

AGENDA

ORANGE COUNTY POWER AUTHORITY MEETING OF THE BOARD OF DIRECTORS

**Tuesday, February 20, 2024
10:00 a.m.**

This meeting will proceed as an in-person meeting at Travelers Building, 3333 Michelson Dr., Irvine, CA 92612 in the Palm Room. In addition, as a convenience to the public, the Orange County Power Authority is also providing an option for members of the public to remotely view and participate in the meeting. Further details are below. Please note that, in the event of a technical issue causing a disruption in the remote participation option, the meeting may continue unless otherwise required by law.

Public Comments: Any member of the public may provide comments to the Orange County Power Authority Board of Directors on any agenda items by requesting to speak during Item 4, or on any matter not appearing on the agenda but within the jurisdiction of the Board by requesting to speak during Item 5. When providing comments to the Board, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the Board as a whole through the Chair. Comments may be provided in the following manner:

To provide comments during the meeting, in-person attendees, please fill out the public speaker slip and provide it to the clerk at the beginning of the meeting. Before Items 4 and 5, the Chair or Clerk will ask members of the public to join the queue to provide public comment. The queue will remain open for a reasonable amount of time to allow members of the public sufficient time to request to speak and inform the Board of the number of speakers. After such time, the queue will be closed and the members of the public who have joined the queue to speak will be recognized at the appropriate time may speak. To join the queue on Zoom video conference by computer or mobile phone, use the “Raise Hand” feature. If joining the meeting using the Zoom dial-in number, you can raise your hand and join the queue by pressing *9. Members of the public will not be shown on video but will be able to speak when called upon.

Comments shall generally be limited to three minutes when speaking, provided that the Chair may equally reduce each speaker’s time to accommodate a large number of speakers or a large number of agenda items.

Written Communications: If you have a written communication that you wish to be distributed to the Board, please provide it via e-mail to comments@ocpower.org. Written communications are public records and, if received by 5:00 p.m. on the day prior to the meeting, will be distributed to the Board prior to the meeting by either e-mail or hard-copy, posted on the Authority’s website and noted, but not read, at the meeting. Communications received after the 5:00 p.m. deadline will be retained in the Authority’s records.

The public may participate using the following remote options:

ZOOM WEBINAR

Please click the link below to join the webinar:

[Launch Meeting - Zoom](#)

Dial-in: 1-669-900-6833
Webinar ID: 899 1876 6817

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **PUBLIC COMMENTS ON AGENDA ITEMS**

Opportunity for members of the public to address the Board on any items on the agenda.

5. **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Opportunity for members of the public to address the Board on any items not on the agenda but within the jurisdiction of the Board.

6. **DIRECTOR ANNOUNCEMENTS & REPORTS ON CONFERENCES/EVENTS ATTENDED**

Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, or report on conferences, events, or activities related to Authority business. There is to be no discussion or action taken on comments made by Board Members unless authorized by law.

7. **CLOSED SESSION**

1. **PUBLIC EMPLOYEE APPOINTMENT**

Pursuant to Government Code Section § 54957(b)(1)

Title: Chief Executive Officer

2. **CONFERENCE WITH LABOR NEGOTIATORS**

Agency designated representatives: Fred Jung, Board Chair; Nicholas Norvell,
General Counsel

Unrepresented employee: Chief Executive Officer

8. **COMMITTEE REPORTS**

1. **COMMUNITY ADVISORY COMMITTEE UPDATE**

Recommended Action:

Receive and file.

2. **CHIEF EXECUTIVE OFFICER RECRUITMENT AD HOC COMMITTEE UPDATE**

Recommended Action:

Receive and file.

9. **CONSENT CALENDAR**

All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Board of Directors, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Board of Directors request specific items be removed from the Consent Calendar.

1. MINUTES FOR THE REGULAR BOARD MEETING OF JANUARY 24, 2024

Recommended Action:

Approve as submitted.

2. TREASURER'S REPORT – FISCAL YEAR ENDED DECEMBER 31, 2023 AND Q4 2023 CHECK REGISTER

Recommended Action:

Receive and file.

3. REGULATORY AND LEGISLATIVE UPDATE

Recommended Action:

Receive and file.

4. ADOPTION OF REVISIONS TO POLICY NO. 05 – BOARD OF DIRECTORS AND COMMUNITY ADVISORY COMMITTEE MEMBER'S COMPENSATION AND EXPENSE REIMBURSEMENT POLICY

Recommended Action:

Adopt revisions to Policy No. 05 – Board of Directors and Community Advisory Committee Members' Compensation and Expense Reimbursement Policy.

10. REGULAR CALENDAR

The following items call for discussion or action by the Board of Directors. The Board may discuss and/or take action on any item listed below if the Board is so inclined.

1. UPDATE ANNUAL ENERGY USE AND VOTING SHARES

Recommended Action:

Approve update to the weighted voting exhibits of OCPA's Joint Powers Agreement.

2. FEED IN TARIFF PRESENTATION AND DISCUSSION

Recommended Action:

1. Discuss and provide guidance on the establishment of a prospective Orange County Power Authority Feed-in Tariff program.
2. Authorize Chief Executive Officer to establish a pilot Feed-in Tariff program for Orange County Power Authority, including authority to develop a program application and program standards/guidelines, and to negotiate and enter into power purchase agreements for up to two (2) megawatts for eligible projects.

11. STAFF REPORT

Staff may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified, but the Board may not take any action. There is to be no other discussion or action taken unless authorized by law.

12. **ADJOURNMENT**

Compliance with the Americans with Disabilities Act

Board of Directors meetings comply with the protections and prohibitions of the Americans with Disabilities Act. Individuals with a disability who require a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may contact 949-263-2612. Requests for disability-related modifications or accommodations require different lead times and should be provided at least 72-hours in advance of the public meeting.

Availability of Board Documents

Copies of the agenda and agenda packet are available at www.ocpower.org. Late-arriving documents related to a Board meeting item which are distributed to a majority of the Board prior to or during the Board meeting are available for public review as required by law. Public records, including agenda-related documents, can be requested electronically at clerk@ocpower.org or by mail to 15642 Sand Canyon Avenue, P.O. Box 54283, Irvine, CA 92619-4283. The documents may also be posted at the above website. Such public records are also available for inspection, by appointment, at 3349 Michelson Drive, Suite 200, Irvine, CA 92612. Please contact clerk@ocpower.org to arrange an appointment.



**MINUTES
REGULAR MEETING
BOARD OF DIRECTORS
ORANGE COUNTY POWER AUTHORITY**

Wednesday, January 24, 2024

1. CALL TO ORDER

Chair Jung called to order the Regular Meeting of the Orange County Power Authority Board of Directors at 10:25 a.m. on Wednesday, January 24, 2024.

2. PLEDGE OF ALLEGIANCE

Vice Chair Treseder led the Pledge of Allegiance.

3. ROLL CALL

Present:	Director Casey McKeon	City of Huntington Beach
	Director Susan Sonne	City of Buena Park
	Director Tammy Kim	City of Irvine
	Vice Chair Kathleen Treseder	City of Irvine
	Chair Fred Jung	City of Fullerton

4. PUBLIC COMMENTS ON AGENDA ITEMS - None.

5. PUBLIC COMMENTS ON NON-AGENDA ITEMS - None

6. ELECTION OF CHAIR AND VICE CHAIR

Action:

Director Sonne made the motion to nominate Director Jung as Chair. Director Kim made the motion to nominate Director Treseder as Chair.

The motion to make Director Jung the Chair carried by a 3-2 roll call vote as follows:

<u>Director</u>	<u>Voted For</u>
Kim	Treseder
Treseder	Treseder
McKeon	Jung
Sonne	Jung
Jung	Jung

Action:

Director Kim made the motion to nominate Vice Chair Treseder as Vice Chair. Chair Jung made the motion to nominate Director Sonne as Vice Chair.

The motion to make Director Sonne the Vice Chair carried by a 3-2 roll call vote as follows:

<u>Director</u>	<u>Voted For</u>
Kim	Treseder
Treseder	Treseder
McKeon	Sonne
Sonne	Sonne
Jung	Sonne

Chair Jung thanked Director Treseder for her service as Vice Chair and congratulated Director Sonne.

7. DIRECTOR ANNOUNCEMENTS & REPORTS ON CONFERENCES/EVENTS ATTENDED

Director Treseder stated that at a recent board meeting Ms. Fox made a comment/request that we show our images bigger. She can go into her computer's Zoom settings, the gallery icon, and toggle the views for this request. On her phone, she can swipe left or right to see the Board Members on her screen bigger.

8. CLOSED SESSION

Recess to Closed Session

At 10:32 a.m., Chair Jung called on General Counsel Norvell to recess the Board to closed session to discuss Item 8.1 on the agenda. General Counsel Norvell announced the Board was recessing to closed session. The following Board Members were present: Kim, McKeon, Treseder, Sonne, and Jung. Also present was Board Counsel Norvell.

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code Section § 54956.9(d)(4):

One (1) potential case

Reconvene

At 10:47 a.m., the regular meeting of the Orange County Power Authority Board of Directors reconvened with the following present: Directors Sonne, Kim, McKeon, Treseder, and Jung.

General Counsel Norvell reported out of Closed Session that the Board met in Closed Session discussed Item 8.1 as listed on the agenda and there was no reportable action taken.

CLOSED SESSION ITEMS 8.2 AND 8.3 WERE TAKEN OUT OF ORDER AFTER THE REGULAR SESSION AGENDA.

9. COMMITTEE REPORTS

1. COMMUNITY ADVISORY COMMITTEE UPDATE

Chair Ziemer provided an update on their January meeting. Stated her concerns with the term limits for the at-large members. She further requested direct interaction with the Board; name badges for CAC members for use during community events; and clarity regarding the requirement to complete sexual harassment and ethics training to have the CAC members attend the CalCCA Annual Conference.

Chair Jung agreed with the request to provide CAC members name badges. He further agreed to have Vice Chair Sonne and himself meet with the Chair of the CAC monthly or as their schedule allows. Chair Jung asked General Counsel Norvell for clarification on the ability to reimburse the CAC members for attending the CalCCA Annual Conference.

General Counsel Norvell stated that state law was adopted, about fifteen years ago, it requires AB 1234 ethics training, as well as sexual harassment prevention training when members of a legislative body receive any sort of stipend or reimbursement for expenses. The law is quite explicit that if they are eligible then all members of the legislative body or all agency officials are required to receive it. There is no wiggle room in the reading of the legislation. General Counsel Norvell double checked that before because he knew that was a question that might come up today. He confirmed the language was written very broadly.

CAC Chair Ziemer also brought to their attention their discussion and request for an absence policy for the committee members to adhere to and provide for dismissal as necessary.

2. CHIEF EXECUTIVE OFFICER RECRUITMENT AD HOC COMMITTEE UPDATE

General Counsel Norvell provided a brief update with the CEO recruitment process.

10. CONSENT CALENDAR

ACTION

Vice Chair Sonne made the motion, seconded by Director McKeon to:

Approve consent calendar items 10.1 – 10.3.

The motion carried unanimously by the following 5-0 vote:

Ayes: Chair Jung, Vice Chair Sonne, Director Treseder
Director Kim, Director McKeon
Noes: None
Absent: None

1. MINUTES FOR THE REGULAR BOARD MEETING OF DECEMBER 20, 2023

Recommended Action:
Approved as submitted.

2. REGULATORY AND LEGISLATIVE UPDATE

Recommended Action:
Received and filed.

3. APPROVE FIRST AMENDMENT WITH CLEAN PEAKS ENERGY SERVICES, LLC FOR PROFESSIONAL SERVICES

Recommended Action:
Approved First Amendment with Clean Peaks Energy Services, LLC for Professional Services related to the withdrawal of Huntington Beach, for the term of February 14, 2024, through December 31, 2024, for a revised not-to-exceed total of \$187,500.

11. REGULAR CALENDAR

1. APPOINTMENT OF BOARD DIRECTOR(S) TO LEGISLATIVE AND REGULATORY COMMITTEE AND MARKETING AND COMMUNICATIONS COMMITTEE

Chair Jung made the motion to appoint Chair Jung and Director Treseder to the Legislative and Regulatory Committee and appoint Vice Chair Sonne and Director Kim to the Marketing and Communications Committee.

The motion carried unanimously by the following 5-0 vote:

Ayes: Chair Jung, Vice Chair Sonne, Director Treseder
Director Kim, Director McKeon
Noes: None
Absent: None

2. APPROVAL OF THE 2024 COMMUNITY ADVISORY COMMITTEE WORK PLAN

CAC Chair Susan Ziemer and Committee Member Ralph Futch presented this item.

Vice Chair Sonne made the motion, seconded by Chair Jung to:

Approve the Community Advisory Committee 2024 Work Plan.

The motion carried unanimously by the following 5-0 vote:

Ayes: Chair Jung, Vice Chair Sonne, Director Treseder
Director Kim, Director McKeon
Noes: None
Absent: None

3. APPROVE AMENDED ENERGY RISK MANAGEMENT POLICY

Pacific Energy Advisors Representative, Kirby Dusel, provided a brief summary of this item.

Chair Jung stated that both the Chair and Vice Chair sat on the ROC and have heard this presentation. He assured the Board that these changes were best practices in the industry.

Vice Chair Sonne made the motion, seconded by Director Kim to:

Approve proposed delegated authority revisions to the Energy Risk Management Policy for energy product contract approvals.

The motion carried unanimously by the following 5-0 vote:

Ayes: Chair Jung, Vice Chair Sonne, Director Treseder
Director Kim, Director McKeon
Noes: None
Absent: None

4. RATIFY JANUARY RATES EFFECTIVE JANUARY 22, 2024

CFO, Tiffany Law, provided a brief presentation on this item.

Vice Chair Sonne made the motion, seconded by Director Kim to:

Ratify rates effective January 22, 2024.

The motion carried unanimously by the following 5-0 vote:

Ayes: Chair Jung, Vice Chair Sonne, Director Treseder
Director Kim, Director McKeon
Noes: None
Absent: None

5. APPROVAL OF OCPA 2024 RATE DESIGN

CFO, Tiffany Law, provided a brief presentation on this item.

Chair Jung thanked CFO Law and her team and stated the importance of having a credit rating. He further stated his support providing a choice and the rate reduction.

Vice Chair Sonne thanked staff for their work, staying true to the original values of OCPA, maintaining a great financial standing, and for providing the rate reduction.

Director Treseder stated her support for the item. She stated that other municipalities thinking about joining OCPA always ask her about lowering the rates. Therefore, she favors the higher rate reduction of four percent.

Director Kim echoed Director Treseder's comments. She stated that in Irvine there was sensitivity regarding the rates and she communicated to them that OCPA would be lowering the rates.

Chair Jung made the motion, seconded by Director Kim to:

1. Approve the 2024 OCPA rate design, setting OCPA's Basic Choice rates at a 3% discount compared to Southern California Edison's (SCE) equivalent generation rates, effective February 2024. Establish Smart Choice rates at 1.0 cent per kWh over Basic Choice rates, and 100% Renewable Choice rates at 1.5 cents per kWh over Basic Choice rates.
2. Approve an increase in the discount for OCPA's Basic Choice rates from 3% to 4% relative to SCE's equivalent generation rates, effective October 2024, and conditional upon SCE not making adjustments to their 2024 bundled generation and Power Charge Indifference Adjustment (PCIA) rates in June 2024 that result in a net impact greater than -3% or approximately \$5.3 million decrease to OCPA revenues from June 2024 through December 2024.
3. Authorize OCPA staff to promptly adjust OCPA rates following any updates to SCE's rates, as necessary, to maintain the approved OCPA 2024 rate design for all OCPA customers. Staff shall place a report on the agenda of the next regular board meeting following rate updates, detailing the adjustment, and requesting that the board ratify the adjusted OCPA rates.

The motion carried unanimously by the following 5-0 vote:

Ayes: Chair Jung, Vice Chair Sonne, Director Treseder
Director Kim, Director McKeon
Noes: None
Absent: None

6. APPROVE 2024 PRODUCT OFFERINGS

Pacific Energy Advisors Representative, Kirby Dusel, provided a brief summary of this item.

Chair Jung made the motion, seconded by Director Kim to:

Approve the proposed renewable energy content for OCPA's 2024 retail service offerings, which will reflect increased renewable energy delivery under the Basic Choice and Smart Choice service options consistent with the upward trajectory of California's Renewables Portfolio Standard (RPS) procurement mandate.

The motion carried unanimously by the following 5-0 vote:

Ayes: Chair Jung, Vice Chair Sonne, Director Treseder
Director Kim, Director McKeon
Noes: None
Absent: None

12. STAFF REPORT

Interim CEO Mosca welcomed the Board back to the New Year. He reviewed their agenda actions. He and Chair Jung presented anniversary certificates to Steven Halligan and Andrew Di Giovanna for their two years of service. Additional one-year anniversary certificates were provided to Pat Jacquez-Nares and Agustin Lee.

CLOSED SESSION ITEMS 8.2 AND 8.3 WERE TAKEN OUT OF ORDER AT THIS TIME.

Recess to Closed Session

At 11:38 a.m., Chair Jung called on General Counsel Norvell to recess the Board to closed session to discuss Items 8.2 and 8.3 on the agenda. General Counsel Norvell announced the Board was recessing to closed session. The following Board Members were present: Kim, McKeon, Treseder, Sonne, and Jung. Also present was Board Counsel Norvell.

2. PUBLIC EMPLOYEE APPOINTMENT

Pursuant to Government Code Section § 54957(b)(1)
Title: Chief Executive Officer

3. CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Fred Jung, Board Chair; Nicholas Norvell,
General Counsel

Unrepresented employee: Chief Executive Officer

Reconvene

At 1:30 p.m., the regular meeting of the Orange County Power Authority Board of Directors reconvened with the following present: Directors Kim, Treseder, Sonne, and Jung. Director McKeon left the meeting at 12:25 p.m.

General Counsel Norvell reported out of Closed Session that the Board met in Closed Session discussed Items 8.2 and 8.3 as listed on the agenda and there was no reportable action taken.

13. ADJOURNMENT

There being no further business to come before the Board, Chair Jung adjourned the January 24, 2024, Orange County Power Authority Board Regular meeting at 1:30 p.m.

Submitted by:

Pat Jacquez-Nares, Authority Secretary

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 9.2

To: Orange County Power Authority Board of Directors

From: Tiffany Law, Chief Financial Officer

Subject: TREASURER’S REPORT – FISCAL YEAR ENDED DECEMBER 31, 2023 AND Q4
2023 CHECK REGISTER

Date: February 20, 2024

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Treasurer’s Report is the financial statement of the Orange County Power Authority (OCPA) and should be presented to the governing body quarterly. The report is created in accordance with accounting principles generally accepted in the United States of America. The Treasurer’s Report comprises the statement of net position and the related statement of revenues, expenses, and changes in net position, and the statement of cash flows.

OCPA has prepared unaudited financial statements for the year-to-date July 1, 2023, through December 31, 2023, along with budgetary comparisons.

ANALYSIS AND DISCUSSION

The unaudited financial statements for the fiscal year ending December 31, 2023, present the strong financial performance for the first six months of FY 2023/24. The outcomes have exceeded the expectations set by the FY2023/24 Operating Budget, with a net position increase that is significantly above initial projections. In its first full year of both commercial and residential operations, OCPA has achieved a fiscal year-to-date bottom line of \$43 million as of December 31, 2023. This represents a surplus of approximately \$4 million, or 10%, above the anticipated budget. Furthermore, OCPA’s Rate Stabilization Reserves have accumulated to \$81 million.

