives applicable to the Contractor in connection with its access of Personal Information.

19. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after PCEA makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by PCEA, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by PCEA.

(c) Contractor agrees upon reasonable notice to provide to PCEA, to any Federal or State department having monitoring or review authority, to PCEA's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

20. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

21. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

22. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of PCEA, to:

Name/Title: Shawn Marshall, Chief Executive Officer
Address: 2075 Woodside Road, Redwood City, CA 94061
Telephone: 650-474-5002
Email: smarshall@peninsulacleanenergy.com

In the case of Contractor, to:

Name/Title: Adrian Power, Co-founder & COO
Address: 336 Bon Air Ctr #292, Greenbrae, CA 94904 USA
Telephone: 415-295-7195
Email: adrian@goodstuffpartners.com

23. Electronic Signature

PCEA and Contractor wish to permit this Agreement, and future documents executed pursuant to this Agreement, to be digitally signed in accordance with California law. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

24. No Recourse Against PCEA's Member Agencies

Contractor acknowledges and agrees that PCEA is a Joint Powers Authority, which is a public agency separate and distinct from its member agencies. All debts, liabilities, or obligations undertaken by PCEA in connection with this Agreement are undertaken solely by PCEA and are not debts, liabilities, or obligations of its member agencies. Contractor waives any recourse against PCEA's member agencies.

* * *

In agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

PENINSULA CLEAN ENERGY AUTHORITY

By: _____

Chief Executive Officer, Peninsula Clean Energy Authority

Date: _____

GOOD STUFF PARTNERS LLC

By: _____

Co-founder & Chief Operation Officer, Good Stuff Partners LLC

Date: _____

Exhibit A

Partnership Overview:

In consideration of the payments set forth in Exhibit B, Contractor shall support PCEA's 2026 marketing efforts across campaigns, media planning & buying, community outreach and events, and media relations. Contractor will provide strategic, creative, and management services during the duration of the project.

Timing: date of execution through December 31, 2026

Notes:

1. Duration across each subphase will depend on PCEA availability and feedback
2. Project management fees have been included at typical burn rate
3. Contractor will provide up to two (2) rounds of revisions per deliverable
4. Contractor will provide up to two (2) additional presentations to PCEA staff and/or Board, to be scheduled at key inflection points
5. Contractor has provided a detailed scope of work for Phase 1, Discovery & Strategy, as detailed below.
6. Contractor has provided directional services and deliverables for Phases 2, 3, and 4. A detailed scope of work will be provided to PCEA team for approval before commencing each subsequent phase of work.

Phase 1 Discovery & Strategy



Overview: Contractor will assess the marketing opportunities for PCEA before developing a 2026 Marketing Strategy. Contractor will conduct discovery and research to inform a Marketing Opportunity Assessment, providing PCEA with quick visibility into Contractor's thinking and a chance to align on the focus of 2026 marketing efforts. Building from that alignment, Contractor will further define and develop an overarching Marketing Strategy to guide 2026 outreach. The final deliverable is a high-level roadmap to support awareness, engagement, and growth with PCEA's target audiences

across paid, owned, earned, and shared media. The Marketing Strategy will include input from and direction for campaigns, community outreach, events, and public relations. The Marketing Strategy will consider brand launch, 10 year anniversary, and the identified programs.

Phase 1.1 Discovery & Planning

Duration: ~4 weeks

Services:

i. Prepare for and host an Onboarding Session with PCEA
ii. Review, audit, and analyze existing PCEA documents, strategy, communications, research, etc. (See note on requested documents)
iii. Prepare for and facilitate a 3-4 hour Discovery Session with PCEA marketing and/or leadership team. Topics could include:
    a. Organizational strategy & goals
    b. Communication challenges
    c. Target audiences
    d. Partner & peer organizations
    e. Marketing approach & ideas
    f. Campaign, event, and media thinking
iv. Conduct desk research on key audiences, partner and peer organizations, and marketing efforts in adjacent and peer landscape
v. Media consumption surveys for leadership and staff to uncover niche publications, media outlets, podcasts, and commentators to target in later phases
vi. Review findings and conduct analysis, focused on communication, public relations, and community engagement, considering your current and future organizational strategy, goals, and capabilities.
vii. Prepare for and host a shareout of key findings that highlight the opportunities identified for 2025 marketing efforts across campaigns, community outreach, events, and public relations. Findings will be shared with PCEA team in a Marketing Opportunity document.
viii. Receive feedback from PCEA team and align on the opportunities to further develop and define in the following sub-phase of work.
ix. Project management and client communication services

Deliverables:

- Onboarding Session
- Discovery Session

- Marketing Opportunity document & Alignment Session

Notes:

- Contractor assumes access to existing PCEA information prior to the Discovery Session, such as:
    - Brand strategy & identity documentation
    - Naming research
    - Organizational goals, performance measurements & KPIs
    - Communication strategy and planning
    - Existing audience segments and research
    - Current communication channels
    - Results and samples of recent paid, owned, earned, and shared media campaigns
    - List of existing partners and CBOs
    - List of peer organizations
    - Existing reporter and political relationships
    - Current media and content
    - List and description of past signature events and cadence of events
    - Calendar of community engagement over the last year
- Contractor requests access to brand discovery
- Fees do not include primary research

Phase 1.2 Marketing Strategy

Duration: 5-8 weeks

Services:

x. Incorporate feedback on marketing opportunities across channels, align with PCEA on overarching objectives and success metrics for 2026
xi. Create and/or refine audience personas to inform targeting, messaging, and incentives across paid, owned, earned, and shared channels
xii. Define key communication strategies across paid, owned, earned, and shared media
xiii. Identify recommended channel mix for campaign sprints, press, and through leadership and KPIs for each channel
xiv. Further develop and detail PR Strategy, including:
    a. Identify priority topic areas for pitching
    b. Identify key spokespeople by subject areas and develop high-level media training plan

c. Build a high-level pitch & campaign calendar with built-in touchpoints to adjust strategy in line within a fast-evolving press landscape

xv. Further develop and detail Campaign Strategy, including:
   a. Develop a campaign messaging framework with high-level messaging across audiences and channels for all identified campaigns (assumes 6 campaigns)
   b. Working in partnership with PCEA team, share high-level messaging with Voice of Customer (VoC) participants and/or existing community-based organizations (CBOs) to gain insight into messaging. Refine and incorporate feedback into the messaging framework.
   c. Create a high-level campaign calendar including phasing and initial goals for campaign sprints across 2026 (assumes 6 campaign sprints)

xvi. Further develop and detail Events Strategy, including:
   a. Identify priority festivals, fairs, and other culturally relevant gatherings that align with PCE's target audience to participate with activations (assumes 5 community activations)
   b. Identify potential signature events to support education, awareness, and engagement within PCEA's target audience (assumes 3 signature events)
   c. Build a high-level events calendar

xvii. Identify integration opportunities across marketing efforts and existing PCEA events, and develop a 2026 Marketing Calendar. The calendar will continue to be detailed, refined, and updated throughout the engagement.

xviii. Prepare for and host regular client meetings to share work in progress, deliverables, receive feedback, and reach alignment throughout sub-pase of work

xix. Prepare for and host a working session to present the 2026 Marketing Strategy. Incorporate feedback from PCEA team and refine or update the 2026 Marketing Strategy as needed.

xx. Additional project management and client communication services

Deliverables:

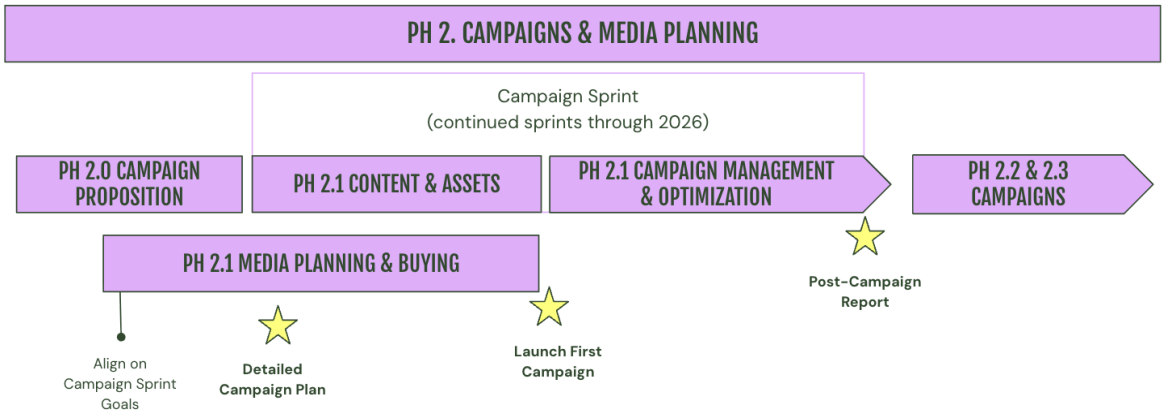
- 2026 Marketing Strategy for paid, owned, earned, and shared media, which includes:
  - Objective & Success Metrics
  - Target Audience Personas
  - Campaign Strategy including
    - Messaging framework
    - Recommended channels
    - Campaign phasing & initial timelines
  - Annual Event Strategy, including

        - Proposed Signature Events
        - Community Activations selection
        - Event phasing & initial timelines
    - Public Relations Strategy including:
        - Priority topics for pitching
        - Key spokespeople and subject areas
        - Recommended channels included paid media placements
        - High-level pitch calendar
        - Preliminary risk analysis & planning recommendations
    - 2026 Marketing Calendar, including integration across:
        - Campaigns
        - Events
        - Media Relations
        - Key PCEA events
    - Test & Report Plan
- 2026 Marketing Strategy Presentation & Alignment Session

Notes:

- At the end of this phase, Contractor and PCEA will align on strategy and priorities across all future phases of work. The Marketing Strategy will be built to meet known timelines and milestones within the existing not-to-exceed budgets defined in Exhibit B.

Phase 2. Campaign & Media Planning



Overview: Guided by the Marketing Strategy, Contractor will develop a compelling campaign proposition that resonates across PCEA target audiences. The Campaign Proposition will guide creative content for all 2026 campaign sprints.

Each campaign will be run as a sprint following the same process, detailed below. All campaigns will be guided by the Marketing Strategy and a not-to-exceed media budget of $400,000.

The current campaign topics identified are: new brand launch support, 10 year anniversary, and program awareness for: Home Upgrade Services, HPWH, EV Awareness, and Solar + Storage.