There were no unusual transactions of note during this period of reporting.

FISCAL IMPACT

There is no financial impact from receiving the report.

ATTACHMENT

- A. Treasurer’s Report ending December 31, 2023
- B. Q4 2023 Check Register



ACCOUNTANTS' COMPILATION REPORT

Management
Orange County Power Authority

Management is responsible for the accompanying financial statements of Orange County Power Authority (a California Joint Powers Authority) which comprise the statement of net position as of December 31, 2023, and the related statement of revenues, expenses, and changes in net position, and the statement of cash flows for the period then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, conclusion, nor provide any assurance on these financial statements.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. Orange County Power Authority's annual audited financial statements include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to the Authority because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
January 31, 2024

ORANGE COUNTY POWER AUTHORITY
STATEMENT OF NET POSITION
As of December 31, 2023

ASSETS

Current assets

Cash - unrestricted	\$ 65,587,681
Cash - restricted	800,000
Accounts receivable, net of allowance	29,268,787
Accrued revenue	20,278,757
Other receivables	926,563
Prepaid expenses	91,577
Deposits	1,512,807
Total current assets	<u>118,466,172</u>

Noncurrent assets

Cash - restricted	<u>5,000,000</u>
Total assets	<u>123,466,172</u>

LIABILITIES

Current liabilities

Accrued cost of electricity	31,664,305
Accounts payable	1,069,442
Other accrued liabilities	541,071
User taxes and energy surcharges due to other governments	1,270,269
Total current liabilities	<u>34,545,087</u>

Noncurrent liabilities

Loan payable	7,527,841
Accrued interest and financing costs	207,941
Total noncurrent liabilities	<u>7,735,782</u>
Total liabilities	<u>42,280,869</u>

NET POSITION

Unrestricted	81,185,303
Total net position	<u><u>\$ 81,185,303</u></u>

**ORANGE COUNTY POWER AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
Six Months Ended December 31, 2023**

OPERATING REVENUES

Electricity sales, net	\$ 218,558,881
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OPERATING EXPENSES

Cost of electricity	170,890,793
Contract services	4,077,185
Staff compensation	1,040,044
Other operating expenses	438,828
Total operating expenses	176,446,850
Operating income (loss)	42,112,031

NONOPERATING REVENUES (EXPENSES)

Investment income	703,513
Interest and financing expense	(166,834)
Nonoperating revenues (expenses), net	536,679

CHANGE IN NET POSITION

	42,648,710
Net position at beginning of period	38,536,593
Net position at end of period	\$ 81,185,303

ORANGE COUNTY POWER AUTHORITY
STATEMENT OF CASH FLOWS
Six Months Ended December 31, 2023

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers	\$ 218,796,181
Receipts from market settlements	2,449,791
Other operating receipts	228,000
Payments to suppliers for electricity	(172,739,821)
Payments for goods and services	(4,462,083)
Payments of staff compensation and benefits	(993,279)
Payments of taxes and energy surcharges to other governments	(4,332,101)
Net cash provided (used) by operating activities	<u>38,946,688</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Payments of interest and related expenses	<u>(89,815)</u>
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CASH FLOWS FROM INVESTING ACTIVITIES

Interest income received	<u>703,513</u>
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Net change in cash	<u>39,560,386</u>
Cash at beginning of period	<u>31,827,295</u>
Cash at end of period	<u><u>\$ 71,387,681</u></u>

Reconciliation to the Statement of Net Position

Cash (unrestricted)	\$ 65,587,681
Restricted cash, current	800,000
Restricted cash, noncurrent	5,000,000
Total cash at end of period	<u><u>\$ 71,387,681</u></u>

ORANGE COUNTY POWER AUTHORITY
STATEMENT OF CASH FLOWS (continued)
Six Months Ended December 31, 2023

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

Operating income (loss)	\$ 42,112,031
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities	
(Increase) decrease in:	
Accounts receivable	(5,900,062)
Other receivables	2,345,382
Accrued revenue	1,784,705
Prepaid expenses	11,264,983
Deposits	228,156
Increase (decrease) in:	
Accrued cost of electricity	(13,075,314)
Accounts payable	557,699
Other accrued liabilities	(391,448)
User taxes and energy surcharges due to other governments	20,556
Net cash provided (used) by operating activities	<u><u>\$ 38,946,688</u></u>



ACCOUNTANTS' COMPILATION REPORT

Board of Directors
Orange County Power Authority

Management is responsible for the operating fund and program fund budgetary comparison reports of Orange County Power Authority (OCPA), a California Joint Powers Authority, for the period ended December 31, 2023, and for determining that the budgetary basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statement nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any assurance on this special purpose budgetary comparison statement.

The special purpose statement is prepared in accordance with the budgetary basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. This report is intended for the information of the Board of Directors of OCPA.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. OCPA's annual audited financial statements include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to OCPA because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
January 31, 2024

ORANGE COUNTY POWER AUTHORITY
OPERATING BUDGET COMPARISON REPORT
Six Months Ended December 31, 2023

	YTD Actual	YTD Budget	YTD Budget Variance (Under) Over	YTD Actual as a Percent of Budget	Annual Budget	Annual Budget Remaining
OPERATING REVENUES						
Electricity Sales, net	\$ 218,558,881	\$ 206,602,662	\$ 11,956,219	105.8%	\$ 329,175,000	\$ (110,616,119)
OPERATING EXPENSES						
Cost of Energy	170,890,793	159,673,638	11,217,155	107.0%	271,934,000	(101,043,207)
Data Manager	1,263,777	1,169,466	94,311	108.1%	2,345,000	(1,081,223)
Utilities Service Fees	271,526	185,009	86,517	146.8%	372,000	(100,474)
Staffing Costs	1,040,044	3,117,611	(2,077,567)	33.4%	6,346,000	(5,305,956)
Contract Services	742,664	958,319	(215,655)	77.5%	1,721,000	(978,336)
Legal Services	306,118	340,000	(33,882)	90.0%	675,000	(368,882)
Marketing and Customer Enrollment	1,338,440	1,202,775	135,665	111.3%	2,304,000	(965,560)
Other G&A	438,828	529,540	(90,712)	82.9%	1,086,000	(647,172)
Energy Programs (Transfer to Programs Fund)	750,000	750,000	-	100.0%	750,000	-
Total operating expenses	177,042,190	167,926,358	9,115,832		287,533,000	(110,490,810)
Operating income (loss)	41,516,691	38,676,304	2,840,387		41,642,000	(125,309)
NONOPERATING REVENUES (EXPENSES)						
Investment and miscellaneous income	703,513	-	703,513	N/A	-	703,513
Interest and financing expense	(166,834)	(145,142)	(21,692)	114.9%	(382,000)	215,166
Capital Outlay	-	(65,000)	65,000	0.0%	(125,000)	125,000
Nonoperating revenues (expenses), net	536,679	(210,142)	746,821		(507,000)	1,043,679
CHANGE IN NET POSITION	<u>\$ 42,053,370</u>	<u>\$ 38,466,162</u>	<u>\$ 3,587,208</u>		<u>\$ 41,135,000</u>	<u>\$ 918,370</u>

ORANGE COUNTY POWER AUTHORITY
PROGRAM BUDGET COMPARISON REPORT
Six Months Ended December 31, 2023

	YTD Actual	YTD Budget	YTD Budget Variance (Under) Over	YTD Actual as a Percent of Budget	Annual Budget	Annual Budget Remaining
REVENUE AND OTHER SOURCES						
Transfer in - from Operating Budget	\$ 750,000	\$ 750,000	\$ -	100.0%	\$ 750,000	\$ -
EXPENDITURES AND OTHER USES						
Energy Program expenditures	154,660	470,000	(315,340)	32.9%	750,000	595,340
Net change in fund balance	<u>\$ 595,340</u>	280,000				
Fund balance at beginning of period		-				
Fund balance at end of period		<u>\$ 280,000</u>				

ORANGE COUNTY POWER AUTHORITY
BUDGETARY COMPARISON REPORT
Six Months Ended December 31, 2023

Budget Item	Actual / Budget %	Comment
Electric Sales Revenue	105.8%	Year-to-date energy sales are slightly more than forecast by approx. \$12.0M or 5.8%. Sales revenue includes revenues actually billed to customers as well as estimated customer usage during the reporting period that is not yet billed.
Cost of Energy	107.0%	The variance is affected by increased energy purchases required to provide for greater than expected customer load. Also affecting the variance is the timing difference between projected and actual delivery of Renewable Energy Certificates (RECs) and fluctuating market prices.
Data Manager	108.1%	These are Calpine fees charged on a per active account basis. The discrepancy related to Calpine's service fees was higher than expected due to the bi-monthly enrollment of Net Energy Metering (NEM) accounts, which were not accounted for in the original budget. By October 2023, all NEM accounts had been enrolled into the OCPA service, contributing to the increased fees. Staff plans to update the service fee projections in the mid-year FY23/24 budget review in March 2024.
Service Fees - SCE	146.8%	These are SCE fees charged on a per customer basis. The discrepancy arose because the actual service fees charged by SCE for were higher than initially projected by SCE. This resulted in a budget shortfall. Staff plans to update the SCE service fee projections during the mid-year FY23/24 budget review in March 2024 to align with the actual costs.
Personnel	33.4%	Staffing expenses are under budget due to the timing delay of new hires.
Professional Services	77.5%	This category includes accounting and audit, rates and financial & planning analysis, portfolio management, scheduling coordinator, HR including recruitment services and compensation study, IT, and other consultants.
Legal Costs	90.0%	This category includes outside legal costs for general counsel, energy procurement transactional support, labor, clerk support, regulatory, member agency withdrawal, and RA appeal services.
Marketing and customer enrollment	111.3%	This category includes advertising, strategic marketing & communications, digital marketing and website development and hosting, collateral marketing, translation, sponsorships & memberships, promotional items, required customer notifications printing and mailing. Actual expenses were greater than the budget by \$136k. This was due to timing, as the OCPA's anniversary campaign and related media and communication initiatives were incurred in October 2023. Staff expects less expenses to be incurred in 2024.
Other General & Administrative	82.9%	This category includes ordinary G&A including rent, CalCCA membership, general business insurance, small equipment and software, travel, business meals, professional development, and office supplies.
Interest and financing expenses	114.9%	This category includes interest and fees related to Letters of Credit posted for collateral on energy supply.

ORANGE COUNTY POWER AUTHORITY
Investment Summary
July 1, 2023 through June 30, 2024

[illegible]

ORANGE COUNTY POWER AUTHORITY
SCHEDULE OF OUTSTANDING DEBT
As of December 31, 2023

CITY OF IRVINE

On January 2021, OCPA borrowed \$2,500,000 from the City of Irvine for working capital costs associated with OCPA's pre-launch. On September 2021, OCPA borrowed \$5,000,000 from the City of Irvine for cash collateral in the credit facility associated with OCPA's launch. The loan repayment date for the above is January 1, 2027. Interest is due on the loan in an amount based on the gross earnings for the respective quarter as reported in the City Treasurer's pooled investment portfolio report.

Also included as a loan payable are formation related costs - \$152,380 paid directly from the City to the vendors. OCPA will reimburse the City no later than January 1, 2027. Interest does not accrue on the formation costs advanced by the City. OCPA paid \$124,538.70 towards the outstanding principal on September 12, 2022.

Principal	Maturity	Interest Rate	Payments	Outstanding Principal
\$ 152,380	January 2027	0.00%	\$ 124,539	\$ 27,841
\$ 7,500,000	January 2027	Variable - City Treasurer's report	\$ -	\$ 7,500,000

US BANK CREDIT FACILITY

On September 2021, OCPA and US Bank (formerly MUFG Union Bank, N.A.) entered into a Revolving Credit Agreement for a \$35 million credit facility OCPA has outstanding borrowings of \$0 as of December, 2023.

On May 2023, US Bank acquired MUFG Union Bank, N.A.

US Bank (formerly MUFG Union Bank, N.A.) has also issued a \$2,611,948 Letter of Credit to Pacific Gas & Electric; a \$2,977,000 Letter of Credit to Southern California Edison Company; a \$3,500,000 Letter of Credit to Shell; a \$1,200,000 Letter of Credit to California ISO; a \$2,597,157 Letter of Credit to Marsh Landing, and a \$3,060,750 Letter of Credit to Nextera.

Credit Facility	Letter of Credit	Borrowing	Unused Credit
\$ 35,000,000	\$ 15,946,855	\$ -	\$ 19,053,146

Orange County Power Authority
PAYMENTS ISSUED OCTOBER 1, 2023 THROUGH DECEMBER 31, 2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
10/02/2023	ABM Industry Groups, LLC	September Parking	500.00
10/02/2023	Best Best & Krieger	August 2023 - Financial/Power Procurement (po: 1002)	4,621.50
10/02/2023	Best Best & Krieger	August 2023 - Regulatory/CPUC (po: 1002)	10,882.25
10/02/2023	Best Best & Krieger	August 2023 - Huntington Beach Withdrawal (po: 1002)	4,266.00
10/02/2023	Best Best & Krieger	August 2023 - County Withdrawal (po: 1002)	118.50
10/02/2023	Best Best & Krieger	August 2023 - General Counsel (po: 1002)	6,350.00
10/02/2023	Best Best & Krieger	August 2023 - Public Records Requests (po: 1002)	2,355.00
10/02/2023	LBA IV-PPI, LLC	October Rent	19,000.00
10/02/2023	Orange County Printing Company	Post-Enrollment Notice (po: 1007)	363.50
10/02/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	761.52
10/02/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	1,008.67
10/02/2023	Orange County Printing Company	Post-Enrollment Notice (po: 1007)	338.24
10/02/2023	Southern California Edison	Vintage 2023 RECs	1,456,175.85
10/02/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 9/08/23-9/14/23, 6/09/23-6/15/23	744,781.05
10/02/2023	US Bank Credit Card	Zoom.com - subscription	318.90
10/02/2023	US Bank Credit Card	Southwest Airlines - Pat Jacquez Nares ticket to Sacramento	311.97
10/02/2023	US Bank Credit Card	Southwest Airlines - Fred Jung ticket to Sacramento	311.97
10/02/2023	US Bank Credit Card	Southwest Airlines - Steve Halligan ticket to Sacramento	311.97
10/02/2023	US Bank Credit Card	Southwest Airlines - Andrew Giovanna ticket to Sacramento	311.97
10/02/2023	US Bank Credit Card	Goto Communications - business account for call center	583.05
10/02/2023	US Bank Credit Card	Linkedin	88.84
10/02/2023	US Bank Credit Card	Venmo-subscription	900.00
10/02/2023	US Bank Credit Card	Uber	56.77
10/02/2023	US Bank Credit Card	Uber	15.94
10/02/2023	US Bank Credit Card	Linkedin	51.16
10/02/2023	US Bank Credit Card	Smith.AI - answering service	235.00
10/02/2023	US Bank Credit Card	Uber	67.43
10/02/2023	US Bank Credit Card	Chez Maman - business meals	39.60
10/02/2023	US Bank Credit Card	Courtyard San Francisco - Steve Halligan	516.44
10/02/2023	US Bank Credit Card	Courtyard San Francisco - Agustin Lee	474.52
10/02/2023	US Bank Credit Card	Uber	20.99
10/02/2023	US Bank Credit Card	Vista Print - business cards	737.43
10/02/2023	US Bank Credit Card	Civic Ctr Santa Ana - parking	20.00
10/02/2023	US Bank Credit Card	Civic Ctr Santa Ana - parking	14.00
10/02/2023	US Bank Credit Card	Google LLC	12.00
10/02/2023	US Bank Credit Card	Zoom.com - subscription	318.90
10/02/2023	US Bank Credit Card	USPS - postage	28.75
10/02/2023	US Bank Credit Card	Southwest Airlines - Joe Mosca ticket to Sacramento	217.96
10/02/2023	US Bank Credit Card	Irvine Global Village - City of Irvine event booth	2,000.00
10/02/2023	US Bank Credit Card	Jan' Health Bar - lunch with staff	42.61
10/02/2023	US Bank Credit Card	Jan' Health Bar - lunch with staff	46.96
10/02/2023	US Bank Interest and Service Charges	September interest payment on credit line account	9,926.57
10/02/2023	US Bank Interest and Service Charges	Letter of Credit - California Independent System	563.50
10/02/2023	US Bank Interest and Service Charges	Letter of Credit - Southern California Edison	1,533.33
10/02/2023	US Bank Interest and Service Charges	Letter of Credit - Marsh Landing LLC	9,955.77
10/02/2023	US Bank Interest and Service Charges	Letter of Credit - Pacific Gas and Electric Company	10,012.47
10/02/2023	US Bank Interest and Service Charges	Letter of Credit - Southern California Edison	10,848.33
10/02/2023	US Bank Interest and Service Charges	Letter of Credit - Grace Orchard Energy Center	11,732.88
10/02/2023	US Bank Interest and Service Charges	Letter of Credit - Shell Energy North America	13,416.67
10/04/2023	Balance Public Relations Inc.	Consulting and lobby services (po: 1014)	13,500.00
10/05/2023	Climate Action Campaign	OC Round Table Event	15,000.00
10/05/2023	Halligan Steven	Mileage reimbursement	62.88
10/05/2023	Jung, Fred	Expense reimbursement - Amtrack	51.40
10/05/2023	North Orange County Chamber	She Influences Conference	150.00
10/05/2023	Orange County Printing Company	Streetlight Pre-Enrollment (po: 1007)	732.91
10/05/2023	Orange County Printing Company	NEM Postcard (po: 1007)	2,800.39
10/05/2023	Sustain Southern California	Gold Sponsor - Four Event Registration	3,800.00
10/10/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period 9/15/23-9/21/23	41,749.29
10/10/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 9/15/23-9/21/23, 6/16/23-6/21/23	483,660.13
10/11/2023	Baker Tilly US, LLP, formerly Management Partners Inc.	September 2023 - Management Services (po: 1024)	13,443.75
10/11/2023	Lincoln Financial Group	10/11/23 Retirement debit 457B	4,641.04
10/11/2023	Lincoln Financial Group	10/11/23 Retirement debit 401A	12,073.88
10/11/2023	NewGen Strategies & Solutions, LLC	September 2023 - Financial & Economic Consulting services (po: 1028)	8,321.25
10/11/2023	Orange County Printing Company	Orange County Letters (po: 1007)	715.93
10/11/2023	Orange County Printing Company	Pop Up Banner (po: 1007)	278.00
10/12/2023	CITY OF BUENA PARK - UUT	September Utility User Tax	142,547.85
10/12/2023	CITY OF HUNTINGON BEACH - UUT	September Utility User Tax	400,406.63
10/12/2023	CITY OF IRVINE - UUT	September Utility User Tax	196,013.17
10/12/2023	METHOD TECHNOLOGIES (INC)	Support Options - MS Suite and other software (po: 1017)	1,917.84
10/13/2023	Littler Mendelson, PC	September legal services (po: 1016)	414.00
10/13/2023	SDRMA	November employee benefit charges	9,683.29
10/16/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period 9/22/23-9/28/23	31,059.63
10/16/2023	Southern California Edison	September Capacity	1,885,261.70
10/16/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 9/22/23-9/28/23, 6/22/23-6/28/23 and 10/1/22-10/31/22	514,073.36
10/16/2023	US Bank Interest and Service Charges	Analysis Service Charge	2,538.12
10/17/2023	City of Fullerton	Fullerton Park and Recreation Department - Memorial Tree and Plaque	1,400.00
10/18/2023	City of Fullerton	Tommy Lasorda Day Festival - Sponsorship	5,000.00
10/18/2023	United Language Group, Inc.	Localization - Subtitling	829.40
10/20/2023	AE5	September 2023 capacity purchases	562,500.00
10/20/2023	Best Best & Krieger	September 2023 - General Counsel (po: 1002)	11,618.57
10/20/2023	Best Best & Krieger	September 2023 - Financial/Power Procurement (po: 1002)	2,488.50
10/20/2023	Best Best & Krieger	September 2023 - County Withdrawal (po: 1002)	118.50
10/20/2023	Best Best & Krieger	September 2023 - Huntington Beach Withdrawal (po: 1002)	23,144.88
10/20/2023	Best Best & Krieger	September 2023 - Regulatory (po: 1002)	18,605.70
10/20/2023	Best Best & Krieger	September 2023 - Public Records Requests (po: 1002)	1,372.50
10/20/2023	Marsh Landing, LLC	September Capacity Purchases	671,825.00
10/20/2023	Pacific Energy Advisors Inc.	September 2023 - Monthly Services (po: 1008)	48,991.51
10/20/2023	Powerex	October Rec's	79,166.67
10/20/2023	San Diego Gas & Electric	September 2023 RECs	24,664.20
10/23/2023	2023 WKBC Organizing Committee	World Korean Business Convention - Basic Package	2,500.00
10/23/2023	3PR Trading Inc.	September capacity Purchases	3,150,000.00
10/23/2023	960 CoolOC	Bright Futures Outreach Grant Program	10,000.00
10/23/2023	California Community Choice Association	CALCCA October-December 2023 membership dues	98,635.50
10/23/2023	Calpine Energy Services L.P.	September capacity purchases	722,250.00
10/23/2023	Calpine Energy Services L.P.	June RECs	1,184,300.00
10/23/2023	Calpine Energy Services L.P.	May RECs	2,121,050.00
10/23/2023	Constellation Energy Generation, LLC	August energy purchases	8,326,995.40
10/23/2023	Di Giovanna, Andrew	September reimbursement expenses	413.95
10/23/2023	Morgan Stanley Capital Group	September Energy Purchases	3,063,280.00
10/23/2023	Morgan Stanley Capital Group	September RECs	476,460.75
10/23/2023	Morgan Stanley Capital Group	Vintage 2023 RECs	82,892.75
10/23/2023	OC Goes Solar	Bright Futures Outreach Grant Program	20,000.00
10/23/2023	Orange County Printing Company	Post Enrollment Notice (po: 1007)	539.45
10/23/2023	Orange County Printing Company	Orange County Letters (po: 1007)	509.76
10/23/2023	Orange County Printing Company	Orange County Letters (po: 1007)	1,702.86
10/23/2023	Pretend City Children's Museum	Bright Futures Outreach Grant Program	20,000.00
10/23/2023	Shell Energy North America	August Energy Purchases	5,543,524.80
10/23/2023	Shell Energy North America	August Capacity Purchases	504,500.00
10/23/2023	Sunrise Power Company LLC	September capacity purchase	1,906,250.00
10/23/2023	Sustain Southern California	Sustain SoCal Annual Membership - Government 10/23 - 10/24	1,000.00
10/23/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 9/29/23-10/05/23 and 6/29/23-7/06/23	899,439.25
10/23/2023	Transalta Energy Marketing Us Inc.	August Energy Purchases	1,438,900.20
10/23/2023	Tullett Prebon Americas Corp.	Broker Fees - Calpine Energy Services LP	6,806.00
10/23/2023	Tullett Prebon Americas Corp.	Broker Fees - Calpine Energy Services LP	4,731.00

Orange County Power Authority
PAYMENTS ISSUED OCTOBER 1, 2023 THROUGH DECEMBER 31, 2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
10/23/2023	Tullett Prebon Americas Corp.	Broker Fees - Constellation Energy & Generation LLC	13,000.00
10/23/2023	Tullett Prebon Americas Corp.	Broker Fees - Peninsula Clean Energy	3,600.00
10/23/2023	Tullett Prebon Americas Corp.	Broker Fees - Pilot Power Group LLC	6,392.00
10/23/2023	Zodiac Solutions, LLC	September 2023 Fees (po: 1012)	5,700.00
10/24/2023	Lincoln Financial Group	10/24/23 Retirement debit 401A	10,796.94
10/24/2023	Lincoln Financial Group	10/24/23 Retirement debit 457B	4,668.72
10/24/2023	Maier Accountancy	October 2023 - Treasurer and Accounting Services [PO:1005]	18,000.00
10/24/2023	The Energy Authority Inc. (Service Fees)	September Resource Management Monthly Fees [PO:1011]	14,620.00
10/25/2023	California Department of Tax and Fee Administration	July-September 2023 Electric Energy Surcharge	226,477.00
10/25/2023	US Bank Interest and Service Charges	Letter of Credit - California Independent System	150.00
10/26/2023	Buena Park Noon Lions Club Inc.	Silverado days - Commercial Booth	500.00
10/26/2023	Golden Communications Inc	Sustaining Professional Services and Consulting Fees, Monthly Managed Web Services, and Additional Labor - September 2023 (po: 1004)	8,949.00
10/26/2023	OC Goes Solar	Workshop - Expo Table	250.00
10/26/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	1,493.23
10/26/2023	Orange County Printing Company	Power Content Label Maker (po: 1007)	43,979.99
10/27/2023	METHOD TECHNOLOGIES (INC)	Support Options - computer installation, move or reload of operating system (po: 1017)	300.00
10/30/2023	American Express	AMEX - Cashback Program Fee	90.00
10/30/2023	American Express	AMEX - Annual Membership Fee	35.00
10/30/2023	American Express	AMEX - Annual Membership Fee	35.00
10/30/2023	American Express	AMEX - Cashback Program Fee	90.00
10/30/2023	American Express	AMEX - Annual Membership Fee	35.00
10/30/2023	American Express	AMEX - Cashback Program Fee	90.00
10/30/2023	American Express	AMEX - Expedited Fee	15.00
10/30/2023	American Express	AMEX - Annual Membership Fee	35.00
10/30/2023	American Express	AMEX - Cashback Program Fee	90.00
10/30/2023	American Express	AMEX - Annual Membership Fee	35.00
10/30/2023	American Express	AMEX - Cashback Program Fee	90.00
10/30/2023	American Express	Peet's - Coffee	8.69
10/30/2023	American Express	SDIA Airport - Parking in San Diego	76.00
10/30/2023	American Express	Fox Rent-A-Car - Car Rental in Oakland	164.58
10/30/2023	American Express	Chevron - Fuel for Car Rental	28.21
10/30/2023	City of Santa Clara (Silicon Valley Power)	2023 September - December Recs	1,625,000.00
10/30/2023	Energy Development & Construction Corporation	August RECs purchases	34,236.00
10/30/2023	Igoe (Med-Bank)	Medical and/or Dependent Care FSA Monthly Participation Fee	100.00
10/30/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 10/06/23-10/12/23 and 7/07/23-7/13/23	1,261,835.83
10/31/2023	Ektaa Center	Ektaa Diwali Fest 2023 - Events/Arts Partner Sponsorship	1,500.00
10/31/2023	LBA IV-PPI, LLC	November Rent	19,000.00
10/31/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	1,236.46
11/01/2023	Calpine Energy Solutions	September 2023 services (po:1003)	211,370.46
11/01/2023	US Bank Credit Card	San Peets Coffee - Coffee	10.58
11/01/2023	US Bank Credit Card	Sell & Family Sacramento - Dinner at Ella in Sacramento	3,851.10
11/01/2023	US Bank Credit Card	Starbucks - Committee Meeting Food & Coffee	74.40
11/01/2023	US Bank Credit Card	Starbuck - Food & Coffee for Board Meeting	105.55
11/01/2023	US Bank Credit Card	Mothers Market - Food	6.19
11/01/2023	US Bank Credit Card	SDIA Airport Parking - Parking in San Diego	2.95
11/01/2023	US Bank Credit Card	Office Depot - Office Supplies	89.86
11/01/2023	US Bank Credit Card	Go to Com - Phone Forwarding Service for Call Center	713.16
11/01/2023	US Bank Credit Card	Smith AI - Phone Forwarding Service For Call Center	235.00
11/01/2023	US Bank Credit Card	Google LLC Gsuite	12.00
11/01/2023	US Bank Credit Card	Southwest Airlines - Airline Tickets to Sacramento F. Jung	33.00
11/01/2023	US Bank Credit Card	Southwest Airlines - Airline Tickets to Sacramento S. Halligan 10/10/23	249.96
11/01/2023	US Bank Credit Card	Uber Trip - Transportation	25.14
11/01/2023	US Bank Credit Card	Uber Trip - Transportation	27.48
11/01/2023	US Bank Credit Card	Amtrak - Train Fare to San Diego	40.40
11/01/2023	US Bank Credit Card	Uber Trip - Transportation	28.74
11/01/2023	US Bank Credit Card	Hotel E - Room in Santa Rosa	188.15
11/01/2023	US Bank Credit Card	Hilton Garden Inn - Room at Sacramento	246.52
11/01/2023	US Bank Credit Card	Hilton Garden Inn - Room at Sacramento	246.52
11/01/2023	US Bank Credit Card	Hilton Garden Inn - Room at Sacramento	246.52
11/01/2023	US Bank Credit Card	Hilton Garden Inn - Room at Sacramento	246.52
11/01/2023	US Bank Credit Card	Hilton Garden Inn - Room at Sacramento	246.52
11/01/2023	US Bank Credit Card	Alamo Rent-A-Car - Car Rental in Sacramento	112.28
11/01/2023	US Bank Credit Card	Uber Trip - Transportation	33.42
11/01/2023	US Bank Credit Card	Arco - Gas for Rental	14.19
11/01/2023	US Bank Credit Card	Parking Meter - Parking in Santa Rosa	1.25
11/01/2023	US Bank Credit Card	SDIA Airport Parking - Parking in San Diego	76.00
11/01/2023	US Bank Credit Card	UCSD Parking Mobile - Parking	31.50
11/01/2023	US Bank Credit Card	Laz Parking - Parking in San Diego	2.00
11/01/2023	US Bank Credit Card	John Wayne Airport - Parking	34.00
11/01/2023	US Bank Credit Card	Checkr - Employee background check	61.61
11/01/2023	US Bank Credit Card	Indeed Jobs - Advertisement	80.00
11/06/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 10/13/23-10/19/23 and 7/14/23-7/20/23	2,319,770.55
11/06/2023	TMI Trust Company (INC)	Annual Fee: TMI Trust Company Annual Administration Fee for period October 29 2023 to October 28 2024	12,500.00
11/07/2023	Lincoln Financial Group	11/7/23 Retirement debit 401A	11,842.16
11/07/2023	Lincoln Financial Group	11/7/23 Retirement debit 457B	4,696.40
11/08/2023	United Language Group, Inc.	Translation Charges	980.00
11/09/2023	Southern California Edison	January - July 2023 RECs Purchases	13,206,960.81
11/10/2023	ABM Industry Groups, LLC	October Parking	420.00
11/10/2023	Jung, Fred	Expense reimbursement - Business meal	198.52
11/10/2023	Lincoln Financial Group	Retirement fees	1,304.77
11/10/2023	Lincoln Financial Group	Retirement fees	807.73
11/10/2023	Maier Accountancy	Bill.com cloud based accounts payable and document management system August & September 2023 [PO:1005]	296.13
11/10/2023	Orange County Printing Company	Streetlight Pre-Enrollment (po: 1007)	732.89
11/10/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	918.09
11/13/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 10/20/23-10/26/23v 7/21/23-7/28/23 and 11/1/22-11/30/22	2,201,018.80
11/14/2023	Baker Tilly US, LLP, formerly Management Partners Inc	October 2023 - Management Services (po: 1024)	5,118.75
11/14/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period 10/20/23-10/26/23 and 11/1/23-11/30/23	1,925.93
11/14/2023	CITY OF BUENA PARK - UUT	October Utility User Tax	149,547.51
11/14/2023	CITY OF HUNTINGON BEACH - UUT	October Utility User Tax	440,471.29
11/14/2023	CITY OF IRVINE - UUT	October Utility User Tax	191,473.09
11/14/2023	Littler Mendelson, PC	October legal services (po: 1016)	3,928.50
11/14/2023	METHOD TECHNOLOGIES (INC)	Support Options - computer installation, move or reload of operating system (po: 1017)	2,057.78
11/14/2023	Reveille Inc.	September 2023 Marketing Services -- (po: 1025)	100,541.69
11/14/2023	Reveille Inc.	October 2023 EMC Qualitative Research and Focus Groups -- (po: 1025)	22,500.00
11/14/2023	SDRMA	December employee benefit charges	6,693.94
11/14/2023	TGP Energy Management, LLC	August RECs	866,736.00
11/14/2023	TGP Energy Management, LLC	Vintage 2023 RECs	860,301.00
11/14/2023	The Energy Federation Inc.	Marketplace - Annual Management 9/26/23-9/25/24 (po:1026)	60,000.00
11/14/2023	United States Postal Services (Trust/EPF Account)	Postage added to USPS Account	50,000.00
11/15/2023	American Express	AMEX - Adjustment to reconcile account, prior month bank service fees	(15.00)
11/15/2023	American Express	Pannini Kabob Grill Irvine - Lunch with Brenda Deely	47.81
11/15/2023	American Express	Puesto Park Place - Lunch with Dally Post	68.98
11/15/2023	American Express	Benihana Newport - Team Building Luncheon	587.43
11/15/2023	American Express	North Italia - Team Lunch	310.87
11/15/2023	American Express	Starbucks - Board Meeting	105.55
11/15/2023	American Express	Starfish Restaurant Fountain Valley	108.24
11/15/2023	American Express	Mimi's Cafe - Lunch Team Building	187.35
11/15/2023	American Express	Sam's Club - Meeting Snacks	66.93
11/15/2023	American Express	Sweet Elle Café Huntington Beach	16.80
11/15/2023	American Express	BRAINACTSOCAL.COM IRVINE - Team Building	286.55
11/15/2023	American Express	Uber - Transportation Owen Lee	16.49
11/15/2023	American Express	Uber - Transportation Owen Lee	46.71
11/15/2023	American Express	Uber - Transportation Owen Lee	52.68
11/15/2023	American Express	Amtrak - Train Owen Lee	73.00
11/15/2023	American Express	Transportation - Gabriele Friedman	71.19