Phase 2.0 Campaign Proposition

Duration: 4-5 weeks

Services

- Ideate, refine, and detail the overarching proposition of the 2026 campaign. This will be based on the new/refined brand positioning created by the Brand Agency Partner.
- Building from the new brand identity, ideate, refine, and detail the look and feel of the campaign and create high-fidelity mockups, including but not limited to
    - Mood/color board, sketching, graphic design, photo sourcing, photo treatment, messaging
- Prepare for and host regular client meetings to share deliverables, receive feedback, and reach alignment throughout sub-phase of work
- Additional project management and client communication services

Deliverables

- Campaign Proposition
- Campaign Look & Feel, which could include:
    - Graphic design
    - Photo treatments
    - Extended color options
    - Illustrations and/or graphic set
    - Secondary fonts
- High-fidelity mockups of campaign look & feel

Notes:

- Contractor assumes the look and feel of the campaign will be based on the new brand verbal and visual identity. PCEA team will share documentation of the new brand before Contractor commencing off this phase of work
- Includes stock photography sourcing
- Does not include:

    - Font purchases
    - Stock photography purchases
    - Photography production or management

Phase 2.1+ Campaign Sprints

Contractor will define and align on a campaign sprint plan with PCEA, detailing the media plan, creative content list, timeline, and metrics. Contractor will craft and develop the creative content and assets for the campaign. Contractor will place ad buys, launch the campaign, monitor all channels, and provide regular performance reporting during the campaign. A post-campaign report will be provided at the end of each sprint, highlighting learning and best practices to incorporate in future campaigns.

Duration: Duration of each campaign sprint will be based on brief and detailed in future scope of work ("SOW").

Services *(for each campaign sprint)*:

- Detail a campaign sprint plan, including recommendations on sprint media budget, channel mix, language distribution, and the content needed to support the campaign.
- Align with PCEA on the detailed campaign sprint plan, incorporating feedback and refining as needed. Align on specific campaign metrics and KPIs to track during the campaign sprint.
- Ideate, refine, and detail the creative content needed across digital, print, broadcast, and experiential formats. Exact needs will be determined by campaign plan and channel mix, but we can provide:
    - Graphic design & illustration
    - Photo sourcing & treatment
    - Messaging & copywriting
    - Video and/or photography production
    - Animation
    - Audio
    - Translation of assets as needed
- Prepare for and host regular client meetings to share campaign sprint strategy and creative deliverables, receive feedback, and reach alignment throughout sub-phase of work
- Media placement services, including media buying and media vendor negotiation
- Monitor campaign performance, tracking against agreed metrics and KPIs, identifying what is working and areas for improvements
- Optimize campaign performance as needed. This could include:

    - Adjusting campaign budget by channel
    - Refreshing or updating creative content
    - Adjusting targeting parameters
    - Updating scheduling or frequency limits
    - Shifting to higher-converting keywords, audiences, or formats
- Prepare campaign progress reports and host share-outs with PCEA team to present findings, results, and recommendations for optimization as needed.
- Prepare a final post-campaign report with results and analysis
- Host and end of campaign-sprint meeting with PCEA team to present campaign results, findings, and align on learnings and best practices to implement in future campaigns.
- Additional project management and client communication services

Deliverables *(for each campaign sprint):*

- Detailed Campaign Sprint Plan including
    - Recommended media budget, channel mix, and language distribution
    - Metrics and KPIs
    - Campaign timeline
    - Campaign collateral & asset list
- Campaign collateral & assets, exact type and quantity of deliverables TBD, but could include:
    - Graphic or photography-based content for digital, print, or outdoor
    - Video or animated content for digital
    - Audio content for digital
    - Updated or refined content, optimized mid-sprint
- Campaign implementation
- Progress reports and ongoing analysis and optimization recommendations
- Post-campaign report and share out

Notes:

7. Contractor will align with PCEA team on timeline and fees for each sprint prior to commencement.

8. Fees do not include media spend. Contractor will align with PCEA team on a media spend for each sprint. The not-to-exceed media spend across all campaign sprints is $400,000. PCEA will pay for media spend directly.

9. Fees do not include:
    a. Media budget
    b. Font purchases

c. Stock photography purchases
d. Print fees, management, or sign off
e. Photography, video, and audio production

10. As needed, Contractor will provide estimates for outside supplier costs and align with PCEA prior to commencing work. Estimates for outside supplier costs have been included in Exhibit B.

11. Assumes Contractor will share campaign progress reports with PCEA team every 3-4 weeks

12. Assumes Contractor can work with existing PCEA translation partner(s) to support translation of non-English campaign content.

13. Contractor will provide stock photography sourcing as needed

Phase 3. Community Outreach & Events



Overview: Guided by the Marketing Strategy, Contractor will develop and implement a community engagement and events program to deepen public understanding of clean energy, celebrate PCEA's milestones, and strengthen trust and visibility across San Mateo County and Los Banos. This includes three (3) signature events and five (5) community activations, to be further defined from 2026 Marketing Strategy.

Each signature event will be run as its own sprint. Contractor will develop a detailed scope of work for each event sprint for alignment and approval by the PCEA team. The SOW will detail the deliverables and hours, as well as the roles and responsibilities for both Contractor and PCEA team. The current signature event types that have been identified as: policy symposium and 10-year anniversary office warming, and supporting the Clean Tech Showcase done in partnership with Bay Area Air District

Phase 3.1 Community Outreach Activations

Durations: duration will be based on timing of identified activations as defined in 2026 Marketing Strategy

Services:

- Develop and host five (5) community outreach activations. Exact services will depend on the nature of the activation and/or event, but could include:
    - Event application processing and management
    - Managing and coordinating logistics with event organizer, external partners, and PCEA team
    - Develop talking points and/or FAQ, and provide training and briefing materials for staff and outreach representatives
    - Lead or support day-of event coverage, such as setup/breakdown and staffing
    - Booth and material design, such as banners, backdrops, handouts, and giveaways
    - Develop and/or manage interactive elements to drive participation and engagement
    - Provide post-event evaluation, including engagement metrics, photos, and feedback
    - Analyze event performance, continuously refining strategy to improve outcomes
- Prepare for and host regular client meetings to share deliverables, receive feedback, and reach alignment throughout sub-phase of work.
- Support PCEA team with tabling services on prioritized PCEA-led community events
- Additional project management and client communication services

Deliverables:

- Five (5) community outreach activations with interactive elements.
- As needed, tabling support at PCEA-led community events

Notes:

- Contractor will align with PCEA team on services, deliverables, timeline, and budget prior to commencement on this phase of work.

- Fees do not include Outside Supplier Costs. Outside Supplier Costs will vary by event and include costs such as:
    - Venue Rental
    - A/V
    - Catering
    - Permitting & Fees
    - Signage & decorations
    - Promotional materials
    - Entertainment
    - Application Fees
    - Printing
    - Tabling equipment
- As needed, Contractor will provide estimates for outside supplier costs and align with PCEA prior to commencing work. Estimates for outside supplier costs have been included in Exhibit B.

Phase 3.2+: Signature Events Sprints

Duration: Duration of each event sprint will be based on brief and detailed in future scope of work ("SOW").

Services *(for each campaign sprint)*:

- Exact services TBD, but could include:
    - Develop signature event concepts and plans, including layouts and program flows as needed
    - Create, manage, and/or support event production schedule
    - Manage permitting and venue selection as needed
    - Manage or support event logistics which could include coordinating with sub-vendors and event participants as needed
    - Support identifying sub-vendors as needed, including:
        - Venue, A/V, Videography/Photography, Catering, Signage, Decorations
    - Recruit and coordinate event participants or support PCEA team, which could include:
        - Community partners
        - Exhibitors
        - Speakers
        - Entertainment
    - Building from PCEAs existing brand, design or support development of event branding, signage, wayfinding, decorations, and other collateral

materials as needed. This could include:
        - Graphic design
        - Copywriting or messaging
    - Lead or support outreach and promotion with existing community partners
    - Develop run-of-show for day-of and/or oversee on-site production, vendor management, and attendee engagement activities
    - Provide or support day-of staffing
- Post-event documentation and reporting
- Prepare for and host regular client meetings to share deliverables, receive feedback, and reach alignment throughout sub-phase of work
- Additional project management and client communication services

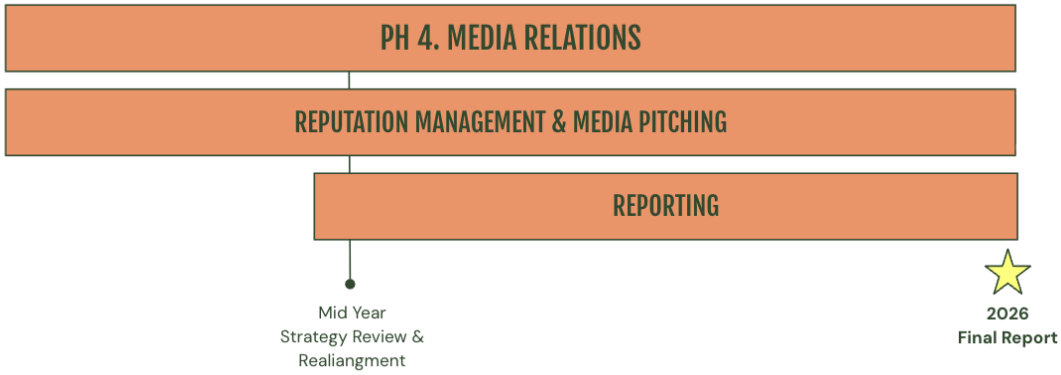
Deliverables *(for each campaign sprint):*

- Three (3) implemented Signature Event as outlined in detailed SOW

Notes:

- PCEA team and Contractor will align on a brief for each signature event. Contractor will provide a detailed scope of work for PCEA team to approve prior to commencement of each event sprint.
- Assumes three (3) signature events for 2026 calendar year, currently identified as:
    - Fall Policy Symposium
    - 10 Year Anniversary Office Warming
    - Clean Tech Showcase
- Fees do not include Outside Supplier Costs. Outside Supplier Costs will vary by event and include costs such as:
    - Venue Rental
    - A/V
    - Catering
    - Permitting & Fees
    - Signage & decorations
    - Promotional materials
    - Entertainment
    - Application Fees
    - Printing
    - Tabling equipment
- As needed, Contractor will provide estimates for outside supplier costs and align with PCEA prior to commencing work. Estimates for outside supplier costs have been included in Exhibit B.

Phase 4. Media Relations



Overview: Contractor will use public relations strategies and services to elevate visibility, strengthen credibility, and foster trust between PCEA and residents, policymakers, and other key audiences. This will include media pitching and reputation monitoring to execute on the 2026 Marketing Strategy. Contractor will also work in close alignment with campaigns, events, and community outreach, ensuring consistent messaging and integration across channels.