Orange County Power Authority
PAYMENTS ISSUED OCTOBER 1, 2023 THROUGH DECEMBER 31, 2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
11/15/2023	American Express	Uber - Transportation Owen Lee	26.28
11/15/2023	American Express	Transportation - Gabriele Friedman	10.00
11/15/2023	American Express	Hawaiian Airlines - Air Fare - Gabriele Friedman	736.43
11/15/2023	American Express	BOOKING.COM B.V. AMSTERDAM - Hotel - Gabriele Friedman	865.95
11/15/2023	American Express	Uber - Transportation Owen Lee	11.56
11/15/2023	American Express	Amtrak - Train Owen Lee	81.00
11/15/2023	American Express	Uber - Transportation Owen Lee	9.45
11/15/2023	American Express	Uber - Transportation Owen Lee	10.71
11/15/2023	American Express	Uber - Transportation Owen Lee	9.16
11/15/2023	American Express	Uber - Transportation Owen Lee	11.35
11/15/2023	American Express	Hawaiian Airlines - Air Fare - Gabriele Friedman	568.37
11/15/2023	American Express	Uber - Transportation Owen Lee	9.96
11/15/2023	American Express	Uber - Transportation Owen Lee	40.70
11/15/2023	American Express	Amtrak - Train Owen Lee	81.00
11/15/2023	American Express	BOOKING.COM B.V. AMSTERDAM - Hotel Owen Lee	690.08
11/15/2023	American Express	Uber - Transportation Owen Lee	16.93
11/15/2023	United Language Group, Inc.	Translation Charges	270.00
11/16/2023	ABM Industry Groups, LLC	November Parking	360.00
11/16/2023	Clean Peaks Energy Services, LLC	Consultant services - September 2023 -- (po 1027)	19,725.00
11/17/2023	Friedman, Gabriele	October expense reimbursements	275.78
11/20/2023	AES	October 2023 capacity purchases	562,500.00
11/20/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period10/1/23-10/31/23 and 11/1/23-11/02/23	130,839.06
11/20/2023	Maier Accountancy	November 2023 - Treasurer and Accounting Services { (PO-1005)	18,000.00
11/20/2023	Marsh Landing, LLC	October Capacity Purchases	689,587.50
11/20/2023	NewGen Strategies & Solutions, LLC	October 2023 - Financial & Economic Consulting services (po: 1028)	17,853.75
11/20/2023	Powerex	November Rec's	79,166.67
11/20/2023	Powerex	October Rec's	102,533.34
11/20/2023	San Diego Gas & Electric	October 2023 RECs	121,273.44
11/20/2023	Southern California Edison	October Capacity	485,562.30
11/20/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 10/27/23-11/02/23 7/28/23-8/03/23	1,020,746.68
11/21/2023	Equus Energy Group LLC	October broker fees - Counter Party BP Energy Company	106,875.00
11/21/2023	Golden Communications Inc	Sustaining Professional Services and Consulting Fees, Monthly Managed Web Services, and Additional Labor - October 2023 (po: 1004)	2,349.00
11/21/2023	Pacific Energy Advisors Inc.	October 2023 - Monthly Services (po: 1008)	42,270.17
11/22/2023	Best Best & Krieger	October 2023 - Huntington Beach Withdrawal (po: 1002)	10,337.00
11/22/2023	Best Best & Krieger	October 2023 - County Withdrawal (po: 1002)	2,050.00
11/22/2023	Best Best & Krieger	October 2023 - Public Records Requests (po: 1002)	1,397.50
11/22/2023	Best Best & Krieger	October 2023 - Labor and Employment (po: 1002)	158.00
11/22/2023	Best Best & Krieger	October 2023 - General Counsel (po: 1002)	13,472.75
11/22/2023	Best Best & Krieger	October 2023 - Regulatory - CPUC (po: 1002)	7,083.00
11/22/2023	Best Best & Krieger	October 2023 - Financial/Power Procurement (po: 1002)	6,359.50
11/22/2023	Dell Marketing L.P.	1 Wireless Keyboard & Mouse, 1 Thunderbolt and 2 Dell Monitors	554.40
11/22/2023	The Energy Authority Inc. (Service Fees)	October Resource Management Monthly Fees (PO:1011)	14,620.00
11/22/2023	Zodiac Solutions, LLC	October 2023 Fees (po: 1012)	3,600.00
11/24/2023	Calpine Energy Services L.P.	October capacity	722,250.00
11/24/2023	Constellation Energy Generation, LLC	September energy purchases	7,028,398.00
11/24/2023	Friedman, Gabriele	October & November expense reimbursements	242.59
11/24/2023	Lincoln Financial Group	11/24/23 Retirement debit 401A	14,568.98
11/24/2023	Lincoln Financial Group	11/24/23 Retirement debit 457B	4,696.40
11/24/2023	Morgan Stanley Capital Group	October Energy Purchases	2,203,495.80
11/24/2023	Morgan Stanley Capital Group	July Rec's	478,330.70
11/24/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	1,338.96
11/24/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	627.78
11/24/2023	Shell Energy North America	September Capacity Purchases	504,500.00
11/24/2023	Shell Energy North America	September Energy Purchases	5,369,472.00
11/24/2023	Sunrise Power Company LLC	October capacity purchase	1,906,250.00
11/24/2023	Transalta Energy Marketing Us Inc.	September Energy Purchases	1,392,988.50
11/24/2023	United States Postal Services (Trust/EPS Account)	Postage added to USPS Account	10,000.00
11/28/2023	Dell Marketing L.P.	2 Dell Latitude 5540	3,378.47
11/28/2023	Orange County Printing Company	January Streetlight Notice (po: 1007)	1,346.74
11/28/2023	Orange County Printing Company	Fullerton Letter (po: 1007)	1,479.00
11/29/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period 11/03/23 - 11/09/23	431,376.15
11/29/2023	Energy Development & Construction Corporation	September RECs purchases	46,710.00
11/29/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 11/03/23-11/09/23 & 8/04/23-8/10/23	942,591.55
12/01/2023	Filipino American Chamber of Commerce of OC	Table Sponsorship Filipino American Chamber of Commerce Gala	750.00
12/01/2023	Igoe (Med-Bank)	Medical and/or Dependent Care FSA Monthly Participation Fee	100.00
12/01/2023	US Bank Credit Card	Google Suite - Advertising	12.00
12/01/2023	US Bank Credit Card	Kodiako Ramen & B - Food	30.87
12/01/2023	US Bank Credit Card	Amazon - Office Supplies	169.06
12/01/2023	US Bank Credit Card	USPS - Postage	28.50
12/01/2023	US Bank Credit Card	Amazon - Office Supplies	118.10
12/01/2023	US Bank Credit Card	Amazon - Office Supplies	75.35
12/01/2023	US Bank Credit Card	Amazon - Office Supplies	119.10
12/01/2023	US Bank Credit Card	Amazon - Office Supplies	75.40
12/01/2023	US Bank Credit Card	Amazon - Office Supplies	31.26
12/01/2023	US Bank Credit Card	Zoom - Recording Services	318.90
12/01/2023	US Bank Credit Card	Adobe - Additional License for New Staff	79.21
12/01/2023	US Bank Credit Card	Adobe - Additional License for New Staff	158.42
12/01/2023	US Bank Credit Card	Smith AI - Phone Forwarding Service For Call Center	235.00
12/01/2023	US Bank Credit Card	Go to Com - Phone Forwarding Service for Call Center	669.29
12/01/2023	US Bank Credit Card	Courtyard by Marriott - Hotel	224.50
12/01/2023	US Bank Credit Card	John Wayne Airport - Parking	40.00
12/01/2023	US Bank Credit Card	Uber Trip - Transportation	13.98
12/01/2023	US Bank Credit Card	Uber Trip - Transportation	13.99
12/01/2023	US Bank Credit Card	Checkr - Employee background check	166.98
12/04/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 11/10/23-11/14/23 & 8/11/23-8/17/23	520,726.85
12/05/2023	ABM Industry Groups, LLC	December Parking	540.00
12/05/2023	Calpine Energy Solutions	October 2023 services (po:1003)	211,950.16
12/05/2023	Charitable Ventures	Orange County Sustainability Decathalon Sponsorship	6,550.00
12/05/2023	LBA IV-PPI, LLC	December 2023 Rent	19,000.00
12/05/2023	Orange County Business Council	Supporter Sponsor - Turning Red Tape into Red Carpet and Holiday Reception	2,000.00
12/05/2023	Orange County Division League of CA Cities	Orange County Division Meeting (09/21/23)	60.00
12/05/2023	Pisenti & Brinker LLP	First Progress bill for audit ended June 30, 2023 (po: 1018)	17,000.00
12/06/2023	American Express	AMEX - Adjustment to reconcile account, prior month bank service fees	(2.78)
12/06/2023	American Express	Starbucks - Board Meeting Food	88.95
12/06/2023	American Express	Uber Eats - Food	(96.80)
12/06/2023	American Express	Uber Eats - Food	96.80
12/06/2023	American Express	Night Owl - Coffee Fullerton Council Member Ahamad Zahra	6.01
12/06/2023	American Express	Puesto Park Place - Team Lunch	278.10
12/06/2023	American Express	Starbucks - Board Meeting Food	85.10
12/06/2023	American Express	Starbucks - Board Meeting Food	89.60
12/06/2023	American Express	FYF From Your Flowers - Flowers	50.08
12/06/2023	American Express	FYF From Your Flowers - Flowers	49.53
12/06/2023	American Express	Sonesta - Hotel - Owen Lee	1,253.58
12/06/2023	American Express	Uber Trip - Transportation	17.68
12/06/2023	American Express	Sonesta - Hotel - Owen Lee	157.69
12/06/2023	American Express	Uber Trip - Transportation	35.91
12/06/2023	American Express	Amtrak Train - Owen Lee	119.00
12/06/2023	American Express	Hawaiian Airlines - Airfare - Gabriele Friedman	567.14
12/06/2023	American Express	Uber trip - Transportation	16.90
12/06/2023	American Express	Sonesta - Hotel - Gabriele Friedman	649.60
12/06/2023	American Express	Uber trip - Transportation	7.71
12/06/2023	American Express	Uber trip - Transportation	51.41
12/06/2023	American Express	Uber trip - Transportation	9.90
12/06/2023	American Express	Uber Trip - Transportation	7.18

Orange County Power Authority
PAYMENTS ISSUED OCTOBER 1, 2023 THROUGH DECEMBER 31, 2023

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
12/06/2023	American Express	Uber trip - Transportation	9.91
12/06/2023	American Express	Uber trip - Transportation	12.90
12/06/2023	American Express	Uber trip - Transportation	9.94
12/07/2023	Clean Peaks Energy Services, LLC	Consultant services - October 2023 -- (po: 1027)	12,115.00
12/08/2023	Lincoln Financial Group	12/08/23 Retirement debit 401A	14,741.38
12/08/2023	Lincoln Financial Group	12/08/23 Retirement debit 457B	4,758.46
12/11/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period 12/01/22-12/31/22 & 11/15/23 - 11/21/23	24,633.39
12/11/2023	Halligan Steven	Mileage reimbursement	75.59
12/11/2023	Orange County Division League of CA Cities	Sponsorship for Orange County Division (10/1/23 - 9/30/24)	2,500.00
12/11/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	1,129.14
12/11/2023	Revelle Inc.	October 2023 OCPA FY Marketing and PR Budget-- (po: 1025)	135,676.91
12/11/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 11/15/23-11/21/23, 8/18/23-8/23/23 and 12/1/22-12/31/22	553,014.95
12/14/2023	US Bank Interest and Service Charges	US Bank - Analysis Service Charge	2,665.46
12/15/2023	Best Best & Krieger	November 2023 - Public Records Requests (po: 1002)	3,807.50
12/15/2023	Best Best & Krieger	November 2023 - Huntington Beach Withdrawal (po: 1002)	7,581.49
12/15/2023	Best Best & Krieger	November 2023 - Financial/Power Procurement (po: 1002)	4,740.00
12/15/2023	Best Best & Krieger	November 2023 - County Withdrawal (po: 1002)	3,067.30
12/15/2023	Best Best & Krieger	November 2023 - General Counsel (po: 1002)	21,815.60
12/15/2023	Best Best & Krieger	November 2023 - Regulatory - CPUC (po: 1002)	17,044.50
12/18/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period for 11/1/23-11/30/23	51,918.74
12/18/2023	City of Buena Park	Christmas Tree Lighting Sponsorship - Inflatable Globe	1,000.00
12/18/2023	CITY OF BUENA PARK - UUT	November Utility User Tax	104,177.31
12/18/2023	City of Fullerton	City of Fullerton Tree Lighting Sponsorship	3,000.00
12/18/2023	CITY OF HUNTINGTON BEACH - UUT	November Utility User Tax	311,239.19
12/18/2023	City of Irvine	Illuminate Irvine - Community Sponsor	1,000.00
12/18/2023	CITY OF IRVINE - UUT	November Utility User Tax	132,799.50
12/18/2023	Maier Accountancy	December 2023 - Treasurer and Accounting Services { PO:1005}	18,000.00
12/18/2023	METHOD TECHNOLOGIES (INC)	Support Options - MS Suite and other software (po: 1017)	300.00
12/18/2023	METHOD TECHNOLOGIES (INC)	Support Options - MS Suite and other software (po: 1017)	2,343.65
12/18/2023	METHOD TECHNOLOGIES (INC)	Support Options - Laptop setup (po: 1017)	300.00
12/18/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	1,034.27
12/18/2023	Orange County Printing Company	Buena Park Letter (po: 1007)	794.17
12/18/2023	Revelle Inc.	November 2023 OCPA FY Marketing and PR Budget-- (po: 1025)	107,316.93
12/18/2023	SDRMA	January employee benefit charges	15,584.68
12/18/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 11/22/23-11/30/23 and 8/24/23-8/30/23, NERC January 2022 Charges	862,986.07
12/18/2023	Tullett Prebon Americas Corp.	Broker Fees - Morgan Stanley Capital Group Inc.	12,500.00
12/18/2023	United States Postal Services (Trust/EPF Account)	Postage added to USPS Account	10,000.00
12/18/2023	Waymakers	Light a Light of Love - Sponsorship	500.00
12/20/2023	AES	November 2023 capacity purchases	562,500.00
12/20/2023	Marsh Landing, LLC	November Capacity Purchases	694,137.50
12/20/2023	Powerex	December Energy Purchases	79,166.67
12/20/2023	Powerex	California PRS PCC1 REC Sales	125,663.16
12/20/2023	San Diego Gas & Electric	November 2023 RECs	23,058.30
12/20/2023	Southern California Edison	November Capacity	485,562.30
12/21/2023	ABM Industry Groups, LLC	December Parking	120.00
12/21/2023	California Community Choice Association	Quarterly Invoice for SCE Case Management Special Assessment (January 2024 - March 2024)	7,200.00
12/21/2023	City of Fullerton	City of Fullerton - First Night Sponsorship - Gold Tier	2,500.00
12/21/2023	CPS HR Consulting	23-01 Orange Co Power Authority Resources Director for period 10/1/23-10/28/23	9,000.00
12/21/2023	Golden Communications Inc	Sustaining Professional Services and Consulting Fees, Monthly Managed Web Services, and Additional Labor - November 2023 (po: 1004)	2,649.00
12/21/2023	Lincoln Financial Group	12/21/23 Retirement debit 401A	16,633.26
12/21/2023	Lincoln Financial Group	12/21/23 Retirement debit 457B	4,706.32
12/21/2023	Little Mendelson, PC	November legal services (po: 1016)	298.00
12/21/2023	NewGen Strategies & Solutions, LLC	November 2023 - Financial & Economic Consulting services (po: 1028)	8,148.75
12/21/2023	Orange County Printing Company	Orange County Letters (po: 1007)	597.30
12/21/2023	Pacific Energy Advisors Inc.	November 2023 - Monthly Services (po: 1008)	43,029.60
12/21/2023	The Energy Authority Inc. (Service Fees)	November Resource Management Monthly Fees (PO:1011)	14,620.00
12/22/2023	California ISO (Settlement Invoices) CAISO	CAISO CRR period for 12/01/23 - 12/07/23	52,107.87
12/22/2023	Energy Development & Construction Corporation	October RECs purchases	31,284.00
12/22/2023	METHOD TECHNOLOGIES (INC)	Support Options - Laptop setup (po: 1017)	600.00
12/22/2023	Portland General Electric Co	June 2022 PCC1 REC Sale	387,598.75
12/22/2023	Portland General Electric Co	July 2022 PCC1 REC Sale	737,161.25
12/22/2023	Portland General Electric Co	PCC1 REC Sale	2,250,000.00
12/22/2023	The Energy Authority Inc. (CAISO and ENERGY)	CAISO period 12/01/23 - 12/07/23 and 8/31/23-9/07/23	369,257.08
12/23/2023	Igoe (Med-iBank)	Medical and/or Dependent Care FSA Monthly Participation Fee	100.00
12/26/2023	Calpine Energy Services L.P.	November capacity	4,750.00
12/26/2023	Constellation Energy Generation, LLC	October energy purchases	4,657,287.00
12/26/2023	Morgan Stanley Capital Group	November Energy Purchases	1,974,742.50
12/26/2023	Morgan Stanley Capital Group	August Recs	545,347.70
12/26/2023	Shell Energy North America	October Energy Purchases	4,757,443.20
12/26/2023	Shell Energy North America	October Capacity Purchases	504,500.00
12/26/2023	Sunrise Power Company LLC	November capacity purchase	1,906,250.00
12/26/2023	Transalta Energy Marketing Us Inc.	October Energy Purchases	1,233,048.15
SUBTOTAL			109,646,940.49
10/4/2023		September 16 - 30 -Salaries, Wages, Fringe Benefits	39,698.95
10/4/2023		September 16 - 30 - Paychex Service Fee	164.10
10/4/2023		September 16 - 30 - Payroll Taxes	12,137.11
10/19/2023		October 1 - 15 - Paychex Service Fee	308.90
10/19/2023		October 1 - 15 - Payroll Taxes	11,406.61
10/19/2023		October 1 - 15 -Salaries, Wages, Fringe Benefits	39,547.30
11/3/2023		October 16 - 31 -Salaries, Wages, Fringe Benefits	39,065.83
11/3/2023		October 16 - 31 - Payroll Taxes	11,401.28
11/3/2023		October 16 - 31 - Paychex Service Fee	224.10
11/14/2023		Analysis Service Charge	6,831.51
11/17/2023		November 1 - 15 -Salaries, Wages, Fringe Benefits	53,362.84
11/17/2023		November 1 - 15 - Paychex Service Fee	325.70
11/17/2023		November 1 - 15 - Payroll Taxes	16,414.76
12/4/2023		November 16 - 30 - Payroll Taxes	15,117.15
12/4/2023		November 16 - 30 -Salaries, Wages, Fringe Benefits	49,323.61
12/4/2023		November 16 - 30 - Paychex Service Fee	176.70
12/20/2023		December 1 - 15 - Paychex Service Fee	398.10
12/20/2023		December 1 - 15 - Payroll Taxes	18,396.39
12/20/2023		December 1 - 15 -Salaries, Wages, Fringe Benefits	61,853.60
SUBTOTAL			376,154.54

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 9.3

To: Orange County Power Authority Board of Directors

From: Steven Halligan, Regulatory and Legislative Manager

Subject: REGULATORY AND LEGISLATIVE UPDATE

Date: February 20, 2024

RECOMMENDED ACTION

Receive and File.

REGULATORY UPDATE

Orange County Power Authority (OCPA) staff are monitoring several ongoing regulatory proceedings at the California Public Utilities Commission (CPUC), California Independent System Operation Corporation (CAISO), and California Energy Commission (CEC). A brief description of the proceeding and any current status updates are provided below.

Affordability – R.18-07-006

The proceeding was opened in 2018 to establish processes for assessing and increasing the affordability of utility service. The CPUC has addressed metrics and methodologies for assessing affordability. The proceeding is currently in Phase 3, considering strategies to limit/mitigate future energy rate increases.

On January 25, 2024, several parties, including California Community Choice Association (CalCCA), filed comments on the Assigned Commissioner's (AC) Ruling issued December 13, 2023, requesting feedback on the use and implementation of the adopted Affordability Framework. Reply comments on Ruling Requesting Feedback on Affordability Framework are due February 16, 2024.

BioMAT – R.22-10-010

The CPUC issued an [Order Instituting Rulemaking \(OIR\)](#) on October 20, 2022 to implement [Assembly Bill \(AB\) 843](#) authorizing CCAs to participate in the Bioenergy Market Adjusting Tariff (BioMAT) program. AB 843 amended [Public Utilities Code Section 399.20](#) to extend to CCAs within an electrical corporation's service territory the existing renewable feed-in tariff for qualifying bioenergy electric generation facilities.

On January 29, 2024, CalCCA filed a joint CCA (Central Coast Community Energy, Orange County Power Authority, Pioneer Community Energy, and Redwood Coast Energy Authority) Tier 2 Advice Letter (AL) seeking approval of standard program documents for CCAs joining the

BioMAT program. The documents filed included (1) a CCA BioMAT Tariff, (2) a CCA Power Purchase Agreement, (3) BioMAT program Participation Request forms for projects to apply to the program, and (4) a standard agreement with Accion Group, LLC for website and third-party administrator services to the CCAs. OCPA filed a Tier 3 AL on February 1, 2024, seeking approval of the budgets for 2024 and 2025. A central website and Standard Framework for CCA webpages will be developed by February 28, 2024.

Demand Flexibility – R.22-07-005

The CPUC issued an [OIR](#) on July 22, 2022, to advance customer demand flexibility through electric rates to support reliability, decarbonization, and affordability. The [Phase 1 Scoping Memo and Ruling](#), dated November 2, 2022, set forth the schedule, including two tracks for (1) establishing an income-graduated fixed charge (IGFC) for residential rates (Track A), and (2) streamlining the adoption of demand flexibility rates for IOUs (Track B).

A Proposed Decision (PD) is expected in March or April related to the Income Graduated Fixed Charge.

General Order (GO) 156 – R.21-03-010

The proceeding was initiated in 2021 to revise [GO 156](#) consistent with the requirements of [Senate Bill \(SB\) 255](#), which extends the parameters of the CPUC's Supplier Diversity Program to CCAs and electric service providers. Phase 2 will address additional revisions to the reporting requirements for IOUs, CCAs and Electric Service Providers (ESP).

OCPA will be sending out our annual Supplier Diversity Survey in February and submitting our annual report to the CPUC by the March 1, 2024 deadline.

Provider of Last Resort– R.21-03-011

The CPUC issued a [Scoping Memo and Ruling](#) on September 16, 2021, to set forth the scope in the POLR proceeding. This proceeding implements the POLR requirements and framework directed by [SB 520](#). The POLR proceeding will be considered in three phases. Phase 1 will focus on issues necessary to establish a comprehensive framework for existing POLRs. Phase 2 will set rules that allow a different entity to be designated as the POLR. Phase 3 may be opened to consider any additional issues not covered in Phase 1 or 2.

OCPA is awaiting a PD that was expected in October 2023.

Renewables Portfolio Standard (RPS) Program – R.18-07-003 & R.24-01-017

The RPS proceeding monitors compliance by “retail sellers,” including IOUs, CCAs and ESPs, within the RPS program. Current RPS rules require 60 percent of retail sales to be from RPS-eligible resources by 2030, and at least 65 percent of the procurement a retail seller counts toward the RPS requirements to be from long-term contracts (ten years or more in duration). In addition, the RPS proceeding is the venue in which the PCIA/RPS Voluntary Allocation and Market Offer (VAMO) is being considered.

The Commission opened a new proceeding, R.24-01-017 to continue implementation and administration of the RPS program.

Resource Adequacy (RA)– R.21-10-002 and R.23-10-011

The [OIR](#) for R.23-10-011 continues the CPUC’s oversight of the RA program, establishes forward RA procurement obligations applicable to load-serving entities beginning with the 2025 compliance year, and considers structural reforms to the program. This proceeding is the successor to Rulemaking 21-10-002 and includes the following issues in scope: Adoption of local and flexible RA requirements, LOLE study and PRM, 24-hour SOD framework, unforced capacity (UCAP), qualifying capacity (QC) counting conventions, RA compliance and penalties, and other refinements to the RA program.

Workshops on proposals, including a CalCCA proposal, will take place on February 14, 2024. Revised Slice-of-Day Proposals are due February 23, 2024. Comments on proposals are due March 8, 2024. Reply comments on proposals are due March 22, 2024. A proposed decision is expected in May 2024 and a decision in June 2024.

Day-Ahead Market Enhancements (DAME)

The objective of the DAME initiative is to enhance the day-ahead market to ensure it schedules sufficient real-time dispatch capability to meet load imbalances and uncertainty that materialize between the day-ahead and real-time markets. The CAISO hosted a call on February 6, 2024, to update on DAME and Extended Day-Ahead Market (EDAM) progress.

Interconnection Process Enhancements (IPE)

This ongoing initiative works to improve the CAISO’s generator interconnection and deliverability allocation procedures (GIDAP). Given the current size of the interconnection queue, the focus of the current phase of IPE is on topics that would aid in moving resources more efficiently and effectively through the queue. A Draft Final Proposal meeting will be held February 15, 2024. Comments on the Draft Final Proposal are due February 29, 2024.

Energy Resource Recovery Account (ERRA) Compliance

Southern California Edison (SCE) filed rebuttal testimony for their 2022 ERRA Compliance application on January 31, 2024. A status conference is being held on February 15, 2024. Hearings are expected to begin in mid-March.

ERRA Forecast

OCPA continues to monitor the SCE ERRA forecasts to ensure accuracy of forecast account balances and rates and cost calculations in workpapers. Also, to ensure costs are attributed to the proper PCIA vintages and properly between bundled and unbundled customers. 2025 ERRA forecasts are expected in May 2024.

General Rate Case (GRC)

OCPA continues to participate in the SCE GRC to ensure accuracy and reasonableness of forecast of costs, ensure revenue requirements are properly allocated to PCIA vintages, and ensure costs

are properly allocated across major work categories. SCE 2025 GRC intervenor testimony is due on February 29, 2024.

LEGISLATIVE UPDATE

In order to amplify our organization's impact and engage in proactive advocacy, the Board of Directors and key staff will travel to Sacramento, CA in February and Washington, D.C. in March. These trips will serve as a crucial opportunity for OCPA to directly interface with policymakers, fostering relationships and actively participating in discussions on issues vital to our mission.

AB 1912 (Pacheco) - Electricity: measures imposing mandated program and requirements: third-party review

This bill would require a 3rd party review (specifically UC Berkeley) of legislation that would propose new IOU mandated programs or requirements to be completed prior to a policy committee hearing the bill.

The bill was introduced on January 24, 2024, and is currently awaiting a hearing in the Committee on Utilities and Energy.

AB 1999 (Irwin) - Electricity: fixed charges

Repeals the provisions of AB 205 (2022, Ting) that authorizes the PUC to establish fixed charges to residential customers and requires that fixed charge "authorization" to occur no later than July 1, 2024. The provisions also require the fixed charges to be established on an income-graduated basis, with no fewer than 3 income thresholds, and so that low-income ratepayers would see a lower average monthly bill without making changes in usage.

The bill was introduced on January 30, 2024, and is currently awaiting assignment.

SB 938 (Min) - Electrical and gas corporations: rate recovery: political activities and advertising

This bill prohibits an electrical or gas corporation from spending money on certain political activities from funds collected by ratepayers.

The bill was introduced on January 17, 2024, and is currently awaiting assignment.

SB 993 (Becker) - Clean energy development incentive rate tariff

Requires the PUC to develop a special tariff to support the development of green hydrogen and the electrification of industrial heat by providing attractive rates at times when the state has abundant clean energy. This tariff would offer these new customers pricing to help them be cost-competitive, but only if they operate in a way that relies on clean energy, avoids new grid infrastructure costs, and helps maintain a reliable grid.

The bill was introduced on January 31, 2024, and is currently awaiting assignment.

SB 1003 (Dodd) - Electrical corporations: wildfire mitigation plans

Direct the Office of Electrical Infrastructure Safety to consider the timeliness of investor-owned utility electrical infrastructure upgrades when reviewing the utilities' wildfire mitigation plans to

ensure that the maximum amount of risk from utility sparked wildfires is reduced in the shortest amount of time.

The bill was introduced on February 1, 2024, and is currently awaiting assignment.

FISCAL IMPACT

None

ATTACHMENTS

Letter to California Energy Commission on the Request for Information Re: Inflation Reduction Act Residential Energy Rebate Programs (DOCKET No. 23-DECARB-01)

January 26, 2024

California Energy Commission
Docket Unit, MS-4
Docket No. 23-DECARB-01
715 P Street
Sacramento, California 95814
docket@energy.ca.gov

Re: Ava Community Energy, San Jose Clean Energy, Orange County Power Authority, Redwood Coast Energy Authority, Peninsula Clean Energy, and Silicon Valley Clean Energy on the Request for Information Re: Inflation Reduction Act Residential Energy Rebate Programs (DOCKET No. 23-DECARB-01)

Dear Commissioners and Staff:

We write on behalf of Ava Community Energy, San Jose Clean Energy, Orange County Power Authority, Redwood Coast Energy Authority, Peninsula Clean Energy, and Silicon Valley Clean Energy (the Signatories) to comment on the Request for Information regarding Inflation Reduction Act Residential Energy Rebate Programs (RFI).

Our six CCAs are committed to providing renewable, affordable, and accessible power to our local communities, and accelerating the decarbonization of the grid in California. Our CCAs run programs on building electrification for the target population of the HOMES program, and wanted to share that expertise.

Please find below our detailed comments addressing specific prompts in the RFI. The main points:

- The Signatories support the braiding of the Inflation Reduction Act's (IRA) Home Efficiency Rebates Program (HOMES) and California's Equitable Building Decarbonization Direct Install Program (EBD), with the caveat that the California Energy Commission (CEC) should allow HOMES to be available to all eligible households regardless of their geographic location. Deed-restricted multifamily properties should also have access.
- HOMES' energy-efficiency retrofits should be delivered in coordination with electrification retrofits to avoid additional stress on the grid and to mitigate costs for customers.
- The CEC should meaningfully engage low- and moderate-income customers through existing trusted organizations to quickly establish community trust in the program and to ensure its success

The Signatories are pleased to offer the following specific comments on the RFI:

1. Braiding HOMES with Equitable Building Decarbonization Direct Install Program

- a. Share any best practices for braiding federal and state funds for highly effective rebate, incentive, and/or direct install programs aimed at households in disadvantaged communities or meeting low-income guidelines.*

The following best practices are based on the Signatories' experience in delivering energy efficiency and electrification programs and RMI's recommendations on stacking federal, state, and local incentives¹:

- **Maximize participant eligibility.** In general, the Signatories support streamlining program implementation to deliver benefits quickly and efficiently to participants with reduced administrative costs. Braiding both the EBD and HOMES programs would reduce participant confusion in navigating multiple programs and would allow the CEC to deliver more benefits through concurrent energy efficiency and electrification upgrades.

However, the Signatories discourage CEC from braiding the programs in a way that excludes the eligibility of potential participants. While HOMES is available to participants that meet certain income requirements, the EBD guidelines additionally require participants to be located within certain census tracts.² If the HOMES and EBD programs are braided, CEC should allow HOMES funding to be available to all eligible participants regardless of census tract location. Many low-income, single-family customers and affordable housing developments in the Signatories' territories that would have otherwise been eligible for HOMES will not qualify based on the EBD's census tract restrictions.

- **Provide meaningful community engagement, education, and support.** The Signatories recognize that EBD administrator teams must include local community-based organizations (CBOs) for culturally-appropriate outreach, education, and support for participating households and communities. A key aspect common to successful low-income programs is building trust between program administrators and participants. Many underserved community members are reluctant to engage in programs for a wide variety of reasons including language barriers, historic injustices, and other concerns. Engagement through existing trusted organizations is essential to quickly establish community trust in the program and to ensure its success.

Partnerships with trusted CBOs can help identify and address needs, concerns, and barriers that low-income households face when accessing state programs. The Signatories encourage CEC's selected administrators to be flexible and responsive to participants' needs throughout program design and implementation. Because community needs can

¹ RMI, *Gaps and Barriers to Stacking Federal, State, and Local Incentives* (2023), available at: https://rmi.org/wp-content/uploads/dlm_uploads/2023/12/stacking_federal_state_and_local_incentives.pdf

² California Energy Commission, *Equitable Building Decarbonization Direct Install Program Guidelines* (2023), available at: <https://www.energy.ca.gov/publications/2023/equitable-building-decarbonization-direct-install-program-draft-guidelines> p.8

vary significantly across different geographic regions and populations, CEC's selected administrators should host several workshops throughout the three statewide regions to gather local community input in a way that builds upon the communities' lived experiences and interests. Proposals should include specifics of how administrators will engage communities and how the communities' input will be incorporated into program design and implementation.

- **Consolidate and streamline application and technology requirements.** Contractors and participants can face difficulties understanding and meeting all the requirements needed to qualify and stack incentives across different programs. In a braided EBD-HOMES program, CEC should replicate existing application platforms, data collection procedures, and other administrative activities to easily familiarize contractors and participants. In addition, CEC should standardize technology performance standards across its programs and publish a list of qualified products to help contractors and participants choose products easily across different programs.
- **Prioritize pre-electrification upgrades as well as health and safety repairs.** Funding for pre-electrification upgrades (e.g., wiring, electric panel upgrades, etc.) and health and safety repairs (e.g., lead and asbestos abatement, code violations, etc.) are critical gaps within energy-incentive programs.³ Addressing these critical gaps is especially important when retrofitting low-income housing that is older and undermaintained. The Signatories encourage CEC to allow HOMES funding for these critical gaps in alignment with the EBD's average per-home cost for remediation and safety measures.
- **Maximize incentive amounts for distinct upgrades.** Because low-income households' low- or no-tax burdens prevent them from claiming the federal 25C tax credit (i.e., Energy Efficiency Home Improvement Credit), stacking incentives for these participants should be focused on maximizing incentive amounts for distinct upgrades.⁴ CEC's selected administrators should demonstrate understanding of and ability to stack and braid federal, state, and local programs. Proposals should include specifics of the administrator's approach to identifying the maximum incentive for a particular home, how the administrator intends to assist participants with stacking/braiding incentives, and examples of rebate stacking/braiding across different household incomes and upgrade measures.

2. *In the situation where CEC **does not incorporate/braid HOMES** program funding into the EBD Direct Install Program, respond to the following questions to inform CEC's HOMES program design and application to DOE.*

³ RMI, *Gaps and Barriers to Stacking Federal, State, and Local Incentives* (2023), available at: https://rmi.org/wp-content/uploads/dlm_uploads/2023/12/stacking_federal_state_and_local_incentives.pdf p.11

⁴ AnnDyl Policy Group, *Maximizing Impacts of HOMES, HEEHR, 25C Tax Credit, WAP, GCRF, and Utility Programs for Existing Single-Family Homes*, available at: <https://anndyl.com/wp-content/uploads/2023/10/AnnDyl-Residential-Capital-Stack-Briefing-Paper2.pdf> p.3

a. Overall program design:

- i. How can HOMES funds that are awarded to deliver residential whole building energy efficiency retrofits, be best utilized to support the state's decarbonization and electrification goals?*

Electrification retrofits can be delivered in coordination with whole-building energy-efficiency retrofits to achieve California's decarbonization goals. This approach avoids additional load and stress on the grid and can also mitigate increased energy bill costs for residents. In this case, HOMES incentives should be flexible and have minimal restrictions with respect to other complementary programs so participants can receive holistic offerings. The Signatories encourage CEC's selected administrators to coordinate with CCAs to deliver complementary energy-efficiency and electrification-program offerings.

- ii. Aside from ensuring that program participation is a simple process from the resident's point of view and the need to avoid cash outlays, how should the program be structured to support widespread access and uptake in households located in disadvantaged communities or with a low income? How could CEC structure HOMES's pay-for-performance option to reach low-income communities more effectively?*

To make it easier for low-income households to optimize their energy consumption, HOMES should fund and encourage installation of programmable or connected devices such as smart thermostats, heat pump water heaters, and HVAC systems. However, the Signatories discourage CEC from requiring installation of such devices to participate in HOMES. This may create implementation barriers for low-income participants that have no- or limited-access to in-home internet connectivity.

- iii. If funds are provided directly to existing residential efficiency programs, which programs will make the highest impact in terms of market transformation for efficiency and decarbonization technology.*

At this time, the Signatories have no comment on this question.

iv. Leveraging and stacking

Please see answers above in Section 1.

b. Rebate determination approach and rebate values.

- i. What are the advantages and drawbacks of program design using the fixed costs versus pay-for-performance method? Can the pay-for-performance method effectively serve low-income households?*

At this time, the Signatories have no comment.

- ii. What are the options to manage and allocate performance risk and financing costs during the 9 to 12-month post-installation period prior to issuing the rebate? Options should consider at a minimum that: low-income households are not required to utilize personal funds to pay for*

rebated work, the inability for many contractors, installers, or small businesses to “float” rebate costs, and the cost of capital for aggregators (or some designated entity) to float those costs.

At this time, the Signatories have no comment.

- iii. For the fixed cost method, how should the CEC approach setting allowable project cost caps? What are similar programs CEC should use as examples?*

At this time, the Signatories have no comment.

- iv. What is the best way for the CEC to obtain consistent and sufficient documentation for contractors, such as itemized cost breakdowns, while remaining consistent with contractor business practices?*

For continuity and familiarity for contractors, the Signatories encourage CEC to replicate existing administrative practices and processes in programs like TECH Clean CA. Contractors should submit a completed application with project information, itemized cost breakdowns, and other project details and documentation so that CEC’s selected administrators can issue incentives. Additionally, CEC should offer training and technical assistance in multiple languages to help contractors understand application and program requirements.

c. Eligible recipients.

- i. Should the CEC reserve additional HOMES funds for low-income households, beyond the DOE-requirement of 50 percent of total rebate funds? If so, why, and what percent?*

Manufactured homes represent the largest source of unsubsidized affordable housing in the United States, and roughly half of the residents are low-income.⁵ The Signatories recommend CEC set aside 5% of HOMES funds towards manufactured homes in alignment with EBD guidelines. Manufactured homes have unique complexities and retrofit barriers compared to site-built homes. Setting aside funds will ensure low-income residents living in manufactured homes will have equitable access to HOMES funds.

d. Income Verification.

- i. What approaches should CEC consider to verify individual household income that are efficient and accurate, safeguard information, and create minimal burden for residents? Please provide examples of other programs and why you consider them effective models?*

⁵ American Council for an Energy-Efficient Economy. *States and Utilities Can Help Upgrade Manufactured Homes* (2023) available at: <https://www.aceee.org/blog-post/2023/08/states-and-utilities-can-help-upgrade-manufactured-homes>

For consistency across programs, CEC should use EBD's income eligibility guidelines, including EBD's list of assistance programs to qualify a participant as low-income to simplify administrative processing.

ii. The EBD Direct Install Guidelines established a list of federal and state assistance programs that can be accepted to qualify a resident as low-income (i.e., "Categorical Eligibility"). Should the CEC utilize the same list of programs for Categorical Eligibility for a program(s) developed with HOMES funding? In addition to the programs found in Section E.3. of the Guidelines, are there additional programs CEC should consider?

Yes, the CEC should utilize the same list of programs for Categorical Eligibility for a program developed with HOMES funding.

--

Thank you for considering our comments. We look forward to opportunities to collaborate.

Sincerely,

Girish Balachandran
Chief Executive Officer
Silicon Valley Clean Energy

Nick Chaset
Chief Executive Officer
Ava Community Energy

Zachary Struyk
Assistant Director
San Jose Clean Energy

Joe Mosca
Interim CEO
Orange County Power Authority

Eileen Verbeck
Acting Executive Director
Redwood Coast Energy Authority

Shawn Marshall
Chief Executive Officer
Peninsula Clean Energy

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 9.4

To: Orange County Power Authority Board of Directors

From: Joe Mosca, Interim Chief Executive Officer

Subject: ADOPTION OF REVISIONS TO POLICY NO. 05 – BOARD OF DIRECTORS
AND COMMUNITY ADVISORY COMMITTEE MEMBER’S COMPENSATION
AND EXPENSE REIMBURSEMENT POLICY

Date: February 20, 2024

RECOMMENDATION

1. Adopt revisions to Policy No. 05 – Board of Directors and Community Advisory Committee Members’ Compensation and Expense Reimbursement Policy.

BACKGROUND

The proposed revisions to the Policy would allow Community Advisory Committee Members (“Committee Members”) to attend annual conferences of the California Community Choice Association (“CalCCA”) and be eligible for reimbursement of their reimbursable expenses, pursuant to the Policy, following the same process for reimbursement followed by Directors for reimbursement of their eligible expenses. Pursuant to the revised Policy, Committee Members will be eligible only for those reimbursable expenses related to their attendance at an annual CalCCA conference. Furthermore, to be eligible for reimbursement of their Cal-CCA annual conference-related expenses, Committee Members must successfully complete the ethics training required by Government Code Section 53235 and the sexual harassment training and education required by Government Code Section 53237.1. The number of Committee Members eligible to attend a CalCCA annual conference and receive reimbursement would be determined prior to each CalCCA annual conference by the Chief Executive Officer, in consultation with the Board Chair.

The proposed revisions also reflect some minor grammatical changes.

FISCAL IMPACT

The FY2023/24 budget has included an adequate buffer to absorb the fiscal impact resulting from the proposed policy revision.

ATTACHMENT

Attachment A – Proposed revisions (redline) to Policy No. 05 – Board of Directors and Community Advisory Committee Members’ Compensation and Expense Reimbursement Policy

ORANGE COUNTY POWER AUTHORITY
Policy Number 005: Board of Directors and Community
Advisory Committee Members' Compensation and Expense
Reimbursement Policy

This Policy governs compensation and reimbursement of expenses for members of the Authority's Board of Directors and Community Advisory Committee (Committee Members). The Policy applies to both regular members of the Board and alternate members, as well as Committee Members as specified herein.

DIRECTORS' COMPENSATION

Pursuant to this Policy adopted by the Board of Directors, the Authority is authorized to compensate Board members in the amount of \$300 for (1) attending each meeting of the Board of Directors, and (2) otherwise providing a day of service to the Authority. Pursuant to Section 3.8 of the Authority's Joint Powers Agreement, the Authority's compensation to Board members shall not be less than the amount provided to directors of the Orange County Sanitation District (OCSD). In compliance with OCSD's current ordinance relating to OCSD director compensation, on January 1 of each year, beginning with January 1, 2025, the amount of compensation for attending each meeting of the Board of Directors or otherwise providing a day of service to the Authority shall increase automatically by five percent (5%) unless said increase is waived by the OCSD board of directors or OCSD's ordinance is repealed or amended to eliminate such automatic increases. The Policy limits compensation to a specified maximum number of days per month. The Board of Directors may, from time to time, amend the Policy to change the amount of compensation and/or the maximum number of compensable days per month.

The following activities are compensable.