Duration: ongoing through contract

Services:

- Develop Media Kit
- Develop a Crisis Communications Plan
- Contractor will provide ongoing Public Relations services, including:
    - Help establish and/or strengthen reporter relationships with key PCEA stakeholders and spokespeople
    - Develop story angles and pitch reporters
    - Coordinate interviews
    - Prepare spokespeople for interviews
    - Post-press activities
    - Develop and distribute press releases
    - Recommend topics for Op-Eds and Letters to the Editor
    - Develop specific press strategies to promote identified programs or events
    - Monitoring tone and sentiment through earned media tracking and social listening
    - Provide regular monitoring reports
- Contractor will provide ongoing Thought Leadership services, focusing on

building relationships in the local and regional media market, including:
    - Identify PCEA leaders and staff to serve as spokespeople on specific topics and areas of expertise
    - Develop content strategy for posting on LinkedIn, blogs, etc. to establish credibility of spokespeople on public platforms
    - Provide thought-piece outlines and provide ghost-writing services
    - Facilitate introductions and relationship-building with reporters
- Prepare monthly PR reporting on PR related metrics and indicators such as placement, volume, reach, share of voice, and tone. Host report share-outs with PCEA team.
- If needed, Contractor can provide Crisis Communication Services, should a crisis arise PCEA needs support on. Services could include:
    - Provide strategic advice and support
    - Develop a crisis communication strategy
    - Develop messaging for stakeholder groups
    - Coordinate with the media and develop press materials, such as holding statements, press releases, and/or leadership commentary
    - Develop stakeholder communication
    - Develop a rapid response protocol
    - Host meetings to identify potential issues for reputational crises or challenges

Deliverables:

- Media Kit
- Crisis Communications Plan
- Monthly PR deliverables for 2 topics per month which could include:
    - Press releases (2 topics per month)
    - Thought-leadership outlines and ghost writing services
    - Accompanying documents/materials/images
    - Targeted media pitches
    - Interview prep (Sample interview questions, draft messaging for responses, FAQ documents, interview coordination)
    - Post-coverage recap, key learnings, and recommendations for additional promotion
- Monthly success metric reporting
- Monthly media relationship monitoring, tracking, and updating
- As needed, deliverables that relate to Crisis Communication Services

Notes:

- Contractor has included an allocation of 40 hours to support Crisis Communication Services if needed. The not-to-exceed fees for Crisis Communication Services is $10,000.
- Includes six (6) months of monthly PR services and deliverables, currently assumed to run from July to December 2026. PCEA and Contractor can align on a different start date for monthly services as needed.
- Includes 2 press topics per month
- Includes maximum of 1 newsletter piece, 1 blog post, 1 long-form thought leadership piece, and 4 social media posts per month. Assumes social media post will correspond to published news article, thought leadership, or newsletter pieces.
- Fees do not include Outside Supplier Costs such as:
    - Media wire distribution & services
    - Generative AI Search Visibility Monitoring
- As needed, Contractor will provide estimates for outside supplier costs and align with PCEA prior to commencing work. Estimates for outside supplier costs have been included in Exhibit B.

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, PCEA shall pay Contractor based on the following fee schedule and terms:

PROFESSIONAL FEES

PCEA agrees to pay Contractor the Professional Fees set forth below. The Professional Fees will be invoiced by Contractor and paid by Client in mutually agreed phases with the final payment due upon completion, unless otherwise mutually agreed upon in writing. All fees quoted are exclusive of all city, state and federal taxes.

PAYMENT SCHEDULE

PCEA shall pay each invoice in full within fifteen (15) days after the receipt unless otherwise specified. All late payments shall accrue interest at the rate of one and a half percent (1.5%) per month, compounded daily until paid, or the maximum amount provided by law, whichever is less. Contractor may terminate this agreement upon thirty (30) days written notice in the event of a late payment that is not cured during the notice period. PCEA agrees to pay for all authorized out-of-pocket expenses incurred by GSP for the purpose of performing the Services. PCEA shall assume responsibility for all collection of legal fees necessitated by default in payment.

Installment agreement for payment of Professional Fees not to exceed $527,950 to be phased over the lifetime of the project, as laid out below.

Fixed services and deliverables will be invoiced on the following schedule:

1. $60,000 due on contract execution
2. $50,000 due at end of Phase 1

Each Campaign Sprint will be invoiced on the following schedule:

i. 50% due on commencement of each Campaign Sprint
ii. 50% due on completion of each Campaign Sprint

Monthly invoices will capture Professional Fees incurred within the month related to:

iii. Monthly PR Services
iv. Monthly Community Activation Services
v. Signature Event Sprints Services

COSTS AND EXPENSES

In addition to the Professional Fees for Services as set forth in Exhibit A, PCEA agrees to pay Contractor for the following costs and expenses:

(a) Outside Supplier Costs. PCEA agrees to pay Contractor for costs and expenses payable for third-party goods and services incurred in connection with the Services at Contractor's net cost plus 20% to cover the supervision and administration of such outside services. Outside Supplier Costs include, but are not limited to, typography, fonts, software, photography, illustration, print sourcing, materials and management, fabrication sourcing, materials, and management, and shipping.

(b) Meetings, Presentation & Travel Expenses. PCEA agrees to reimburse Contractor for Contractor's incidental costs and expenses incurred in connection with the Services, including, but not limited to, actual out-of-pocket expenses relating to any meeting or presentation, facility and equipment rentals, travel expenses, lodging expenses, and other related expenses.

(c) Revisions. PCEA shall be responsible for making additional payments for revisions requested by PCEA that are outside the agreed Exhibit A. Additional revisions will be charged separately at Contractor's hourly rates (minimum fee $200/hr) or on a separate per-project basis, which will be estimated prior to commencement and approved by PCEA. However, no additional payment shall be made for revisions required to conform to the original Exhibit A description. PCEA shall offer Contractor the first opportunity to make any revisions. It is the responsibility of Contractor to keep PCEA informed of any additional services that may be required by issuing timely change orders outlining the revisions and to obtain PCEA's approval, also in writing, of related additional costs before any revisions are implemented and additional fees incurred. Modification of Exhibit A must be written, except that the invoice may include, and PCEA shall pay, fees or expenses that were orally authorized in order to progress promptly with the work.

(d) Overtime & Rush Charges. Any such demands that are outside the agreed Exhibit A shall be subject to an extra fee, which is to be mutually agreed upon in writing and

signed by Contractor and PCEA.

OUTSIDE SUPPLIER BUDGET & PAYMENT

Contractor has identified estimated outside supplier costs to support Services as defined in Exhibit A. Installment agreement for payment of Outside Supplier Costs to be phased over the lifetime of the project, as laid out below.

Monthly invoices will capture Outside Supplier Costs incurred within the month.

Identified outside costs include:

- Brand video(s)
- Social media campaign video(s)
- Photography
- Printing
- Event costs & vendors such as
    - Catering
    - A/V
    - Signage & decorations
    - Promotional materials & swag
    - Tabling equipment
    - Activation costs
    - Event and/or activation photography
- Generative AI search visibility monitoring
- Paid press release distribution

Outside Supplier Cost budget does not include:

- Media spend
- Direct mail printing & implementation costs

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 9, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Rafael Reyes, Senior Director of Energy Programs

SUBJECT: Community Energy Programs Quarterly Report

BACKGROUND

The following programs are in progress, key metrics are provided in the table here and detailed information is provided below.

Buildings	
Home Upgrade Rebates (Appliance Rebates)	5,737 measures rebated (+169 M/M); 1,188 loans issued (+39 M/M)
Home Upgrade Full-Service Installations & Emergency Water Heater	2024- phase (new): 43 homes completed. Emergency Water Heater Installations: 11 2021-2014 phase (old): 305 homes completed. Closed.
Home Upgrade Personalized Support	197 support calls completed (55 in Q4 25)
GovBE	5 proposals selected in first round. 1 project completed. New round open. 3 applicants for schools
Reach Codes	1 city (Menlo Park) adopted existing building codes, San Mateo, Portola Valley, East Palo Alto in-progress.
Distributed Resources	
Residential Solar + Storage	244 customers submitted for state SGIP rebate. 120 installations are complete. 597 installs under prior general market program. Enrollment is currently closed.
FLEXmarket	Pending CPUC for next round. First round, all 11 commercial projects have finished tracking and final payment will be early August.

GovPV	Round 1: Full portfolio operational - 12 sites, 1.7MW solar. Round 2: 24 sites, 3.5 MW solar, 10 construction complete Round 3: 6 sites, scoping financing
Energy Efficiency	Application to CPUC in progress. Due Feb 2026
Transportation	
EV Charging	Ports to date: 2,262 (+73 in Q4 25). Pipeline: 3,000+
Used EV	1,224 EVs since 2021. (+30 M/M)
E-Bikes	1,990 rebates (+~175 M/M)
GovEV (fleets)	16 enrolled, 4 TA completed, ~4 installs expected in 2026.
Other	
Member Agency Energy Grants	Proposals received from all cities. Projects in-progress.

DISCUSSION

1. Building and EV Reach Codes

Background: In 2018 the Board approved a building "reach code" initiative to support local governments in adopting enhancements to the building code for low-carbon and EV ready buildings. The initiative is a joint project with Silicon Valley Clean Energy (SVCE). The program includes no-cost technical assistance, model codes and other tools. The tools and model code language are available on the project website (www.BayAreaReachCodes.org). Program has received multiple extensions and expanded to provide technical assistance to builders and facilities managers.

Status

- **January 2026 DOJ Lawsuit:** On January 5, the Trump Administration filed a lawsuit against Morgan Hill and Petaluma related to their all-electric new construction ordinances (complaint here). These cities appear to have been targeted because their ordinances closely mirror Berkeley's former all-electric ordinance, which was struck down by the Ninth Circuit in early 2024. *No PCE member agencies currently have similar ordinances in place.*

After discussions with the PCE/SVCE/TRC teams, BDC, and other stakeholders, staff are confident that the reach codes that member agencies have adopted or are considering follow state conventions and are materially lower risk from the ordinances challenged in the lawsuit. The complaint alleges that Morgan Hill's and Petaluma's *natural gas bans* are preempted by federal law. By contrast, PCE reach codes:

- Are not bans and preserve customer choice between gas and electric appliances; and
- Comply with the applicable federal preemption exceptions under the Energy Policy and

Conservation Act of 1975

Our legal counsel is reviewing internally. Building Decarbonization Coalition has offered legal staff available to any city attorney that would like to discuss.

- **AB 130 / AB 306 Update** : AB 130 (formerly AB 306) was passed into law as a budget trailer bill on 6/20/2025 and limits a local agency's ability to adopt reach codes for *residential* Reach codes focused on commercial construction are not impacted by the bill. Late amendments to the bill will allow local agencies to adopt residential reach codes if building decarbonization is part of their current general plan.

Most cities in PCE service territory appear compliant with the general plan exception.

- **2025 Reach Codes:** Menlo Park is the first adopter this cycle with multiple model codes for "two-way AC" (requiring heat pump if AC is to be installed), prewiring, and "flex path" remodel point system. San Mateo, Portola Valley, and East Palo Alto have initiated a public process to explore adoption.
- **State Code:** The new triennial state code cycle (in effect as of January 1 st, 2026) built on the local reach codes implementing an EV charger or outlet for every new multi-family residence with an assigned parking space. Code also requires heat pump water and space heating in the proscriptive path for new construction, the most common choice of builders.

For more information, please visit https://bayareareachcodes.org/

2. Buildings Programs

2.1 Home Upgrade Rebates and Zero Percent Loans

Background: Approved by the Board in May 2020, Peninsula Clean Energy launched the heat pump water heater (HPWH) rebates in January 2021. Additionally, in August 2021, the Board approved an On-Bill Financing program (referred to as the Zero Percent Loan). The program offers qualified residential customers a 0% interest loan up to $10,000 to fund the cost of eligible electrification upgrades. The Zero Percent Loan program launched in October 2022.

Status: The summary table below summarizes the number of rebates and loans issued per year, *outside of the Full-Service Installation Pathway* .

Measure Type	**2021**	**2022**	**2023**	**2024**	**2025**
Heat Pump HVAC Rebate		10	948	1221	1,006
Heat Pump Water Heater Rebate	149	172	588	521	459
Electrical Panel Rebate	19	34	177	202	171
0% Loan		1	342	449	378

The Loan program has experienced no defaults to date.

PCE has moved to use the umbrella name "Home Upgrade" for all services for residential home electrification, including the rebates and loans. The Home Upgrade Full-Service Installation service is described in more detail below. For more information, please visit

https://pencleanenergy.com/all-electric-homes

Customer Satisfaction

Scores 1-5, 5=High

Metric	Q4 25	Lifetime
Program Satisfaction	4.8	4.8
Satisfaction with Water Heater	4.4	4.5
Satisfaction with HVAC	4.7	4.7

2.2 Home Upgrade "Full-Service Installation" (includes Low-Income Direct-Install and Emergency Water Heater Service)

Background: In May 2020, the Board approved implementing a direct-install low-income home upgrade program to offer minor home repair, energy efficiency, and electrification measures to income-qualified homeowners at no cost to them. The measures implemented in each home varied depending on the home's needs but included at least one electrification measure. The program launched on September 2021. The Board extended the program through June 30, 2024. The program served 305 homes, including 9 homes who received whole home electrification as part of a pilot within the program.

Following a competitive selection process, the Board approved the $26M contract with Franklin Energy on February 22, 2024 for the next phase of the program, which will include a scaling-up the number of low-income homes served with whole home electrification upgrades at no-cost to these residents, offering full-service electrification installation services to non-income qualified residents at a low cost, and launching an emergency heat pump water heater replacement service. Silicon Valley Clean Energy (SVCE) also contracted with Franklin for the joint program.

The program has experienced operational performance challenges and was restructured to improve performance in the second half of 2025, removing Franklin Energy as third-party implementor. PCE selected 3 contractors (Fuse Electric, Villquin, and Super Brothers), following a competitive bid process, to work with directly in this program and PCE transitioned to manage the program directly. The Board approved three contracts for these newly selected contractors for total of $18M in November 2025.

Status: Following the Board's approval of three contracts to Fuse Electric, Villquin, and Super Brothers in November 2025, staff have worked to onboard the new contractors, reconfigure program systems, and prepare to relaunch the program. The program has soft relaunched in December and has already received over 10 applications. The first of these projects has already completed. Outreach campaigns are in progress for Q1 2026.

For more information, please visit https://www.peninsulacleanenergy.com/residential/home-upgrade-services/

2.3 Local Government Building Electrification Program (GovBE)

Background: In August 2023, the Board approved a local government building electrification program to help fund building electrification at local government facilities. The program will

offer roughly $1 million per year in incentives and creates a $10 million dollar revolving loan fund. Incentives are based on therms saved at a given facility. Incentives and loan are capped at $600k per jurisdiction per year, each. The program requires a 25% cost-share from non-PCE funds, and will have a streamlined, annual application process.

Status: GovBE's 2025 funding round was opened in early June 2025, and applications remain open ongoing. There is $1 million in incentives available through a competitive application process. At this time, no cities have yet applied for the new round.

A separate $5 million from the surplus funds were allocated for schools, which is open for applications on a rolling basis until funds are exhausted. PCE has coordinated with the San Mateo County Office of Education on rollout. 3 school districts have been approved for funding, and a fourth has applied.

For more information, please visit https://www.peninsulacleanenergy.com/public-organization/govbe-program-electrification-for-public-buildings/

2.4 Personalized Support Services (Concierge)

Background: In March 2023, the Programs Team presented the Building Electrification Strategy to the BOD as a discussion item. The Building Electrification Strategy included a "hotline" provided electrification planning and technical support. In July 2024, Peninsula Clean Energy hired a new building electrification expert to provide customized support to Peninsula Clean Energy customers.

Status: The service launched on February 24, 2025. As of Jan 8, 2026, 197 support calls have been conducted. Callers information requests vary, many seeking high level information on approach and options for electrification.

More info at https://www.peninsulacleanenergy.com/residential/home-electrification/personalized-support/

3. Distributed Energy Programs

Peninsula Clean Energy is advancing distributed energy resources to provide resilience, lower decarbonization costs, provide load shaping to support our strategic goal for 24/7 renewables. The projects described below are efforts towards meeting both of these goals.

3.1 Solar and Storage for Public Buildings ("GovPV")

Background: The Solar and Storage for Public Buildings / GovPV Program aggregates local government facilities into a group procurement of solar and optionally battery storage systems. Peninsula Clean Energy provides no-cost site assessments and preliminary designs as well as manages the procurement process. Participating sites have systems installed as part of Power Purchase Agreements ("PPAs") directly with Peninsula Clean Energy, which enable customers to get solar and battery storage at their facilities with no upfront investment. This model enables significant cost savings for participating agencies.

Initial site scoping and up to $8 million in capital was approved by the Board in October 2020 for the first round, known as "GovPV1". At the January 2023 Board Meeting, the Board of Directors approved the installation contract and power purchase agreements with 10

jurisdictions in the first round for a total of 12 sites yielding 1.7 MW solar. All of these systems are now commissioned and producing local solar energy. Battery storage systems are planned for at least three of these facilities.

Round 2 - or GovPV2 - was approved by the Board in January 2024, with a budget of $23 million. This portfolio includes 24 sites and 3.5MW solar. McMillan Electric, a local union firm, is providing construction services on round 2 and most of round 1. In February 2025, the Board approved an expanded scope with McMillan to build battery storage and EV chargers at GovPV sites, with an incremental budget increase of $7 million. All projects in rounds 1 and 2 are being pursued as NEM 2 projects, and are slated to become operational by April 2026. 10 of these 24 projects are substantially complete with construction.

Round 3 – or GovPV3 – is under development with the goal of establishing a sustainable business model. The portfolio includes much larger sites that necessitate the direct pairing of battery storage. PCE is working with California IBank to capitalize the portfolio and PCE's proposal is currently being evaluated by IBank.

Status: All 12 Round 1 systems, totaling 1.7MW, were commissioned in 2025. These projects are expected to save participating agencies over $14 million in energy costs over the duration of the PPAs with PCE. Project closeout documentation and as-built drawings are being finalized in addition to customer monitoring system access.

For Round 2, all projects have executed PPAs and are in an advanced stage of project development. Ten projects are mechanically complete with an additional seven projects in advanced construction phases. All 24 projects are expected to be completed by April 2026 in order to successfully grandfather into NEM 2. As a result, participating agencies are projected to save over $16 million in energy costs over the duration of the PPAs with PCE.

For Round 3, staff is working with external financing solutions through IBank, which provides state bond funds for local government infrastructure, that could allow us to diversify and scale the program's capital. Changes in federal policy are also necessitating recalculation of the financials for the project. While financials are less favorable, they are projected to provide a bill savings to participating agencies, who will also receive battery storage for their facilities.

For more information, please visit https://pencleanenergy.com/government-programs

3.2 Residential Solar + Battery Backup

Background: Peninsula Clean Energy's programs for residential solar are split up into two customer segments: general market and low income. The general market program is referred to as Residential Solar + Battery Backup, and is currently closed for new enrollments. The low-income program is referred to as the Solar plus Battery Savings, detailed below.

The Residential Solar+ Battery Backup program utilizes batteries that were deployed by Sunrun and provide backup power to each home. These batteries are discharged daily to reduce PCE's peak load. PCE will receive >1.5MW of daily peak load reduction through 2032 from these resources. Enrollment in the program closed in 2022 and PCE has been developing a successor program.

Separately, PCE developed a program to help low-income single-family homeowners access the State of California's Self-Generation Incentive Program (SGIP). SGIP provides behind-

the-meter (BTM) storage or solar + storage systems to eligible low-income single-family homeowners to deliver bill savings and resilience benefits. The program will leverage state SGIP incentives which are expected to mostly or fully fund the installation of systems for income qualified customers. PCE set a target of 200 total installations at low-income customer sites, most of which we expect will be fully funded by the State. This would result in approximately 1MW of solar and 2.5MWh of battery storage. In October 2024, the Board approved the contract with the competitively selected developer Haven Energy to manage installation of the systems.

Status: The program experienced delays related to CPUC direction on details of the program but PCE enrolled customers through the close of applications on December 31, 2025. Haven submitted applications for 244 customers and 120 installations have been completed for both battery-only and solar plus battery systems.

3.3 FLEXmarket

Background: In November 2021 the Board approved a program plan for the establishment of an innovative meter efficiency and load-shaping program using what is known as FLEXmarket. FLEXmarket is a market-based program structure that provides incentives to program "aggregators" to implement programs for energy efficiency and load shaping. The novel elements of the structure include a "pay-for-performance" approach which only provides incentives on confirmed performance using meter data. This novel structure was innovated by MCE. In addition, the program plan was developed for submission to the CPUC to allow Peninsula Clean Energy to run the program with fully reimbursed funding through the CPUC. Peninsula Clean Energy's billing data services provider Calpine has entered into a strategic partnership with the firm Recurve to provide FLEXmarket services through a streamlined structure. Providers of energy efficiency and building electrification equipment can apply for incentives through this program.

Staff developed the commercial version of the program and launched the market in July 2023. Like the residential version, providers of commercial energy efficiency and building electrification equipment, as well as aggregators of these projects, can pursue incentives through the Commercial FLEXmarket.

Status: The FLEXMarket Program has achieved approximately $1.8 million in total system benefits to date.

The program has paused new enrollments due to the closure of the current funding cycle as of May 2025. Project savings for enrolled projects will continue to be tracked and will conclude in Q4. Looking ahead, we submitted a new funding request to the CPUC in May for a three-year cycle covering 2025-2028 and are currently awaiting approval. We anticipate receiving approval and relaunching the FLEXMarket program in late Q3 or early Q4 of this year.

For more information, please visit https://pencleanenergy.com/flexmarket

3.5 Energy Efficiency

Background: As part of Peninsula Clean Energy's strategy to diversify revenue and leverage external funding for customer programs, we are preparing to submit our first Application for Third-Party Administration (ATA) to the California Public Utilities Commission (CPUC). This application aims to secure a third-party portfolio under the CPUC's energy efficiency

framework. In alignment with CPUC priorities, the portfolio will emphasize greenhouse gas (GHG) reductions and decarbonization, to the extent permitted within CPUC cost-effectiveness and policy constraints. This is PCE's first ATA submission; currently, only one other Community Choice Aggregator (CCA) holds an approved third-party portfolio, making this a strategic and precedent-setting effort.