Compensable Activities

1. Meetings
Each regular Director shall be entitled to compensation for attendance at (1) each meeting of the Board of Directors; (2) each meeting of a standing committee on which the Director serves; (3) each meeting of an ad hoc committee to which the Director has been duly appointed; (4) each meeting of any joint governmental board, committee, or association to which the Director has been appointed as the Authority's representative; and (5) attendance at California Community Choice Association (CalCCA) annual conferences. Each alternate Director shall be entitled to compensation for attendance at a meeting when, and only when, the alternate Director attends the meeting in place of the regular Director.
2. Required Training
Each Director shall be entitled to compensation for attendance at the ethics training required by Government Code Section 53235 and the sexual harassment training and education required by Government Code Section 12950.1.
3. Other Activities
The Chair of the Board of Directors and Chief Executive Officer may, on a case-by-case basis, authorize compensation of individual Directors for a day of service when participating in the following types of activities: (1) meetings with representatives of local, regional, state, or national government on issues affecting the Authority; (2) meetings, conferences, and seminars relating to the business and operation of community choice aggregation entities, (3) ceremonial events sponsored by the Authority; (4) ceremonial events sponsored by

another organization; (5) meetings of agencies, nonprofit organizations, or service clubs where the Director makes a presentation on behalf of the Authority; and (6) meetings with Authority staff, including telephone conferences when physical attendance is impractical.

4. Considerations

The Board Chair and the Chief Executive Officer shall approve compensation under Section 3 above only for activities that provides a benefit to the Authority. Benefits include, but are not necessarily limited to, the acquisition of information, education, training, and skills that will further the Authority's mission and purpose. Other benefits include positive changes to federal and state statutes and regulations that govern the Authority, and maintenance of positive relations with the public and other governmental agencies.

Limitation

In no event shall a Director receive compensation for more than one meeting or other activity on the same day. Directors may not be compensated for more than six meetings per month.

Non-Compensable Activities

Notwithstanding the section above, Board members shall not receive compensation for the following activities: (1) attendance at meetings or events of nonprofit organizations or service clubs, except when the Board Chair and Chief Executive Officer ~~has~~ have authorized the Director to make a presentation on behalf of the Authority as described above; (2) Authority sponsored employee events including, but not limited to, the annual employee holiday luncheon and retirement events; (3) parades, festivals, holiday events, or retirement dinners; (4) meetings, without Authority staff present, with existing or potential contractors, vendors, or consultants; (5) meetings of partisan political organizations; (6) meetings, tours, and similar events conducted at the request of the Board member; or (7) any activity not described above.

REIMBURSEMENT OF DIRECTORS' AND COMMITTEE MEMBERS' EXPENSES

Approved Activities

In accordance with the terms of this Policy, the Authority will reimburse Directors for certain expenses incurred in connection with the compensable activities described above in Directors Compensation; provided, however, that alternate Directors shall be authorized to attend CalCCA conferences and shall be eligible for reimbursement of associated expenses as set forth below, whether or not the alternate Director is attending the conference in place of the regular Director. The Authority will not reimburse Directors for any other expenses.

In accordance with the terms of this Policy, the Authority will reimburse Committee Members for certain expenses set forth below incurred solely in connection with their attendance at CalCCA annual conferences. The number of Committee Members eligible to attend a CalCCA annual conference and receive reimbursement under this Policy shall be determined prior to each CalCCA annual conference by the Chief Executive Officer, in consultation with the Board Chair. To be eligible to receive reimbursement for expenses incurred in connection with attendance at a CalCCA annual conference, the Committee Member must successfully complete ethics training required by Government Code Section 53235 and the sexual harassment prevention training and education required by Government Code Section 53237.1. The Authority will not compensate or otherwise reimburse any expenses of Committee Members.

Reimbursable Expenses

1. Transportation

In travelling to and from events, Directors and Committee Members must use the most economical form of transportation that is reasonably consistent with the Director's or Committee Member's travel and scheduling requirements.

2. Mileage for Personal Vehicles

- a. The Authority will reimburse Directors and Committee Members for use of personal vehicles based on actual miles traveled at the then-current "standard mileage rate" adopted by the U.S. Internal Revenue Service for use in deducting the cost of operating an automobile for business purposes. The Authority will not reimburse Directors or Committee Members for any other personal vehicle expenses.
- b. When calculating mileage traveled by a Director or Committee Member to attend an event, the Authority will use the lesser of (1) the distance from the administrative headquarters of the Director's or Committee Member's appointing member agency to the event, and (2) the actual distance traveled. Mileage reimbursements shall not exceed the cost of the lowest available airfare.

3. Other Transportation Expenses

- a. When travel by personal vehicle is impractical, the Authority will reimburse Directors and Committee Members for the actual cost of (1) regularly-scheduled travel by airplane, train, bus, or other commercial carrier, (2) rental cars, and (3) taxis and other comparably-priced for-hire vehicles. The Authority will also reimburse Directors and Committee Members for related necessary travel expenses such as baggage fees, toll charges, and parking fees. Directors and Committee Members must take advantage of any government or group rates offered by a transportation provider.
- b. Before deciding to travel by air, each Director and Committee Member must consider the total cost of alternatives, including the cost of ground transportation and any necessary lodging. Each Director and Committee Member should also consider alternative departure times, departure and arrival airports, dates, departure times, and stopovers to minimize airfare. Directors and Committee Members should request travel arrangements as early as possible to take advantage of lower airfares.
- c. Generally, the Authority will ~~only~~ reimburse Directors and Committee Members only for air travel in coach class. When necessary based on a Director's or Committee Members' physical needs and/or the need to conduct meaningful work during a flight, the Board Chair has the discretion to approve reimbursement of first-class air travel. For trips that will exceed 24 hours, Directors and Committee Members must use their personal cars to travel to and from the airport, and utilize long-term airport parking, rather than pay for a taxi or other transportation to and from the airport.

4. Lodging

- a. The Authority will reimburse Directors and Committee Members for actual and necessary lodging expenses incurred in attending a conference, seminar, or meeting (for Committee Members, attendance is limited to annual CalCCA conferences). Directors and Committee Members must take advantage of any government rate or group rate for lodging whenever possible. If there is no government or group rate, the Authority will reimburse Directors and Committee Members for lodging up to the per diem rate used by the U.S. Internal Revenue Service as the maximum

allowable deduction for business-related lodging expenses. The per diem rates are set by the General Service Administration (“GSA”) for federal employees. The rates are set forth at GSA.gov/per diem.

- b. Lodging in connection with an activity that lasts only one day is considered “necessary” when the travel time to and from the activity exceeds two hours.
5. Meals
The Authority will reimburse Directors and Committee Members for actual and necessary dining expenses incurred while attending (1) a conference, seminar, or meeting outside of the Authority, or (2) an Authority-related business meeting within the Authority. The Authority will reimburse Directors and Committee Members up to the applicable GSA per diem rate for each separate meal set forth at GSA.gov/per diem.
6. Incidentals
The Authority will reimburse Directors and Committee Members for actual and necessary incidental expenses incurred while attending a conference, seminar, or meeting outside the Authority, up to the applicable GSA per diem rate set forth at GSA.gov/per diem. Reimbursable expenses include tips given to drivers, porters, bellhops, baggage carriers, and hotel housekeepers.
7. Travel Arrangements
Each Director and Committee Member must utilize Authority staff to arrange all travel, lodging, and event registrations. The Chief Executive Officer shall designate an Authority employee responsible for making these arrangements. The Chief Executive Officer shall designate a single travel agency for use in making all travel arrangements.

Expenses That Are Not Reimbursable

The Authority will not reimburse Directors or Committee Members for the costs of: (1) barber and/or beauty shop services; (2) fines for traffic or parking violations; (3) any person accompanying a Director or Committee Member on a Authority--approved trip or event; (4) personal telephone calls; (5) fitness/health facility use; (6) massages; (7) alcoholic beverages; (8) entertainment (movies, sporting events, etc.); or (9) vehicle expenses other than the standard mileage charge.

Reimbursement Procedure

Each Director or Committee Member seeking reimbursement must file with the Secretary of the Board an expense report no later than three weeks after the conclusion of the compensable or reimbursable activity. The report shall attach detailed, actual receipts for all expenses. The report shall document that each expense meets the requirements for reimbursement set forth in this Policy. Without limiting the foregoing, each report shall identify the compensable activity and the date, nature, and purpose of each expense for which reimbursement is sought. For reimbursement of a personal vehicle expense at the standard mileage rate, the expense report shall identify the date of the travel, the actual miles traveled, and the business purpose of the travel. The Chief Executive Officer shall prepare a standard form of expense report for use by Directors and Committee Members in seeking reimbursement.

Board Reports

Each Director and Committee Member seeking reimbursement of expenses incurred in connection with an activity shall provide a brief report of the activity at the next regular meeting of the Board

of Directors or Community Advisory Committee, as applicable.

Other Expenses

Any expense that does not meet the requirements of this Policy may be reimbursed only if the Board of Directors approves the expense at a public meeting before the expense is incurred.

PENALTIES

Any Director or Committee Member that misuses public resources or falsifies an expense report required by this Policy is subject to the following penalties: (1) loss of reimbursement privileges; (2) restitution of the Authority; (3) civil penalties for misuse of public resources pursuant to Government Code Section 8314; and/or (4) prosecution for misuse of public resources pursuant to Penal Code Section 424.

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 10.1

To: Orange County Power Authority Board of Directors

From: Joe Mosca, Interim Chief Executive Officer

Subject: UPDATE ANNUAL ENERGY USE AND VOTING SHARES

Date: February 20, 2024

RECOMMENDED ACTION

Approve update to the weighted voting exhibits of OCPA's Joint Powers Agreement.

BACKGROUND

Weighted voting allows Directors to vote in accordance with the proportion of electricity used by users within their respective jurisdictions. This type of voting can be invoked by two or more Directors in limited circumstances, such as when there is a tie vote by the Board for Directors or to immediately nullify an action that was passed by an "equal vote" of the Board.

Weighted voting is governed by Section 3.9.3 of the Joint Powers Agreement. This section provides a formula for the first two years following the Effective Date of the Agreement (during which time the JPA is getting up and running and will not be serving load directly) and a separate formula following the second anniversary of the Effective Date (which is based on actual electrical use served by OCPA to accounts within each member jurisdiction). The exhibits for weighted voting are required to be updated each year no later than March 1 based on prior year numbers.

FISCAL IMPACT

There is no fiscal impact.

ATTACHMENT

Attachment A – Updated Party Voting Shares of the Joint Powers Agreement.

EXHIBIT B
ANNUAL ENERGY USE BY JURISDICTION

Effective: _____, 2024

Jurisdiction	kWh (2023)
City of Buena Park	296,533,209
City of Fullerton	497,922,072
City of Huntington Beach	557,651,578
City of Irvine	1,290,791,614
Total	2,642,898,473

EXHIBIT C
PARTY VOTING SHARES

Effective: _____, 2024

Jurisdiction	Voting Share
City of Buena Park	11.2%
City of Fullerton	18.8%
City of Huntington Beach	21.1%
City of Irvine	48.9%
Total	100.00%

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 10.2

To: Orange County Power Authority Board of Directors

From: Joe Mosca, Interim Chief Executive Officer
Kirby Dusel, Pacific Energy Advisors
John Dalessi, Pacific Energy Advisors

Subject: FEED IN TARIFF PRESENTATION AND DISCUSSION

Date: February 20, 2024

RECOMMENDED ACTION

1. Discuss and provide guidance on the establishment of a prospective Orange County Power Authority Feed-in Tariff program.
2. Authorize Chief Executive Officer to establish a pilot Feed-in Tariff program for Orange County Power Authority, including authority to develop a program application and program standards/guidelines, and to negotiate and enter into power purchase agreements for up to two (2) megawatts for eligible projects.

BACKGROUND

Feed-in Tariff (FIT) programs are designed to encourage investment in small-scale, locally situated renewable energy projects, which can serve as supplemental sources of supply within a load service entity's resource portfolio. Several California Community Choice Aggregators (CCAs), as well as each of the Investor-Owned Utilities, currently administer FIT programs and have supported the development of numerous renewable energy projects through this streamlined procurement structure.

FIT programs are specifically intended to incentivize small-scale renewable project development within the service territory of the sponsoring utility/CCA. Participating projects are generally limited to no more than one megawatt and must transact through a non-negotiable, standardized contract that provides the project developer/seller with a fixed, relatively high energy price over a delivery term ranging from 10 to 25 years. FIT pricing is often "above market," meaning that the sponsoring utility/CCA has incorporated pre-determined financial incentives that are considerate of the economic challenges often faced when developing small renewable generating resources within California and, more specifically, within areas of the state that may prescribe rigorous permitting requirements and reflect high land costs amongst other challenges. A long-term contract is typically necessary to support project financing and development cost recovery, but these extended delivery terms are generally aligned with the sponsoring utility's/CCA's goals and objectives, as such organizations tend to welcome longer term relationships with locally situated sources of supply.

As previously noted, FIT programs are complementary to the utility-scale generating projects that are also pursued within a broader supply portfolio. During early-stage program administration, purchases under a FIT program tend to represent a very small portion of the sponsoring utility's/CCA's overall resource needs, but this can change over time. An OCPA FIT program will help OCPA meet energy procurement goals set forth in our Strategic Plan and will help us get to 100% renewable energy with increased use of local resources.

OCPA staff are bringing this proposal forward for discussion and, if your Board is supportive of launching a pilot FIT program, staff will continue developing the FIT tariff document, project application and power purchase agreement. As described in the accompanying presentation, staff are recommending that OCPA consider launching its FIT as a relatively small pilot program with two (2) megawatts available for eligible projects. Before entering into a FIT PPA, it is further recommended that OCPA staff collect information regarding each prospective FIT project through a FIT application, which would include detail regarding project location, development progress, interconnections status, environmental considerations, financing plans and other key details. Following review of such application (for completeness and conformance with OCPA's minimum eligibility requirements), the applicant would be eligible to reserve a spot in OCPA's FIT queue and may proceed, pending availability of program capacity, with the execution of a FIT power purchase agreement. Similar to other project development opportunities, FIT projects may require one to three years to complete necessary pre-development, development and construction activities. Key documents from other successful and active FIT programs, including the tariff, application, and PPA are attached. At the moment, OCPA's FIT will be based on similar offerings/documents that have been successfully used by other CCAs.

FISCAL IMPACT

On a per-megawatt-hour basis, FIT energy costs are expected to exceed those of other utility-scale renewable energy purchase options. For example, utility-scale photovoltaic solar energy is currently priced in the range of \$45-50 per megawatt-hour (when delivered under a contract term ranging from 15 to 25 years), but FIT pricing will likely need to be two times this amount to attract eligible project opportunities. With this in mind, and for the sake of example, an OCPA FIT pilot program capped at two (2) megawatts would cost the organization about \$160,000 more per year than similar, utility-scale renewable energy purchase options. This estimated annual cost impact would scale, up or down, based on the eventual FIT price adopted by OCPA and then current market prices for similar utility-scale renewable energy products. For this reason, it is recommended that OCPA consider pursuing a FIT program with a relatively modest participatory cap before expanding over time.

ATTACHMENT

Attachment A – Feed-in Tariff Overview & Proposed Program Parameters Presentation

Attachment B – RCEA FIT Eligibility Criteria

Attachment C – RCEA FIT Application

Attachment D – RCEA FIT Power Purchase Agreement

Attachment E – SDCP FIT Power Purchase Agreement

Feed-in Tariff Overview & Proposed Program Parameters

Pacific Energy Advisors

Kirby Dusel
John Dalessi

Board Meeting
February 20, 2024



Feed-In Tariff: Overview

Feed-In Tariff for local, small -scale RE projects

- Provides opportunity for local RE developers to transact with OCPA
- Creates opportunity for smaller-scale projects
- Strikes balance between goal of RE advancement, rate impacts to OCPA customers, operations and budgetary impacts
- Standard offer eliminates need for negotiation and minimizes administrative costs
- Successfully administered by IOUs and CCAs
- Ongoing wholesale supply opportunity, subject to participatory cap
- Complementary to other wholesale RE supply



Feed-In Tariff: Key Considerations & Requirements

Often introduced as pilot program

- Initial parameters represent starting point, subject to change– FIT will evolve over time
 - Allows sponsor (Load Serving Entity) to gauge participant interest
 - Allows sponsor to develop experience with FIT Program on a manageable scale
 - Allows flexibility related to pricing, program expansion and other parameters
-
- Standard offer: non-modifiable contract
 - Total Program Size (limit): 25 MW
 - Individual Project Size (limit): ≤ 1 MW
-
- Contract Term: 10, 15 or 20 years
 - Location: w/in OCPA Service Territory
 - Eligible Technologies/Fuel Sources: all RPS-eligible technologies w/CEC certification required
 - Pricing Level(s) & Structure(s): may vary by technology type and/or delivery profile; should reflect value of energy, plus adjustments for local development costs and/or project size

Initial Recommendations

Proposed OCPA Feedin Tariff Program



Initial Recommendations

- Launch OCPA as Pilot Program
- Begin accepting project applications in Spring 2024
- FIT Contract Form: utilize existing templates created by other CCAs (MCE or RCEA, as examples), subject to legal review
- Initial Participatory Cap (limit): 2-3 MW total
- Individual Project Size (limit): < 1 MW
- Contract Term: 10, 15 or 20 years (seller's choice)
- COD: no sooner than July 1, 2024; no later than June 30, 2026
- Project Location: must be w/in one of OCPA's Member Communities
- Eligible Technologies/Fuel Sources: all RPS-eligible technologies w/CEC certification required
- Pricing Level(s) & Structure(s): \$100/MWh base price (all generating technologies/delivery profiles)



Initial Recommendations

Pricing Level(s) & Structure(s) – Other Considerations

Initial Pricing Comps

- RCEA at \$90 with pricing subject to periodic adjustment (4.5 MW)
- SDCP at \$120 (Premium Hours 7 PM-Midnight); \$60 (Other Hours) (6 MW)
- MCE at \$60/MWh for larger projects (1-5 MWs) (10.8 MW)
- SCP previously at \$95/MWh, but program is fully subscribed

Incentives (range from \$1-5/MWh, additive to base FIT price)

- Incentives for projects developed by Local Business (+\$2.50-5.00/MWh)
- Incentives for use of previously developed sites (+\$2.50-5.00/MWh)
- Incentives for smaller projects (+\$2.50-5.00/MWh)
- Other?

Periodic evaluation of pricing relative to participation/success



Prospective Annual Budgetary Impact

Key Assumptions: typical annual solar PV production (1,600 MWh/year), utility scale renewable energy price ≈\$50/MWh

FIT Price	1 MW Cap	2 MW Cap	3 MW Cap	4 MW Cap	5 MW Cap
\$80/MWh	\$48,000	\$96,000	\$144,000	\$192,000	\$240,000
\$100/MWh	\$80,000	\$160,000	\$240,000	\$320,000	\$400,000
\$120/MWh	\$112,000	\$224,000	\$336,000	\$448,000	\$560,000

Participatory cap could be expanded if:

- 1) Incremental budgetary impacts are deemed acceptable to OCPA;
- 2) Initial projects are successfully operating; and
- 3) Program administration is not overly burdensome to OCPA staff.