Status: PCE is currently in the early-to-mid development phase of the ATA application, which is due to the CPUC in February 2026. PCE conducted a comprehensive market assessment that included stakeholder interviews, surveys, presentations, and partner meetings to identify unmet needs, barriers, and high-impact opportunities in our service area. Based on this foundation, PCE conducted a solicitation and selected The Energy Coalition as our technical consultant to support the detailed development of the portfolio. Final details on the program design and implementation strategy are under development and will be presented to the board later this year.

We have notified CPUC Energy Division staff of our intent to file and are participating in feedback sessions related to updated application templates. Our regulatory and policy teams are also actively engaged in discussions to ensure alignment with CPUC priorities. No major risks have emerged at this stage, but cost-effectiveness and portfolio integration will be key focus areas as we move into design and modeling.

4 Transportation Programs

4.1 Used Electric Vehicle (EV)

Background: Originally launched in March 2019, the Used EV Rebate Program currently provides a $2,000 rebate to income-qualified residents. Customers have been able to seamlessly combine the PCE rebate with other rebates, as available, to provide downpayment assistance.

Status: 1,200+ rebates have been provided throughout the program history. The new PCE in-house call center has taken over "EV Advisor" services, helping customers navigate various rebate programs they may qualify for, in addition to PCE's rebate.

Federal pre-owned EV credits ended on September 30, leading to a significant uptick in PCE rebates. Staff are evaluating whether to adjust the program in 2026.

For more information, please visit https://pencleanenergy.com/usedev/

Customer Satisfaction

Scores 1-5, 5=High

Metric	Q4 25	Lifetime
Program Satisfaction	4.9	4.9

4.2 "EV Ready" Charging Design Assistance & Incentives

Background: In December 2018, the Board approved the EV Ready program, consisting of EV charging infrastructure incentives and technical assistance. The program is open and available to multi-family housing, affordable housing, workplace charging, and general public-

access sites, through there is a general focus on multi-family housing, which has been a historically underserved population in state EV charging programs.

PCE offers free project design assistance, facilitated through CLEAResult. There are currently 300+ active projects receiving this assistance and, on average, projects receiving assistance more than double the overall size of their EV charging projects.

Status: The program has helped the community install over 2,200 chargers (70%+ at multi-family housing) with more than 3,000 additional chargers in progress. The EV Ready program was an award winner at the 2024 CalCCA conference and is a statewide model with installation costs well below other similar programs. Key elements of the program are being replicated by a number of other state and regional programs.

Some of the largest multi-family EV charging projects in the nation are occurring currently in the EV Ready program. This includes the installation 92 chargers installed in East Palo Alto, 144 chargers in Millbrae/Burlingame, ~140 chargers in Daly City, and over 200 chargers in South San Francisco, the single largest retrofit multi-family EV charging project in the state. A recent ribbon cutting in East Palo Alto received local media coverage. PCE has been contacted by the state legislators to provide input on possible bill opportunities for EV charging at multi-family housing, demonstrating PCE's leadership in this area.

To address EV charging affordability issues, PCE is also currently leading an innovation grant opportunity. This will develop new EV charging systems that can be submeter to a multi-family residential unit, even though the charger is connected to a separate meter, reducing or eliminating price markups experienced by EV drivers that utilize third-party charging systems. Orange Charger has been awarded this innovation grant and work has begun, including a recent policy win with state regulations related certifications, which were a gating issue for this work to proceed.

For more information, please visit https://pencleanenergy.com/ev-ready/

4.3 E-Bike Rebate Program

Background: The Board originally approved the income-qualified E-Bikes Rebate program in July 2020 and has run in annual cycles to provide rebates to residents with low to moderate incomes. The program has provided nearly 2,000 rebates since 2021. Customers can use the rebate at qualifying bike shops for a point-of-sale discount. with 20+ participating bike shops in San Mateo County and Merced County (for Los Banos-based customers).

Status: The program relaunched on May 6 and has been very popular with an average of about 150 rebates provided per month.

For more information, please visit https://www.pencleanenergy.com/ebikes

Customer Satisfaction

Scores 1-5, 5=High

Metric	Q4 25	Lifetime
Program Satisfaction	4.8	4.9

Satisfaction with E-Bike	4.7	4.9

4.4 Public EV Fleet Program (GovEV)

Background: The Board approved the GovEV Fleet Program in November 2020. This program is comprised of three components to help local agencies begin their fleet electrification efforts: hands-on technical assistance, gap funding, and a vehicle to building resiliency demonstration that will assess the costs and benefits of utilizing fleet EVs as backup power resources for agencies in grid failures and other emergencies. In August 2022, the Board of Directors approved a contract with Optony to assist in the administration of this program and further approved an extension with Optony in March 2024.

Status: 16 cities have enrolled, including: Brisbane, Burlingame, Caltrain (non-revenue fleet), Cabrillo USD, Central Coast Water Authority, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Rethink Waste San Bruno, San Carlos, San Mateo, and the San Mateo Community College District. Millbrae and San Carlos have already installed significant fleet charging through PCE assistance, other major projects are expected in 2026.

Staff are developing two case studies on resiliency options and right-sizing guidance for EV fleets, to be published shortly.

For more information, please visit https://www.peninsulacleanenergy.com/public-organization/govev-program-public-fleet-electrification/

5. Other Programs

5.1 Member Agency Energy Grants

Background: In December 2023 the Board directed PCE to implement a set of initiatives utilizing a one-time allocation from surplus funds. One of the programs is the Member Agency Energy Grants with up to $11.5 million for grants to member agencies as flexible funding for a range of clean energy projects. Funding is provided by formula in a non-competitive allocation for qualifying projects required to execute within two years.

For more information, please visit https://www.peninsulacleanenergy.com/public-organization/member-agency-energy-grants/

Status: Proposals have been received from all member agencies with 17 grant agreements and projects underway.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Gwen Rose, Marketing & Community Relations

SUBJECT: Marketing, Outreach Activities, and Media Relations Quarterly Report

BACKGROUND

The Marketing & Community Relations teams continue to enhance Peninsula Clean Energy's reputation, educate and engage customers, and build durable community alignment in support of electrification, affordability, and long-term decarbonization goals. Q4 activities focused on major brand milestones, program campaigns, community partnerships, and proactive media engagement heading into 2026.

DISCUSSION

Brand
Q4 marked a pivotal moment for the organization's brand evolution. In October, the Board formally approved the new agency name, WestLight Energy, concluding a multi-phase, research-driven naming process. Following Board approval, staff advanced preparations for the rebrand by completing the Marketing RFP process, selecting agency partners, and initiating contracting to support visual identity development and a future website refresh.

Foundational customer experience work continued through expanded use of ActiveCampaign segmentation, Voice of Customer planning, and targeted website improvements to support upcoming program launches in 2026.

Program Marketing
Program marketing in Q4 emphasized affordability, electrification, and customer awareness. The team executed multiple phases of the EV Awareness campaign and successfully launched a limited-time $3,000 heat pump water heater rebate, paired with a smart energy management device incentive. These efforts increased visibility of key customer offerings while reinforcing bill savings and resilience messaging.

Marketing also supported system-wide communications, including Power Content Label notices, ECO100 rate decrease communications, and PG&E Match My Payment outreach, ensuring clear and timely information for customers.

Events
Community engagement remained strong throughout Q4, with staff participating in 37 events across San

Mateo County and Los Banos, reaching an estimated audience of 1925. Highlights included the Los Banos Wastewater Treatment Plant and Dos Palos solar ribbon cuttings, Día de Muertos celebrations, the San Carlos EV Showcase, and the San Mateo County Environmental Youth Summit.

Staff also participated in regional convenings and panels, reinforcing Peninsula Clean Energy's role as a trusted partner and thought leader on electrification, affordability, and community energy solutions.

Outreach Grants
Q4 focused on transitioning the Outreach Grant Program into its next phase. Staff finalized 2026 Outreach Grant work plans, executed grant agreements, and prepared for January onboarding and training. Outreach partners continue to play a critical role in reaching priority communities and advancing equitable access to programs.

Community Listening
Planning began for a new Community Feedback Forum, building on Community Advisory Committee input and establishing a structured approach for ongoing community engagement in 2026.

School and Youth Programs
Education and workforce development efforts advanced across both service territories. Staff finalized 2025 school sponsorships, supported the Youth Climate Ambassadors program, and partnered with community colleges to onboard student assistants focused on clean energy education. In Q4, Peninsula Clean Energy prepared RFPs for 2026–27 school funding, reinforcing long-term investment in clean energy career pathways.

Los Banos Update
Community engagement in Los Banos remained a priority throughout Q4. Staff supported high-visibility infrastructure milestones, including two solar project ribbon cuttings, maintained a consistent presence at city and school events, and continued close coordination with city leadership.

Work also focused on preparing for onboarding of a new Los Banos community-based organization in early 2026 and documenting Voice of Customer insights to inform future outreach and Board discussions

News and Media

During Q4, Peninsula Clean Energy received extensive regional, statewide, and national media coverage highlighting the agency's leadership in clean transportation, grid innovation, microgrids, and community-scale electrification. Select Q4 coverage included:

- **Caltrain Regenerative Braking & Grid Integration:** Broad regional and trade coverage followed Caltrain's announcement that electrified trains are returning power to the grid and generating financial value. Coverage included:
  - Regional: The Trains That Shockingly Give Back, Bay City News Service
  - Caltrain electrified trains return power to grid, offsetting energy costs, CBS Bay Area
  - Caltrain gets reimbursed for regenerative braking, San Mateo Daily Journal
  - Caltrain's brakes feed power back to the grid. And now they'll reduce its cost, KQED
  - Caltrain's electric trains now earn money while powering the grid, METRO Magazine
  - NEWS: Caltrain electrified trains return power to grid, offsetting energy costs, Energy Central
- **Los Baños Solar and Infrastructure Investments:** Media coverage of the Los Baños Wastewater Treatment Plant and Dos Palos solar projects appeared in outlets including the *Los Banos Enterprise*, *Westside Express*, *Radio Bilingüe*, and regional press, highlighting local leadership, state partnerships, and community benefits tied to GovPV projects.

- **Demand Flexibility and DERMS Leadership:** A joint announcement with Silicon Valley Clean Energy and Lunar Energy went out about on demand flexibility and DERMS deployment.
- **Staff Thought Leadership:** Peninsula Clean Energy staff were featured as subject-matter experts in *California Energy Markets* (PCIA impacts with Shalini Swaroop), *KCBS Radio* (winter energy savings with Kirsten Andrews-Schwind), and national trade outlets, further expanding the agency's visibility and credibility across policy, affordability, and technical audiences. We published a blog authored by Rafael offering key takeaways from his panel discussion on building electrification at November's fall gathering of the California Efficiency + Demand Management Council, along with a look ahead to 2026.
- **Newsletters:** Building electrification, EV charging and other PCE rebates were highlighted and linked to in several member city newsletters, including in Atherton, Brisbane, Foster City, Pacifica and Woodside. Vanessa Shin's presentation at a Citizens Environmental Council event on clean energy transition incentives was previewed in newsletters, including in East Palo Alto and the City of San Mateo. We also highlighted recent achievements for CalCCA's winter newsletter.

STRATEGIC PLAN

The 2026 marketing activities support Peninsula Clean Energy's 2026–2030 Strategic Plan by advancing key guiding principles.

- Customer-Focused Approach: The rebrand, campaigns, and outreach are designed to improve brand clarity, reduce customer confusion, and build trust, supporting goals related to participation and brand awareness.
- Environmental Impact & Innovation: Campaigns and media relations elevate electrification programs and clean energy leadership, helping motivate customer action and reinforce PCE's role as an industry innovator.
- Organizational Excellence: A phased, coordinated marketing approach supports operational readiness and disciplined execution during a significant organizational transition.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 12, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Mike Mielke, Sr. Manager Legislative Policy

SUBJECT: January 2026 Legislative Policy Overview

BACKGROUND

This memorandum provides an overview of the latest developments from Sacramento and Washington, D.C., summarizing key political shifts, leadership changes, and policy priorities as the 2026 legislative session unfolds. It highlights structural changes in legislative leadership and committee direction, recent budget actions, and the emerging issue areas likely to define legislative activity this year.

DISCUSSION

Sacramento: 2026 Overview and Energy Policy Update (Early 2026)

Legislators returned to Sacramento on Monday, January 5 for the second year of the 2025-2026 Legislative Session. Lawmakers face a mix of issues, from leadership turnover, budget tension, affordability concerns, and policy agendas that reflect the state's evolving priorities and upcoming challenges.

Though Democrats maintain robust majorities in both houses, leadership, particularly in the Senate, is focused on cohesion. New Senate Pro Tem Limon has publicly underscored the challenge of uniting a broad coalition around priorities like health care access, cost of living relief, and education within the context of fiscal austerity.

An important backdrop this year is the fact that the Legislature is gearing up for the 2026 general election cycle -- including 20 State Senate seats (half of the total), all 80 Assembly seats are on the ballot this fall, and several statewide offices (e.g., Insurance Commissioner, Treasurer) -- which has already begun shaping strategic legislative behavior. For example, lawmakers may focus on high-visibility, voter-friendly outcomes rather than complex or controversial policy fights, as leadership can look to prioritize early wins, and sideline issues that are difficult to explain on the campaign trail. It also encourages members, particularly those running for higher office or in competitive districts, to moderate positions and avoid votes that could be framed as not adequately addressing voter's cost concerns.

With Gov. Gavin Newsom term-limited and ineligible for reelection, the open 2026

gubernatorial contest is shaping up to be unusually wide open and unpredictable. The statewide primary is set for June 2, 2026, with the top two finishers advancing to the November general election. The field includes a crowded mix of Democratic and Republican candidates, with no obvious frontrunner yet, and a large share of voters still undecided. Notable Democrats in the race include Katie Porter, Xavier Becerra, Eric Swalwell, Antonio Villaraigosa, Betty Yee, Tony Thurmond, and Tom Steyer; on the Republican side, Chad Bianco and Steve Hilton are among those competing in the top two primary system. Polling so far shows no candidate commanding overwhelming support, with several contenders clustered in the low-double digits and a significant portion of voters uncommitted--and the unique top-two voting system means it is even possible, though highly unlikely in a deep blue state, that two Republicans could advance to the general election, if the Democratic vote continues to remain highly fragmented.

Top Issues Poised for Focus in 2026

1. Budget Implementation & Deficit Management: The Legislature's immediate business will be navigating the proposed budget, negotiating adjustments, and reconciling priorities ahead of the constitutional June 15 deadline. Budget subcommittees are front and center, with hearings beginning in earnest this spring.
2. Education Governance Reform: A major initiative embedded in the budget proposal involves restructuring the state education governance system, including aligning the Department of Education more closely with executive oversight.
3. Housing & Affordability: Although funding for housing and homelessness saw reductions in Governor Newsom's initial budget proposal, conversations about transforming the housing ecosystem--including regulatory reforms and local flexibility--remain central to legislative debate.
4. Climate, Energy, & Resilience: In line with long-standing California objectives, energy policy, grid resilience, and climate adaptation strategies are expected to remain top areas of legislative focus, intersecting with workforce, industry, and environmental justice considerations.
5. Cost of Living & Affordability: Across chambers, lawmakers are revisiting measures aimed at easing cost pressures--from health care affordability, to energy affordability, to consumer protections.

California Energy Legislative Priorities: 2026 Outlook

Energy policy remains squarely at the center of the Legislature's affordability, reliability, and climate agendas in 2026. Several issues from prior sessions are expected to re-emerge in a "round two" form, alongside newer efforts aimed at correcting market design flaws and improving long-term grid planning. For CCAs, this year will be especially consequential.

1. Power Charge Indifference Adjustment (PCIA) Reform and Transparency: One of the most pressing issues for CCAs this year is the Power Charge Indifference Adjustment (PCIA) . CalCCA is working on the issue and is taking the temperature of legislators on the issue and gauging their appetite to require clearer, more timely disclosure of the data, assumptions, and forecasts utilities use to calculate PCIA charges. For CCAs, greater transparency is foundational to understanding cost drivers, anticipating rate impacts, and more meaningful engagement.

2. Energy Affordability: Round Two: Affordability is expected to be a dominant through-line across multiple energy bills this year. Following last session's efforts, lawmakers are signaling interest in a second round of affordability legislation, potentially addressing:

rate design and cost allocation, utility fixed charges, program cost containment and oversight.

There are policy risks for CCAs in terms of proposals that look to centralize authority, reduce local flexibility, or socialize costs in ways that disadvantage CCA customers. Engagement will be critical to ensure affordability solutions address root causes, such as utility cost growth, rather than shifting costs onto CCA ratepayers.

3. Wildfire Mitigation and Cost Recovery: Round Two: Wildfire legislation is also poised for a return. As utilities continue to invest heavily in wildfire mitigation, lawmakers are revisiting questions around: cost recovery, oversight of utility spending, and ratepayer impacts.

   From a CCA perspective, the central concern is ensuring that wildfire-related costs are prudently incurred, transparently reviewed, and fairly allocated, without disproportionately burdening non-utility customers or crowding out clean energy investments.

4. Resource Adequacy (RA) Transactability: Resource Adequacy remains a technical but critical issue. Ongoing constraints around RA transactability--including contracting rules, deliverability requirements, and market friction--can limit CCA's ability to efficiently procure and trade RA capacity.

   Legislative or budget-trailer-bill interest may emerge around: improving market liquidity, clarifying procurement rules, and reducing unnecessary barriers to bilateral transactions. Progress here would directly support reliability while helping contain costs.

5. Robust Transmission Planning: Transmission planning is emerging as one of the most strategic energy issues of the decade. Both Sonoma Clean Power (SCP) and Peninsula Clean Energy convened a Transmission Planning Summit last June, highlighting growing concern that California's current planning frameworks are not keeping pace with uncertainty, load growth, or climate imperatives.

   There is early momentum around potential legislation that would modernize transmission planning approaches--potentially applying decision-making under uncertainty and longer planning horizons. SCP has been in discussions with Cottie Petrie-Norris about carrying a bill aligned with these copying concepts. For CCAs, this issue is important, as inadequate transmission planning directly threatens affordability, reliability, and clean energy deployment.

6. Additional Issues to Watch:
   - Permitting and Interconnection Reform: Continued legislative interest in accelerating interconnections for generation and load, especially where delays are driving costs.
   - Load Growth and Electrification Planning: Increased scrutiny of how utilities plan for electrification, data centers, and industrial load growth.
   - Utility Oversight & Accountability: Growing appetite among lawmakers to examine utility spending, performance metrics, and regulatory accountability.

State Budget: Outlook and Governor Newsom's Proposal

Governor Gavin Newsom released his 2026-2027 State Budget Proposal on Jan. 9, outlining a roughly $349 billion total spending plan with a projected $2.9-3 billion deficit in the general fund. Unlike previous years, this Summary mostly focuses on accomplishments from the Governor's tenure and less on detailed budget solutions. The full budget summary document can be found here:
https://ebudget.ca.gov/FullBudgetSummary.pdf.

Additional Context

- This budget is only a snapshot--May Revise will contain the real 2026-27 budget with updated revenue and spending data
- The Administration intends to balance both 2026-27 AND 2027-28 fiscal years in May Revise with adequate reserves
- No notable new spending proposals were proposed; the budget focuses on continued implementation of previous investments.
- Competing outlooks:
    - Governor projects: $2.9 billion shortfall based on current program expenditures (net deficit accounting for reserve strategy).
    - LAO projects: More pessimistic $18 billion deficit includes potential risk of stock market reduction.

State of the State
Governor Newsom delivered his last State of the State address on January 9. In his address, he seized the moment to cast California as a counterpoint and a counterweight to what is going on in Washington, D.C., and he highlighted reductions in homelessness, leadership on climate, advances in clean energy, and investments in education.

California Senate
New Senate Leadership
For the first time in state history, the California State Senate is led by a woman of color and mother--Senator Monique Limon (D-Santa Barbara), sworn in as President Pro Tempore at the start of the 2026 session. Her ascension marks a generational and demographic milestone for the Legislature and places a strategic emphasis on consensus, diversity, and coalition building within the Senate Democratic caucus.

Limon has already reshaped Senate leadership and committee assignments, including key roles on Energy, Budget and Natural Resources committees. These appointments are a signal about the fact that she looks to balance progressive policy goals with the stark realities of constrained revenues.

Committee Leadership Changes
Shortly after Senator Limon was formally sworn in as Senate President pro Tempore, she released updated Senate leadership and committee assignments. The full list can be found here:
https://sd21.senate.ca.gov/news/2025/december/senate-leader-limon-announces-leadership-and-committee-membership-appointments.
Below is an overview of some of changes in leadership in the most CCA relevant committees.

1. Senate Energy, Utilities & Communications: Senator Ben Allen is the new Chair of this important committee. His appointment is notable for CCAs. He has been a long-time champion of community choice energy and brings a strong policy vision and ambition to

the role. The Senator has a track record of passing consequential legislation. Importantly, Allen is running for statewide office--Insurance Commissioner, a position that has a large impact on public utilities.

2. Senate Natural Resources and Water: Senator Josh Becker's move from Energy to Natural Resources and Water gives him significant influence over climate-adjacent infrastructure, land-use, and resilience issues. This committee shift positions him squarely at the intersection of environmental policy, resource management, and long-term climate strategy.
3. Senate Appropriations Committee: Senator Sabrina Cervantes, a moderate from Riverside, replaces Senator Caballero as Chair of Budget.
4. Senate Budget Subcommittee No. 2 (Resources, Environmental Protection & Energy): Senator Eloise Gomez Reyes is the new Chair. Representing the Central Valley, she brings a strong environmental justice lens to the subcommittee most directly relevant to energy and emissions policy.