Bioenergy Market Adjusting Tariff (BioMAT)



BioMAT

Overview

- Established by SB 1122 (Rubio, 2012)
- IOUs launched programs on December 1, 2015
- Feed-In Tariff for small bioenergy generators (less than 5 MW)
- Participatory cap is 250 MW
- Standard offer w/fixed price throughout contract delivery term

Three categories of eligible bioenergy projects/technologies:

- Category 1: biogas from wastewater treatment, municipal organic waste diversion, food processing and co-digestion
- Category 2: dairy and other agricultural bioenergy
- Category 3: bioenergy using byproducts from sustainable forestry

AB 843 allows CCAs to participate in BioMAT



BioMAT

- Prices have been VERY high: ~\$120-\$200/MWh
- Prices periodically adjust based on:
 - Market Depth
 - Subscription Rate
- Cost recovery is provided for within BioMAT contracts (CPUC administered)
- Public Purpose Program funding (non-bypassable charge for all ratepayers) is used to support cost recovery
- RECs and RA purchased through BioMAT contracts must be used to fulfill statutory/regulatory compliance mandates
- CalCCA submitted Advice Letter on behalf of four CCAs to request approval of certain program elements/documents for purposes of initiating participation

Questions?



FEED-IN TARIFF

Eligibility Criteria

An Eligible Small-Scale Distributed Renewable Generation Resource (“Eligible Resource”) must meet the following criteria:

New Resource. The Eligible Resource must be new, meaning that the Eligible Resource must not have produced or delivered electric energy prior to the date on which its FIT Application is received by RCEA.

Small-Scale. The nameplate generating capacity of any Eligible Resource must be smaller than 1 MW (megawatt), alternating current.

Located in RCEA Service Territory. The Eligible Resource must be located entirely within the service territory of Redwood Coast Energy Authority, as such service territory is defined on the date of FIT Application submittal.

RPS Compliant. The Eligible Resource must use a fuel source permitted under California’s current RPS program, as further described in the California Energy Commission’s Renewables Portfolio Standard Eligibility Guidebook. Eligible fuel sources include, but are not limited to, the following:

Biomass	Biodiesel
Fuel cells using renewable fuels	Digester gas
Landfill gas	Municipal solid waste
Ocean wave	Ocean thermal
Tidal current	Solar Photovoltaic
Small hydroelectric	Solar thermal
Wind	Geothermal

Interconnection. Projects need to interconnect using Pacific Gas & Electric Company (PG&E’s) Wholesale Distribution Tariff (WDT) to be eligible. Electric interconnection of the Eligible Resource, including execution of all applicable agreements, shall be the sole responsibility of the FIT applicant, inclusive of all related costs, and shall be completed consistent with interconnection requirements specified by PG&E and/or the California Independent System Operator (CAISO), as appropriate.

Permits. The FIT applicant must obtain all necessary permits from the appropriate jurisdictional agency having authority and shall maintain such permits, as may be required, for the duration of the Agreement.

Bundled Product. The product sold by an Eligible Resource and purchased by RCEA shall include all electric energy, net of station service, environmental attributes (including related Renewable Energy Certificates, which shall be transferred to RCEA) and capacity. For the sake of clarity, environmental

FEED IN TARIFF

attributes shall include all emission reduction benefits associated with the generation of renewable electricity by the Eligible Resource as well as other attributes. Participating Applicants will need to register with WREGIS and transfer all Renewable Energy Credits (RECs) to RCEA's account.

FIT Agreement. All Eligible Resources shall execute RCEA's FIT Agreement which is a standard, non-negotiable, long term power purchase agreement (PPA).

Prime Agriculture Land Exclusion. New renewable energy projects for the FIT may not be developed on Prime Agriculture land. Site eligibility may be determined by consulting the County of Humboldt's WebGIS portal <http://webgis.co.humboldt.ca.us/HCEGIS2.0/>. For prime agricultural soils, select the "Natural Resources" Layer Group and "NRCS 2014 Soils (Proposed)" Layer within that Group. Facilities on "Farmland of statewide importance" or "Prime farmland if irrigated" as identified in this Layer are discouraged.

FIT Agreement Length

Contract length will be set at 20 years. More details are in the standard contract.

FIT Contract Initial Base Price

The initial contract base price is \$0.08/kilowatt-hour (kWh) [*\$80/MWh*].

Market Adjusting Pricing

The base price for the FIT is subject to periodic adjustments based on the market. After each two-month period the base price of the FIT will be adjusted to reflect market interest in the program. In a two-month period, 2 MWs of capacity will be available for contract while total programmatic capacity lasts. At the end of each period, if 0-25% of the available capacity is claimed the base price in the next period will increase by \$0.002/kilowatt-hour (kWh) [*\$2.00/MWh*]. If 25%-75% of the period capacity is claimed, the base price in the next period will stay the same. If 75%-100% of the capacity is brought under contract, the base price for the next period will decrease by \$0.002/kilowatt-hour (kWh) [*\$2.00/MWh*]. The base price for each new period will be available on RCEA's website by the first day of the period.

Price Ceiling and Floor

While the FIT base price may adjust upward or downward from the initial \$0.08/kilowatt-hour (kWh) [*\$80/MWh*], the base price may not exceed \$0.09/kilowatt-hour (kWh) [*\$90/MWh*] and may not drop below \$0.07/kilowatt-hour (kWh) [*\$70/MWh*]. The base price ceiling and floor do not include bonus incentives. When applicable, bonus incentives may be included in a project's price that would otherwise exceed the price ceiling.

Bonus Incentives

RCEA may adjust FIT pricing for certain Eligible Resources that meet the following criteria:

Bonus Criteria	Bonus Amount	Bonus Payout Period
EnviroStor Brownfield	\$0.01 / kWh (<i>\$10 / MWh</i>)	Paid during the first 5 contract years of Eligible Resource operation
Previously Developed Site Location	\$0.005 / kWh (<i>\$5 / MWh</i>)	
Local Business	\$0.005 / kWh (<i>\$5 / MWh</i>)	

FEED IN TARIFF

Bonus payments, if any, will be added to the contract base price for the first five (5) years of the contract. After the first five contract years, the price will revert to the base price in effect at the time the project application was received.

The bonus incentives for EnviroStor Brownfields and for Previously Developed Sites cannot be claimed together. If a project is eligible for both incentives the higher, EnviroStor Brownfields, incentive will be applied.

Details on required documentation are outlined in the FIT Application. Characteristics are defined as follows:

EnviroStor Brownfields are specific sites identified by the Department of Toxic Substances Control data management system, EnviroStor. A list of eligible sites may be found at <https://redwoodenergy.org/feed-in-tariff/>.

Previously Developed Sites are defined as areas that either contain or have contained structures or were used for parking, loading or storage related to a previous or existing land use other than agricultural grazing or crop production within the last 20 years. To claim this bonus, the previously developed land must make up at least 20% of the project footprint. Development documentation, in the form of building permits or verifiable ground, aerial, or satellite photography, as solely determined by RCEA, must be provided by the FIT applicant.

Local Business To qualify for the Local Business incentive the applicant and/or prime contractor must have a place of business (i.e. possesses a business license) and is headquartered in Humboldt County.

FIT Payments

Payments will be made monthly by RCEA to the applicant for each Eligible Resource based on metered electric deliveries. Meter readings delivered by PG&E will be used for payment determination and quantification as described in the FIT Agreement.

FIT Capacity Limit

RCEA's FIT has a capacity limit of six megawatts. The program will continue until there is no remaining available capacity, or until RCEA decides at its discretion to stop accepting new applications.

Forecasting Requirements

Generation forecasts will be required at the time of application and updated (as needed) during construction and throughout the Delivery Term. Underperforming years may be grounds for penalties and changes to the PPA or termination as appropriate.

Penalties

If the system over-generates beyond 115% of contractual output in any contract year, compensation will be at 50% of standard price per kWh of surplus generation up to any contractual and/or financial limits for that contract year.

System underperformance that results in less than 80% of contractual output for two consecutive years is grounds for contract renegotiation or termination.

Collateral

Applicants are required to post and maintain a collateral requirement of twenty dollars (\$20.00) for each kilowatt (kW AC) of Contract Capacity. The Collateral Requirement will be held by RCEA and must be in the form of either cash deposit or Letter of Credit.

FEED IN TARIFF

Fees and Deposit

There is a non-refundable application fee of \$500, and a required deposit of \$4 per kW (AC) of installed capacity, which is fully refundable upon project completion.

Application Timeline

Interconnection supplemental review must be complete (i.e. tendered IA in place) and application for permits submitted at time of FIT application to RCEA.

Curing Period

RCEA will review all applications upon receipt. If there are minor errors in the application the applicant will have ten days to correct the deficiencies after being informed by RCEA. The applicant will retain their place in the queue during this curing period. If the applicant fails to correct those errors in the ten-day window their place in the queue will be forfeited.

Applicant Heterogeneity Preference

If there are more than three (3) applications in a given period, including more than one application from one applicant, contracts will be awarded to different applicants to maximize heterogeneity.

Application Queue

All applications submitted will be accepted on a first come-first served basis. Projects that have missed their milestones may be terminated to allow for more applications.

Board Approval

The RCEA Board of Directors must approve every FIT PPA before execution.



Feed-in Tariff Application

By submitting this application, applicants agree to: 1) pursue the construction and operation of a new (not yet delivering electricity to the grid) source of renewable electricity; 2) review, understand and abide by all of the terms and conditions identified in the Redwood Coast Energy Authority (RCEA) Feed-in Tariff Program (Feed-In Tariff and Power Purchase Agreement) adopted on 3/28/2019; and 3) immediately notify RCEA in the event any of the information provided in this application changes or ceases to be correct.

Applicant Information

PROJECT (FACILITY) NAME			
APPLICANT'S FORM OF BUSINESS & STATE OF ORGANIZATION			
APPLICANT NAME		TITLE	
APPLICANT COMPANY			
APPLICANT STREET ADDRESS		CITY	STATE ZIP
MAILING ADDRESS (If different from above)		CITY	STATE ZIP
PHONE	ALT. PHONE	EMAIL	

Generating Unit Information *(Note: Generator Must Be Located within RCEA's Service Territory)*

Location Address: _____ City: _____ Zip: _____

Parcel Number: _____

Permitting Agency/Jurisdiction: _____

Is there a Williamson Act contract on the property? ☐ Yes ☐ No

Is this property Prime Agriculture land as defined in the Tariff? ☐ Yes ☐ No

Renewable Resource Type: _____

Proposed Generator Capacity (at point of delivery): _____ kW (AC) **Note: Size limited to less than 1 MW.**

Expected Annual Energy Output: _____ kWh

Anticipated Interconnection Agreement Execution Date: _____

Description of Physical Interconnection Point: _____

Interconnection Service Voltage: _____ kV

Expected Commercial Operation Date: _____

Is there Redwood Coast Energy Authority service at this address? ☐ Yes ☐ No

If yes, PG&E Account #: _____

Company Structure

If applicant is a company rather than an individual, briefly describe the ownership structure of the company, including full legal name and valid phone number of all principals: _____

Site Control

Briefly describe the site control for this project (lease, direct ownership or other): _____

Financial Plan

Briefly describe your intended financing plan for the referenced generator. Identify prospective partners and intended share of ownership assigned to each: _____

Bonus Information

Bonuses for which you are applying and will document: ☐ EnviroStor Brownfield ☐ Previously Developed Site ☐ Local Business (*please describe below*)

EnviroStor Brownfield: If the project is located on an EnviroStor identified brownfield, please list the EnviroStor number, Project Name and Status: _____

Previously Developed Sites: If applicable, briefly describe the location where the generator will be installed: _____

Local Business: To qualify for the Local Business bonus, applicants must utilize a project developer and/or prime contractor which is headquartered within Humboldt County. If this bonus is desired, please list such entities, including related business addresses: _____

Generator Interconnection (PG&E)

As the organization responsible for distribution system planning, maintenance and safety, PG&E will be your primary point of contact for all matters related to generator interconnection. Feed-in Tariff applicants will work directly with PG&E during the generator interconnection process. Applicants may access the following website for information regarding PG&E's generator interconnection process:

- <http://www.pge.com/en/b2b/energytransmissionstorage/newgenerator/index.page>.
- PG&E's wholesale generator interconnection application can be accessed at the following link: <http://www.pge.com/mybusiness/customerservice/nonpgeutility/generateownpower/egi/>

Briefly describe your progress and timeline for completing PG&E's Generator Interconnection Process: _____

Application Queue

All applications will be accepted and queued on a first come-first served basis.

Fees

As noted under Application Checklist, the reservation deposit and non-refundable application fee must be submitted as a part of this completed Feed-in Tariff application. Please remit payment by check payable to Redwood Coast Energy Authority.

Reservation deposits will be refunded once the project is constructed and delivering electricity to Redwood Coast Energy Authority. The full deposit amount will be included with the first payment for generated electricity. If the project fails to demonstrate substantial progress which results in removal from the project queue, the reservation deposit will be forfeited.

In the event that an application is deemed approved and enters the queue but is unable to proceed for lack of RCEA program funds or other reason not attributable to the applicant, the deposit will be fully refunded.

Milestones and Schedule

At RCEA's sole discretion, any project that fails to demonstrate substantial progress toward completion of any outstanding development checklist item may have its Feed-in Tariff Application rejected at any time. Specified timelines for each milestone are listed in Appendix E of the Power Purchase Agreement.

The applicant is encouraged to coordinate with assigned RCEA staff throughout the process. Please submit additional requisite documents to the assigned RCEA staff member as such documents become available, referencing the applicant's assigned Feed-In Tariff (FIT) Record Number.

APPLICATION CHECKLIST

THE FOLLOWING MUST BE COMPLETED AND SUBMITTED TO RCEA AS PART OF THE FEED-IN TARIFF APPLICATION:

1. ☐ Feed-in Tariff Application (this document)
2. ☐ Tendered (draft) Interconnection Agreement or evidence project has passed Fast Track screening
3. ☐ Evidence of site control throughout the Delivery Term of the Power Purchase Agreement ("PPA") and form of site control
4. ☐ Feed-in Tariff Generation Forecast
5. ☐ Non-Refundable Application Fee – \$500.00
6. ☐ Reservation Deposit – Proposed Generator Capacity (total kilowatts AC) x \$4 = \$ _____

*Please include two separate checks for the Application fee and the Reservation Deposit.

Submit completed Feed-in Tariff applications and payment to RCEA via mail:

Redwood Coast Energy Authority
Attn: Feed-In Tariff
633 3rd St
Eureka, CA 95501

Upon receipt of all application materials, including the payment of applicable fees and deposit amounts, RCEA will perform a completeness review of such materials within 20 business days. Incomplete applications will be rejected and returned to applicant (along with the reservation deposit) with no further processing. Applicant may resubmit application with correction of deficiencies. RCEA will approve complete applications within 30 business days of application submittal. Information received by RCEA in conjunction with this application is considered public information. RCEA will not be deemed to have accepted Applicant's offer and will not be bound by any term thereof, unless and until authorized representatives of Applicant and RCEA execute a FIT PPA. Prior to such execution, RCEA reserves the right to reject any Application, at any time and for any reason whatsoever, in its sole discretion.

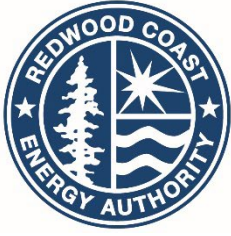
Confirmation of application receipt will be delivered by email along with an assignment to an RCEA staff member and FIT Record Number. For any questions regarding this application for RCEA's Feed-in Tariff Program, please contact us at 707-269-1700 or feedintariff@redwoodenergy.org.

☐ *By submission of this Feed-in Tariff Application, I acknowledge review and acceptance of RCEA's FIT Power Purchase Agreement Terms and Conditions available at <https://redwoodenergy.org/feed-in-tariff/>.*

X: _____

Date: _____

Redwood Coast Energy Authority Feed-in Tariff Program



REDWOOD COAST
EnergyAuthority

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

between

REDWOOD COAST ENERGY AUTHORITY

and

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

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FEED-IN TARIFF

POWER PURCHASE AGREEMENT

The Redwood Coast Energy Authority, a California Joint Powers Authority (“Buyer” or “RCEA”), and _____ (“Seller”), a _____, hereby enter into this Power Purchase Agreement (“Agreement”) made and effective as of the Execution Date. Seller and Buyer are sometimes referred to in this Agreement jointly as “Parties” or individually as “Party.” In consideration of the mutual promises and obligations stated in this Agreement and its appendices, the Parties agree as follows:

1. DOCUMENTS INCLUDED

This Agreement includes the following appendices, which are specifically incorporated herein and made a part of this Agreement:

- Appendix A Definitions
- Appendix B Commercial Operation Date Confirmation Letter
- Appendix C Forecasting Requirements
- Appendix D Description of the Facility
- Appendix E Seller’s Milestone Schedule
- Appendix F Notices List
- Appendix G Form Of Letter Of Credit
- Appendix H Form Of Consent To Assignment

This Agreement specifically incorporates herein by reference as if appended hereto the following documents (collectively referred to herein as the “Referenced Documents”):

- Feed-in Tariff dated _____
- Feed-in Tariff Application, submitted by Seller dated _____
- Feed-in Tariff Generation Forecast dated _____

To the extent any provisions of the Referenced Documents conflict with any other provisions of the Agreement, the other provisions of the Agreement shall control.

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

2. SELLER'S FACILITY AND COMMERCIAL OPERATION DATE

This Agreement governs Buyer's purchase of the Product from the electrical generating facility (hereinafter referred to as the "Facility" or "Project") as described in this Section.

2.1. Facility Location. The Facility is physically located at:

2.2. Facility Name. The Facility is named _____.

2.2.1. The Facility's renewable resource is _____.

2.3. Interconnection Point. The Facility is connected to the Pacific Gas & Electric Company ("PG&E") electric system at _____
distribution circuit at a service voltage of _____ kV.

2.4. Delivery Point. The Delivery Point for Energy is the Interconnection Point.

2.5. Facility Description. A description of the Facility, including a summary of its significant components, a drawing showing the general arrangements of the Facility, and a single line diagram illustrating the interconnection of the Facility and loads with the Transmission/Distribution Owner's electric distribution system, is attached and incorporated herein as Appendix D.

2.6. Commercial Operation.

2.6.1. The Facility's expected Commercial Operation Date is _____.

2.6.2. Seller shall achieve Commercial Operation no later than the expected Commercial Operation Date specified in Section 2.6.1, which date shall be no later than eighteen (18) months from the Execution Date of this Agreement. The expected Commercial Operation Date specified in Section 2.6.1 may be extended for only the following reasons:

2.6.2.1. If Seller has taken all commercially reasonable actions (including but not limited to Seller's timely filing of all required applications and documents, payment of all applicable fees, and completion of all electric system upgrades needed, if any) to have the Project physically interconnected to the Transmission/Distribution Owner's distribution system, but fails to secure any necessary commitments from the Transmission/Distribution Owner for such interconnection and

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

upgrades due to delays beyond Seller's reasonable control, then the expected Commercial Operation Date specified in Section 2.6.1 shall be extended for the number of days necessary to physically interconnect the Facility; provided, however, that such delay may not extend the expected Commercial Operation Date specified in Section 2.6.1 for a period of more than twelve (12) months; or

2.6.2.2. If Seller has taken all commercially reasonable actions (including but not limited to Seller's timely filing of all required applications and documents and payment of all applicable fees, if any) to obtain permits necessary to construct and operate the facility but fails to secure any such permits due to delays beyond Seller's reasonable control, then the expected Commercial Operation Date specified in Section 2.6.1 shall be extended for the number of days necessary to secure such permits; provided, however, that such delay may not extend the expected Commercial Operation Date specified in Section 2.6.1 for a period of more than twelve (12) months; or

2.6.2.3. In the event of Force Majeure, the expected Commercial Operation Date specified in Section 2.6.1 shall be extended on a day-to-day basis for a cumulative period of not more than six (6) months; provided that Seller complies with Section 10.