CA Assembly

Speaker Robert Rivas (D-Salinas) continues to lead the Assembly in his role as Speaker, bringing continuity to the lower house as lawmakers seek stability in another budget-challenged year.

As of early 2026, the Assembly committee chairs for major policy committees--including Budget, Utilities & Energy, Environment and related committees-- remain the same as they were when Speaker Rivas announced them in late 2024 and into 2025. There have not been additional chair reassignments announced publicly for 2026.

Washington, D.C.: Overview and Federal Energy Policy Update (Early 2026)

Congress Has Returned and the Funding Deadline Looms

The U.S. Senate and House returned to session earlier this month, kicking off a very short window ahead of the January 30 government funding deadline. Lawmakers must finish the remaining appropriations bills--or agree to another short-term extension--to avert a shutdown. Three of twelve appropriations bills, including the first bipartisan mini-packages covering Energy and Water Development, Interior-Environment, and Commerce-Justice and Science, were approved in the House and are moving through the process.

Notable Early Issues

1. Appropriations Strategy: Mini Bills vs. Omnibus
   Rather than a single large omnibus package, leadership in both chambers is pursuing smaller, targeted "minibus" appropriations bills this year. These cover key energy- and environment-relevant jurisdictions--especially Energy and Water and Interior and Environment--and reflect bipartisan compromise pressure in an election year. Other bills, such as the one to fun DHS, are likely to be held up due to political pressure. In that event, Congress may chose to pass a Continuing Resolution to keep the government open, rather than face another shutdown.

2. Permitting Reform: Momentum Slowed
   We have been following the Standardizing Permitting and Expediting Economic Development (SPEED) Act (H.R. 4776), a bipartisan bill that would modernize and streamline the federal permitting process, and help accelerate the deployment of energy infrastructure--such as transmission lines, grid upgrades, and clean energy projects--by reducing delays and uncertainty in federal permitting. While it was expected to be a

bipartisan priority, negotiations have seriously faltered after the Trump Administration's decision late in 2025 to pause work on several major offshore wind projects along the East Coast. This move has prompted Senate Democrats to halt permitting reform talks.

3. Offshore Wind and Energy Impact
   The offshore wind program has become a flashpoint: federal actions in late 2025 and early 2026 have stopped or paused major projects off Maryland, Massachusetts, Virginia, and New York, impacting anticipated clean energy capacity additions and decarbonization investments. While California's own offshore wind pipeline is further behind and less immediately affected, the national impact underscores broader regulatory and policy uncertainty in federal markets.

4. Data Center / Tech & Energy Legislation
   Senator Adam Schiff (D-CA) has been working on a bill that would address data center and AI infrastructure energy impacts, aiming to protect the grid and consumers from the unprecedented load demands of massive computing facilities. Conversations continue, and the CCA community's input is under consideration, though a formal proposal has not yet been publicly released.

   Beyond Senator Schiff's bill, there is growing bipartisan concern in Congress and at FERC about the explosive growth of data centers and AI-driven load. Expect increasing scrutiny of who pays for grid upgrades, how interconnection costs are allocated, and whether utilities are planning transparently for large new loads. This has direct implications for rate impacts on existing customers and CCA's long-term procurement and RA strategies.

5. FERC Transmission and Cost Allocation
   FERC continues to implement and refine long-term regional transmission planning and cost allocation rules. While these are regulatory (not legislative), Congress is watching closely--and may intervene if implementation becomes contentious. For CCAs, this remains a major determinant of future system costs, project timing, and regional equity in who pays for transmission.

6. Supreme Court and Tariffs
   There is active anticipation around a pending Supreme Court decision on Trump-era tariffs that could influence the price of energy-related equipment and supply chains, potentially affecting CCA's procurement costs. While a timing estimate is difficult to pin down, a decision could come in the next few months.

7. Treasury FEOC Rules
   Federal Treasury rules on Foreign Entities of Concern (FEOC)--which would affect access to tax credits and eligibility for some declining supply chain categories--are anticipated to be issued in the coming weeks. Initial drafts reportedly were sent back to the White House for strengthening, suggesting a more restrictive final rule than originally drafted.

LEAN Advocacy Days

The annual LEAN Energy US Advocacy Days are scheduled for April 21-23 in Washington, D.C. Both Mike Mielke, and CEO Shawn Marshall will attend part or all of this event. The event remains one of the most strategic opportunities for CCAs to engage directly on

permitting, appropriations priorities, and federal policy developments affecting grid planning, grid reliability, and clean energy investment.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Nelly Wogberg, Board Clerk

SUBJECT: Report on California Community Power (CCP) Joint Powers Authority

ATTACHMENTS:
December 17, 2025_CA Community Power Board Report .pdf

California Community Power

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

TO: Board of Directors and Alternates **DATE:** 1/5/26
FROM: Alex Morris – General Manager
SUBJECT: **Report on Regular Board of Directors Meeting – December 17, 2025**

The California Community Power (CC Power) Board of Directors held a meeting on December 17, 2025, via Zoom. Details on the Board packet, presentation materials, and public comment letters can be found under the Meetings tab at the CC Power website: Meetings and Agendas – ca community power

Highlights of the meeting included the following:

- **Matters subsequent to posting the Agenda.** None.
- **Public Comment.** None.
- **Consent Agenda** - The Board approved the following items:
  - Minutes of the Regular Board Meeting held on November 19, 2025
  - Waiver of 60-day Member Notice (*CC Power JPA Agreement Section 6.02*) for Board Consideration of Hydrostor Willow Rock Contract in January 2026
- **Regular Agenda Items**:
  - **Resolution 25-12-01 – Approving and Adopting the CC Power 2026-2030 Strategic Priorities:** The Board unanimously adopted four 2026-2030 strategic priorities for CC Power. These priorities will be implemented in 2026 and through annual work-planning and budget cycles. These priorities are deemed complimentary to members and align with the value propositions contemplated for CC Power. The priories are to:
    - Successfully administer existing energy and power contracts;
    - Procure and manage contracts for specific cases of wholesale power resources;
    - Assess and procure emerging, higher risk, and unusual technologies or projects; and
    - Lead member-CCA power asset ownership efforts.

    These priorities will be incorporated into an updated CC Power 2026-2030 Strategic Plan and considered by the Board.
  - **Resolution 25-12-02 – Approval of Bulk Buy of Power Price Forecast and Reports:** The Board approved a 'bulk-buy' of a power price forecast and informational reports from Wood Mackenzie. Eight members are participating in this bulk-buy, yielding a notional savings per member of approximately $100,000.

CC Power also uses any forecasts and reports to further support and augment its analytical and project valuation efforts. This spending was planned in the budget, and the execution of the contract requires member-participation confirmations and Board approval.

- **Resolution 25-12-03 – Approval of Tenaska Power Services for Scheduling Coordinator Services for Tumbleweed Energy Storage Project:** The Board authorized execution of the proposed contract with Tenaska Power Services (TPS), with a three-year notional value of $275,000. These costs will be recovered from the Tumbleweed Energy Storage Project participants and were anticipated in the 2025-2026 budget. Members solicited for these services and selected TPS, from amongst eight competing offers, based on their offering and capabilities as a well-established scheduling coordinator. The agreement with TPS was reviewed by members' staff through the Tumbleweed Operations Advisory Subcommittee (OAC).

- **Resolution 25-12-04 – Approval of First Amendment to Master Services Agreement with Ascend Analytics LLC and Work Order for SmartBidder for Tumbleweed Energy Storage Project:** The Board authorized execution of an contract amendment and work-order with Ascend Analytics to procure and use Ascend's 'SmartBidder' service for formulating bids for the Tumbleweed Energy Storage Project. The Tumbleweed project will be one of the first 8-hour lithium-ion energy storage projects online in California, and bid-strategies for such a resource can be complex and have material implications. The notional value of the three-year contract is $245,484. These costs will be recovered from the Tumbleweed Energy Storage Project participants and were anticipated in the 2025-2026 budget. Ascend was selected through a competitive solicitation process based on its offer and experience and expertise. The agreement with Ascend was reviewed by members' staff through the Tumbleweed Operations Advisory Subcommittee (OAC).

- **2026 Officer's Election Update:** Chair Lori Mitchell (SJCE) briefed the Board on the upcoming January 2026 elections for new CC Power Officers. Officer roles include Chair, Vice-Chair, Treasurer, and Secretary.

- **General Manager Report:**
  - Solicitation for Power Projects – CC Power received 162 offers to the recent Request for Proposals. CC Power will work with members to short-list projects and to explore interest in joint-procurement for such projects. This work was authorized as part of the 2025-2026 budget and helps members assess an array of power project opportunities, including for ITC/PTC eligible solar or wind, standalone storage, geothermal, hydroelectric, biomass, build-transfer projects that CCAs could own, and or emerging technologies.
  - Geothermal Education Session on January 9th – Members and CC Power will host a virtual education session on geothermal development matters, with a focus on California, in order to further inform members about timelines, challenges, and contractual approaches for geothermal projects agreements. This education session is designed to inform any future consideration of Geothermal Collaboration Agreements that CC Power is negotiating as part of the Geothermal Strategic Origination Phase 2a. Presenting members will include CleanPowerSF and Sonoma Clean Power.

- Work-Planning and other activities planned for Q1-Q2 2026 – In 2026, CC Power will again meet with members to inform work-planning, budgeting, and finalization of the revised strategic plan. Through member meetings, including meetings with Board members as well as with members' Procurement Directors or staff, CC Power will develop draft work-plans that align with the recently adopted 2026-2030 Strategic Priorities. In early 2026, CC Power will also bring select project agreements to the Board for consideration.

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Executive Committee

FROM: Nelly Wogberg, Board Clerk

SUBJECT: Acronym List

ATTACHMENTS:
ACRONYMS - as of 02-01-2024.pdf

PENINSULA CLEAN ENERGY

COMMONLY USED ACRONYMS AND KEY TERMS

AB xx – Assembly Bill xx
ALJ – Administrative Law Judge
AMP - Arrears Management Plans
Apple Valley Choice Energy
AQM – Air Quality Management
Ava – Formally East Bay Community Energy
BAAQMD – Bay Area Air Quality Management District
BLPTA – Buyer Liability Pass Through Agreement
CAC – Citizens Advisory Committee
CAISO – California Independent System Operator
CalCCA – California Community Choice Association
CAM – Cost Allocation Mechanism
CAP – Climate Action Plan
CAPP – California Arrearage Payment Program
CARB – California Air Resources Board, or California ARB
CARE - California Alternative Rates for Energy Program
CBA – California Balancing Authority
3CE- Central Coast Community Energy (Formerly Monterey Bay Community Power-MBCP)
CCA – Community Choice Aggregation (aka Community Choice Programs (CCP) or
CCE – Community Choice Energy (CCE)
CCCFA – California Community Choice Financing Authority
CC Power – California Community Power
CEC – California Energy Commission
Clean Energy Alliance – CCA in
CPA – Clean Power Alliance
Clean Power SF
CPP - Critical Peak Pricing
CPSF – Clean Power San Francisco
CPUC – California Public Utility Commission (Regulator for state utilities) (Also PUC)
CSD – California Department of Community Services and Development
CSGT - Community Solar Green Tariff
Customer Centricity - culture, framework and business strategy based on providing a positive customer experience and building long-term relationships
DA – Direct Access
DAC-GT - Disadvantaged Communities Green Tariff
DER – Distributed Energy Resources
Desert Community Energy
DG – Distributed Generation
DOE – Department of Energy
DR – Demand Response
DRP – Demand Response Provider
DRP/IDER – Distribution Resources Planning / Integrated Distributed Energy Resources
EBCE – East Bay Community Energy now known as Ava Community Energy
ECOplus – PCE's default electricity product, 50% renewable and 50% carbon-free (in 2021)
ECO100 – PCE's 100% renewable energy product

EDR – Economic Development Rate
EE – Energy Efficiency
EEI – Edison Electric Institute; Standard contract to procure energy & RA
EIR – Environmental Impact Report
ELCC – Effective Load Carrying Capability
EPIC – Energy for Palmdale's independent Choice
ESP – Electric Service Provider
ESS – Energy Storage Systems
ESSA – Energy Storage Services Agreement
ERRA – Energy Resource Recovery Account
EV – Electric Vehicle
EVSE – Electric Vehicle Supply Equipment (Charging Station)
FERA- Family Electric Rate Assistance Program
FERC – Federal Energy Regulatory Commission
FFS – Franchise Fee Surcharge
GHG – Greenhouse gas
GHG-Free – Greenhouse gas free
GTSR – Green Tariff Shared Renewables
GWh – Gigawatt Hours (Energy) = 1000 MWh
Heavy Duty Vehicle – large vehicles such as busses and long-haul trucks
HPWH – Heat Pump Water Heater
HP HVAC – Heat Pump Heating, Ventilation, and Air Conditioning
HR xx – House of Representatives Bill xx
IDER – Integrated Distributed Energy Resources
IGFC – Income Graduated Fixed Charge
IOU – Investor-Owned Utility (e.g. PG&E, SCE, SDG&E)
IIJA – Infrastructure Investment and Jobs Act
IRA – Inflation Reduction Act
IRP – Integrated Resource Plan
IVR – Interactive Voice Response
ITC – Investment Tax Credit (it's a solar tax credit)
JCC – Joint Cost Comparison
JPA – Joint Powers Authority
JRC – Joint Rate Comparison
JRM – Joint Rate Mailer
kW – kilowatt (Power)
kWh – Kilowatt-hour (Energy)
Lancaster Energy
Light Duty Vehicle - passenger vehicles such as cars and small pickup trucks
LDS – Long Duration Storage
LDES – Long Duration Energy Storage
LIHEAP- Low Income Home Energy Assistance Program
Load Shaping – changing when grid energy is used
LSE – Load Serving Entity
MCE – Marin Clean Energy
Methane Gas - formerly known as 'natural gas'
Microgrid – building or community energy system
Mid Duty Vehicle – vehicles such as passenger vans
MW – Megawatt (Power) = 1000 kW
MWh – Megawatt-hour (Energy) = 1000 kWh

MTR – Mid-Term Reliability
MUD – Multi-unit Dwelling
NBCs – non-bypassable charges
NBT – Net Billing Tariff
NEM – Net Energy Metering
NERC – North American Electric Reliability Corporation
NDA – Non-Disclosure Agreement
NG – Natural Gas
OBF – On-bill Financing
OBR – On-bill Repayment
OCPA – Orange County Power Authority
OES – Office of Emergency Services
OIR – Order Instituting Rulemaking
PACE – Property Assessed Clean Energy
PCC – Portfolio Content Category (aka "buckets") – categories for RPS compliance
PCC1 – Portfolio Content Category 1 REC (also called bucket 1 REC)
PCC2 – Portfolio Content Category 2 REC (also called bucket 2 REC)
PCC3 – Portfolio Content Category 3 REC (also called bucket 3 REC or unbundled REC)
PCEA – Peninsula Clean Energy Authority
PCIA – Power Charge Indifference Adjustment
PCL – Power Content Label
Pioneer Community Energy
PLA – Project Labor Agreement
POU – Publicly Owned Utility
Pomona Choice Energy
PPA – Power Purchase Agreement
PPSA – Project Participation Share Agreement (CC Power)
PRIME – Pico Rivera innovative Municipal Energy
PSPS – Public Safety Power Shutoff
PV – Photovoltaics (solar panels)
Rancho Mirage Energy Authority
RA – Resource Adequacy
RE – Renewable Energy
REC – Renewable Energy Credit/Certificate
Redwood Coast Energy Authority
RICAPS - Regionally Integrated Climate Action Planning Suite
RPS – California Renewable Portfolio Standard
S xx – US Senate Bill xx
SB xx – CA Senate Bill xx
Santa Barbara Clean Energy
SBP – Solar Billing Plan
SCP – Sonoma Clean Power
SDCP – San Diego Community Power
SJCE – San Jose Clean Energy
San Jacinto Power
SJVAPCD - San Joaquin Valley Air Pollution Control District
SMD – Share My Data, interval meter data
SQMD – Settlement Quality Meter Data
SVCE – Silicon Valley Clean Energy
TOB – Tariff on Bill

TOU Rates – Time of Use Rates
Valley Clean Energy
VGI – Vehicle-Grid Integration
V2G – Vehicle-to-Grid
VPP – Virtual Power Plant
WECC – Western Energy Coordinating Council
WREGIS – Western Renewable Energy Generation Information System
WSPP – Western Systems Power Pool; standard contract to procure energy and RA
WWGPI - West-Wide Governance Pathways Initiative

PENINSULA CLEAN ENERGY

PENINSULA CLEAN ENERGY AUTHORITY
JPA Board Correspondence

DATE: January 16, 2026
MEETING DATE: January 22, 2026
VOTE REQUIRED: None

TO: Honorable Peninsula Clean Energy Authority Board of Directors

FROM: Brianna Arroyo, Administrative Assistant

SUBJECT: Social Media FAQ's

ATTACHMENTS:
PCE_ How to handle comments on Nextdoor.pdf
PCE_Social media talking points.pdf

How to handle comments on Nextdoor

What qualifies as an incendiary comment?

- The post contains aggressive or accusatory language.
- The post spreads misinformation about PCE's programs, services, or billing—or about clean energy.
- The post escalates negativity within the Nextdoor community, even if the original post is not negative.

How do I know if PCE should respond?

- ☐ Does the comment contain misinformation that could harm PCE's reputation?
- ☐ Is the comment receiving significant, negative attention (likes, replies, etc.)?
- ☐ Does responding to the post align with PCE's values and commitment to candor, transparency, and community support?
- ☐ Is someone asking a question related to PCE's billing or services?

It may be helpful to respond proactively, even if the original comment isn't particularly negative. This early intervention can help prevent misinformation and keep the community conversation on track.

I found an incendiary comment. What should I do next?

1. **Notify the Marketing team.**
   Send an email with the subject line: "Nextdoor comment for review" with a direct link to the post and any necessary screenshots to the following PCE team members:

   - Aleisha Juarez, ajuarez@peninsulacleanenergy.com
   - Kerstin Grune (cc'd), kgrune@peninsulacleanenergy.com
   - Gwen Rose (cc'd), grose@peninsulacleanenergy.com
   - Kirsten Andrews-Schwind (cc'd), kandrews-schwind@peninsulacleanenergy.com
   - Jayden Hanan (cc'd), jhanan@peninsulacleanenergy.com

2. **Be prepared to take action.**
   Given Nextdoor's limited access, we may ask you to respond via your personal profile. If the Marketing team confirms that a response is necessary, we will provide you with the appropriate post copy.

Helpful reminders

- When you see a negative Nextdoor comment, be a calm observer and collect details for escalation.
- Do not engage with incendiary comments, unless the Marketing team provides you with post copy.
- Responses on behalf of PCE should always reflect the organization's values.
- Stay ahead of the negativity: Responding to questions early can help keep the tone positive and prevent the situation from escalating.

PENINSULA CLEAN ENERGY

Social media FAQs

Here are some helpful tips for responding to frequently asked questions about Peninsula Clean Energy (PCE) on social media. Frame your response in a way that is accurate, concise, and friendly—all while staying true to PCE's mission and values. Feel free to adapt these prompts to your own voice, keeping it casual, personable, and polite.

Depending on the social media platform, your response could also encourage people to contact PCE Support for more information at info@peninsulacleanenergy.com or 1-866-966-0110.

What is Peninsula Clean Energy (PCE)? How is PCE different from PG&E?
PCE is your local, not-for-profit electricity provider. PCE provides the majority of the electricity supply—97% in fact—for San Mateo County and Los Banos.

PCE provides you with clean electricity, while PG&E delivers it to you through their wires. It's kind of like ordering takeout from your favorite restaurant (PCE) and having a food delivery service (PG&E) deliver it to your door.

Does PCE cost more than PG&E?
No! PCE's rates are competitive with or even lower than PG&E's, so you save money with PCE. You can compare PCE's and PG&E's rates here:
https://www.pge.com/assets/pge/docs/account/alternate-energy-providers/pce-sm_rateclasscomparison.pdf

Why was I automatically enrolled?
Your city or county voted to join PCE to bring cleaner, affordable energy to your community.

Can I opt out of PCE?
Yes, you can opt out. However, PCE's rates are typically lower than PG&E's, so opting out of PCE will make your electricity bill go up.

I opted out of PCE and my bill went down.
When you opted out of PCE, PG&E put you on a special temporary rate (TBCC) for six months. Recently, this rate has been lower than PCE's, which is probably why your bill went down. However, after six months, you'll be switched back to PG&E's regular rates, which are at least 5% higher than PCE's. So, even though it seems like you're saving money now, your bill will likely go up in the long term.

What clean energy options do I have?
You are automatically enrolled in ECOplus, which is 100% clean, 50% from renewable sources, and cheaper than PG&E. If you want to do even more good for the environment, you can upgrade to ECO100, which is 100% renewable energy for a small additional cost.

I have solar power. Why do I still have fees?
PCE only charges for the electricity you use beyond what your solar panels generate. If your panels produce less energy than your household needs, you'll see charges for the extra electricity you pulled from the grid. However, if your solar panels generate more energy than you use, PCE gives you a credit!

Why did my bill go up after switching to PCE?
Your bill increase is likely due to PG&E's delivery rates, not PCE. In fact, PCE has frozen rates multiple times to keep costs stable and put savings back in customers' pockets.