2.6.2.4. Extensions under Section 2.6.2.1, 2.6.2.2, and 2.6.2.3, to the extent they may occur concurrently, shall run concurrently.

2.6.3. Seller shall provide Notice to Buyer of the Commercial Operation Date of the Facility no later than thirty (30) days before such date.

2.6.4. Notwithstanding anything in this Agreement, if Seller is unable to achieve Commercial Operation by the expected Commercial Operation Date specified in Section 2.6.1, which may be extended pursuant to Section 2.6.2, then Seller shall either (i) terminate the Agreement, in which case Buyer may retain the full Reservation Deposit, or (ii) pay to Buyer daily delay damages in the amount of ten cents (\$0.10) for each kilowatt of Contract Capacity for each day beyond the expected Commercial Operation Date specified in Section 2.6.1, as may be extended pursuant to Section 2.6.2, that Seller requires to achieve Commercial Operation.

2.6.5. Commercial Operation shall occur only when all of the following conditions have been satisfied:

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- 2.6.5.1. the Facility's status as an Eligible Renewable Energy Resource is demonstrated by Seller's receipt of pre-certification from the CEC;
- 2.6.5.2. the Parties have executed and exchanged the "Commercial Operation Date Confirmation Letter" attached as Appendix B;
- 2.6.5.3. Seller has obtained and is in compliance with the Interconnection Agreement for the Facility, and Seller has satisfied all applicable CAISO Tariff requirements and metering requirements in Sections 6.1 and 6.2;
- 2.6.5.4. Seller has furnished to Buyer all insurance documents required under Section 8;
- 2.6.5.5. Seller has provided thirty (30) days' Notice prior to the Commercial Operation Date as required under Section 2.6.3;
- 2.6.5.6. Seller has obtained all permits necessary to operate the Facility and is in compliance with all Laws applicable to the operation of the Facility;
- 2.6.5.7. Seller has successfully installed and tested the Facility at its full Contract Capacity, and the Facility is capable of reliably generating at its full Contract Capacity; and
- 2.6.5.8. Seller has satisfied the Collateral Requirement set forth in Section 3.9.

3. CONTRACT CAPACITY AND QUANTITY; TERM; CONTRACT PRICE; BILLING; COLLATERAL REQUIREMENT

- 3.1. Contract Capacity. The Contract Capacity is _____ kW, alternating current (AC). The Contract Capacity shall not exceed 1,000 kW AC.
- 3.2. Contract Quantity. The "Contract Quantity" during each Contract Year is the amount set forth in the applicable Contract Year in the "Delivery Term Contract Quantity Schedule," set forth below, which amount is net of Station Use. Seller shall have the option to update the Delivery Term Contract Quantity Schedule one (1) time prior to Commercial Operation Date.

Delivery Term Contract Quantity Schedule	
Contract Year	Contract Quantity (kWh/Yr)
1	

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Delivery Term Contract Quantity Schedule	
Contract Year	Contract Quantity (kWh/Yr)
2	
3	
4	
5	
6	
7	
8	
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10	
11	
12	
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21	

3.3. Transaction. During the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, all Product produced by or associated with the Facility that is delivered to the Delivery Point. In no event shall Seller have the right to procure the Product from sources other than the Facility for sale or delivery to Buyer under this Agreement. Buyer shall have no obligation to receive or purchase the Product from Seller prior to the Commercial Operation Date or after the end of the Delivery Term.

3.4. Term of Agreement; Survival of Rights and Obligations.

3.4.1. The term shall commence upon the Execution Date of this Agreement and shall remain in effect until the conclusion of the Delivery Term unless terminated sooner pursuant to Sections 10.4 or 11 of this Agreement (the "Term").

3.4.2. Notwithstanding anything to the contrary in this Agreement, all of the rights and obligations that this Agreement expressly provides survive termination as well as the rights and obligations that arise from Seller's or Buyer's covenants, agreements, representations, and

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warranties applicable to, or to be performed, at or during any time before or as a result of the termination of this Agreement.

- 3.5. Delivery Term. Seller shall deliver the Product from the Facility to Buyer for a period of twenty (20) Contract Years for all generation technologies. The Delivery Term shall commence on the Commercial Operation Date and continue until the end of the last Contract Year unless the Agreement is terminated sooner pursuant to the terms of the Agreement.
- 3.6. Contract Price.
- 3.6.1. Throughout the Delivery Term, and subject to and in accordance with the terms of this Agreement, Buyer shall pay the Contract Price to Seller for the Product based on the amount of Delivered Energy. The Contract Price shall be \$__ per MWh of Delivered Energy with an additional \$__ per MWh for Delivered Energy during the first five (5) Contract Years.
- 3.6.2. In any Contract Year, if the amount of Delivered Energy exceeds one hundred fifteen percent (115%) of the annual Contract Quantity amount, the Contract Price for such Delivered Energy in excess of one hundred fifteen percent (115%) shall be adjusted to be seventy-five percent (75%) of the applicable Contract Price.
- 3.6.3. Seller shall curtail production of the Facility in accordance with the applicable Notice after receipt of: (a) Notice from Buyer that Buyer has been instructed by the CAISO or the Transmission/Distribution Owner or any other jurisdictional entity to curtail Energy deliveries; or (b) Notice that Seller has been given a curtailment order or similar instruction in order to respond to an Emergency; or (c) Notice of a Curtailment Order issued by Buyer. Buyer shall have no obligation to pay Seller for any Product delivered in violation of this Section 3.6.3. Seller shall assume all liability and reimburse Buyer for any and all costs and charges incurred by Buyer, including but not limited to CAISO penalties, as a result of Seller delivering Energy in violation of the Section 3.6.3. Buyer shall have no obligation to pay Seller for any Product that Seller would have been able to deliver but for the fact of a curtailment pursuant to subsection (a) or (b) of the first sentence of this Section 3.6.3.
- 3.6.4. Buyer shall have the right, but not the obligation, to issue to Seller a Curtailment Order. Buyer shall pay Seller the Contract Price for the Product Seller would have been able to deliver but for the fact that Buyer issued a Curtailment Order ("Paid Curtailed Product") as calculated pursuant to Section 3.6.5.

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3.6.5. No later than fifteen (15) days after the end of a calendar month in which Buyer issued a Curtailment Order, Seller shall prepare and provide to Buyer a calculation of the amount of Product the Facility would have been able to deliver under Sections 3.6.4 for the applicable month. Seller shall apply accepted industry standards in making such calculation and take into consideration past performance of the Facility, and other relevant information, including but not limited to, Facility availability, weather, water flow, and solar irradiance data for the period of time during the Buyer issued Curtailment Order. Upon Buyer's request, Seller shall promptly provide to Buyer any additional and supporting documentation necessary for Buyer to audit and verify Seller's calculation.

3.6.6. If Seller was approved by Buyer as qualifying for the Local Business Incentive based on the circumstances at the time that Seller submitted the Feed-in Tariff Application, but at any time subsequent to the submission of the Feed-in Tariff Application, Seller no longer meets the requirements for the Local Business Incentive, then Seller shall provide Buyer with Notice within sixty (60) days of the date that Seller no longer meets the requirements for the Local Business Incentive. The Notice provided by Seller to Buyer shall state the date on which Seller no longer met the requirements for the Local Business Incentive. The applicable Contract Price specified in Section 3.6.1 shall be reduced by the amount of the Local Business Incentive as of the date on which Seller no longer met the requirements for the Local Business Incentive. If Seller has previously billed Buyer for Delivered Energy at a Contract Price that includes the Local Business Incentive but was generated after the date on which Seller no longer qualifies for the Local Business Incentive, then Seller shall reduce the next invoice by the amount equal to the Local Business Incentive multiplied by the number of hours of Delivered Energy that Seller billed Buyer for, but for which Seller did not qualify for the Local Business Incentive.

3.7. Billing.

3.7.1. The amount of Delivered Energy shall be determined by the meter specified in Section 6.2.1 or Check Meter, as applicable. Buyer has no obligation to purchase from Seller any Energy that is not or cannot be delivered to the Delivery Point, regardless of circumstance. Buyer will not be obligated to pay Seller for any Product that Seller delivers in violation of Section 3.6.3, including any Product Seller delivers in excess of the amount specified in any Curtailment Order.

3.7.2. For the purpose of calculating monthly payments under this Agreement, the amount recorded by the meter specified in Section

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6.2.1 or Check Meter, as applicable, will be multiplied by the Contract Price noted in Section 3.6.1, as possibly adjusted under Section 3.6.2, less any Energy produced by the Facility for which Buyer is not obligated to pay Seller as set forth in Section 3.7.1.

- 3.7.3. On or before the last Business Day of the month immediately following each calendar month, Seller shall determine the amount of Delivered Energy received by Buyer pursuant to this Agreement for each monthly period and issue an invoice showing the calculation of the payment. Seller shall also provide to Buyer: (a) records of metered data sufficient to document and verify the generation of Delivered Energy by the Facility during the preceding month; (b) access to any records; and (c) an invoice, in the format specified by Buyer.
- 3.7.4. In the event an invoice or portion thereof or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. In the event adjustments to payments are required as a result of inaccurate meter(s), Buyer in its reasonable discretion shall determine the correct amount of Delivered Energy received under this Agreement during any period of inaccuracy and recompute the amount due from Buyer to Seller for the Delivered Energy delivered during the period of inaccuracy. The Parties agree to use good faith efforts to resolve the dispute or identify the adjustment as soon as possible. Upon resolution of the dispute or calculation of the adjustment, any required payment shall be made within thirty (30) days of such resolution.
- 3.7.5. All interest paid or payable under this Agreement shall be computed as simple interest using the Interest Rate and, unless specified otherwise in this Agreement, shall be paid concurrently with the payment or refund of the underlying amount on which such interest is payable.
- 3.8. Title and Risk of Loss. Title to and risk of loss related to the Energy from the Facility shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product from the Facility free and clear of all liens, security interests, claims, and encumbrances or any interest therein or thereto by any person.
- 3.9. Collateral Requirement. On or before the Commercial Operation Date, Seller shall post and thereafter maintain a collateral requirement

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equal to twenty dollars (\$20.00) for each kilowatt of Contract Capacity (the "Collateral Requirement"). The Collateral Requirement will be held by Buyer and must be in the form of either cash deposit or Letter of Credit. The Collateral Requirement shall be posted to Buyer and maintained at all times during the Delivery Term. Buyer shall be entitled to draw upon the Collateral Requirement for any damages arising upon Buyer's declaration of an Early Termination Date as set forth in Section 11.3. In the event that Buyer draws on the Collateral Requirement, Seller shall promptly replenish such Collateral Requirement to the amount specified in this Section 3.9. Buyer shall return the unused portion of the Collateral Requirement to Seller promptly at the end of the Delivery Term, once all payment obligations of the Seller under this Agreement have been satisfied. Buyer shall pay simple interest on cash held to satisfy the Collateral Requirements at the rate and in the manner set forth in Section 3.7.5.

4. GREEN ATTRIBUTES; RESOURCE ADEQUACY BENEFITS; ERR REQUIREMENTS

- 4.1. Green Attributes. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Project.
- 4.2. Conveyance of Product. Throughout the Delivery Term, Seller shall provide and convey the Product to Buyer in accordance with the terms of this Agreement, and Buyer shall have the exclusive right to the Product. Seller shall, at its own cost, take all actions and execute all documents or instruments that are reasonable and necessary to effectuate the use of the Green Attributes, Resource Adequacy Benefits, if any, and Capacity Attributes, if any, for Buyer's benefit throughout the Delivery Term.
- 4.3. WREGIS. Seller shall cause and allow Buyer, or Buyer's agent, to be the "Qualified Reporting Entity" and "Account Holder" (as such terms are defined by WREGIS) for the Facility within thirty (30) days after the Commercial Operation Date. In the event that Buyer is not the Qualified Reporting Entity, Seller shall, at its sole expense, take all actions necessary and provide any documentation requested by Buyer in support of WREGIS account administration and compliance with the California Renewables Portfolio Standard. Seller, at its sole expense, shall take all necessary steps and submit/file all necessary documentation to ensure that the Facility remains an Eligible

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Renewable Energy Resource throughout the Delivery Term as outlined in Section 4.5 and that all WREGIS Certificates associated with the Product accrue to Buyer and will satisfy the requirements of the California Renewables Portfolio Standard.

4.4. Resource Adequacy Benefits.

- 4.4.1. During the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all of the Contract Capacity, including Capacity Attributes, if any, from the Project to enable Buyer to meet its Resource Adequacy or successor program requirements, as the CPUC, CAISO or other regional entity may prescribe (“Resource Adequacy Requirements”).
- 4.4.2. If providing any Resource Adequacy, Seller shall comply with the Resource Adequacy requirements set forth in the CAISO Tariff, including Section 40 thereof, as may be changed from time to time.
- 4.4.3. If providing any Resource Adequacy, Seller shall cooperate in good faith with and comply with reasonable requests of Buyer and the CAISO to enable Buyer and/or the CAISO to assign Capacity Attributes and Resource Adequacy Benefits to the Facility.
- 4.5. Eligible Renewable Energy Resource. Seller shall take all actions necessary to achieve and maintain status as an Eligible Renewable Energy Resource or ERR throughout the Delivery Term. Within thirty (30) days after the Commercial Operation Date, Seller shall file an application or other appropriate request with the CEC for CEC Certification for the Facility. Seller shall expeditiously seek CEC Certification, including promptly responding to any requests for information from the requesting authority.

5. REPRESENTATION AND WARRANTIES; COVENANTS

- 5.1. Representations and Warranties. On the Execution Date, each Party represents and warrants to the other Party that:
 - 5.1.1. it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;
 - 5.1.2. the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Laws;

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- 5.1.3. this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms;
- 5.1.4. it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt; and
- 5.1.5. there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.
- 5.2. General Covenants. Each Party covenants that throughout the Term of this Agreement:
 - 5.2.1. it shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;
 - 5.2.2. it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and
 - 5.2.3. it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any Law.
- 5.3. Seller's Representations, Warranties and Covenants. In addition to the representations, warranties and covenants specified in Sections 5.1 and 5.2, Seller makes the following additional representations, warranties and covenants to Buyer, as of the Execution Date:
 - 5.3.1. Seller has not participated in the Self-Generation Incentive Program (as defined in CPUC Decision 01-03-073), the California Solar Initiative (as defined in CPUC Decision 06-01-024), and/or other similar California ratepayer subsidized program relating to energy production or rebated capacity costs with respect to the Facility.
 - 5.3.2. Seller's execution of this Agreement will not violate Public Utilities Code Section 2821(d)(1), if applicable;
 - 5.3.3. Seller has met all applicable legal and regulatory requirements to sell wholesale electricity in California;
 - 5.3.4. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy

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Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law;

- 5.3.5. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law;
- 5.3.6. Throughout the Delivery Term, Seller shall: (a) own and operate the Facility; (b) deliver the Product to Buyer free and clear of all liens, security interests, claims, and encumbrances or any interest therein or thereto by any individual or entity; and (c) hold the rights to all of the Product;
- 5.3.7. Seller is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the Buyer in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement;
- 5.3.8. Throughout the Delivery Term: (a) Seller shall not convey, transfer, allocate, designate, award, report or otherwise provide any or all of the Product, or any portion thereof, or any benefits derived therefrom, to any party other than Buyer; and (b) Seller shall not start-up or operate the Facility per instruction of or for the benefit of any third party, except as required by other Laws;
- 5.3.9. Seller has not relied on any promises, representations, statements or information of any kind that are not contained in this Agreement in deciding to enter into this Agreement;

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- 5.3.10. The construction of the Facility shall comply with all Laws, including applicable state and local laws, building standards, and interconnection requirements;
- 5.3.11. No other person or entity, including any other generating facility, has any rights in connection with Seller's Interconnection Agreement or Seller's Interconnection Facilities and no other persons or entities shall have any such rights during the Term;
- 5.3.12. During the Delivery Term, Seller shall not allow any other person or entity, including any other generating facility, to use Seller's Interconnection Facilities; and
- 5.3.13. All representations made by Seller in its Feed-in Tariff Application are true and correct.

6. GENERAL CONDITIONS

- 6.1. CAISO Agreements; CAISO Costs; Interconnection Agreements.
During the Delivery Term, Seller shall comply with all contractual, metering, and applicable interconnection requirements, including those set forth in the Interconnection Agreement, Transmission/Distribution Owner's applicable tariffs, the CAISO Tariff and implementing CAISO standards and requirements, and all Laws so as to be able to deliver Energy to the Delivery Point. Seller shall provide and maintain during the Delivery Term, at its cost, all data processing gateways or remote intelligence gateways, telemetering equipment and data acquisition services, and associated measuring and recording equipment necessary to meet all applicable WREGIS and CAISO requirements applicable to the Facility during the Delivery Term. Seller shall also secure and maintain in full force all of the CAISO agreements, certifications, and approvals required in order for the Facility to comply with the CAISO Tariff and any other agreement necessary to deliver Product to Buyer during the Delivery Term. Seller shall submit its request to interconnect the Facility and obtain an Interconnection Agreement pursuant to Transmission/Distribution Owner's Wholesale Distribution Tariff. For avoidance of doubt, Facilities that interconnect pursuant to CPUC Rule 21 are not eligible for this Agreement.
- 6.2. Metering Requirements.
 - 6.2.1. All Energy from the Project must be delivered through a single revenue quality meter and that meter must be dedicated exclusively to the Project. All Delivered Energy purchased under this Agreement must be measured by the Project's revenue quality meter(s) to be eligible for payment under this Agreement. Seller shall bear all costs

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relating to all metering equipment installed to accommodate the Project.

- 6.2.2. Buyer may, at its sole cost, furnish and install one Check Meter at the interconnection associated with the Facility at a location provided by Seller that is compliant with Buyer's electric service requirements. The Check Meter may be interconnected with Buyer's communication network, or the communication network of Buyer's Agent, to permit periodic, remote collection of revenue quality meter data. In the event that Buyer elects to install a Check Meter, Buyer may compare the Check Meter data to the Facility's revenue meter data. If the deviation between the Facility's revenue meter data and the Check Meter data for any comparison is greater than 0.3%, Buyer may provide Notice to Seller of such deviation and the Parties shall mutually arrange for a meter check or recertification of the Check Meter or the Facility's revenue meter, as applicable. Each Party shall bear its own costs for any meter check or recertification. Testing procedures and standards for the Check Meter shall be the same as for a comparable Buyer-owned meter. Parties shall have the right to have representatives present during all such tests. The Check Meter, if Buyer elects to install a Check Meter, is intended to be used for back-up purposes in the event of a failure or other malfunction of the Facility's revenue meter, and Check Meter data shall only be used to validate the Facility's revenue meter data and, in the event of a failure or other malfunction of the Facility's revenue meter, in place of the Facility's revenue meter until such time that the Facility's revenue meter is recertified.
- 6.3. Meter Data. Seller hereby agrees to provide all meter data to Buyer in a form acceptable to Buyer, including any inspection, testing and calibration data and reports. Seller shall grant Buyer and Buyer's agent the right to retrieve the meter readings from Seller or Seller's meter reading agent, which may be PG&E.
- 6.4. Standard of Care. Seller shall: (a) maintain and operate the Facility and Interconnection Facilities in conformance with the Interconnection Agreement, the CAISO Tariff, all Laws, and Prudent Electrical Practices; (b) obtain any governmental authorizations and permits required for the construction and operation of the Facility and Interconnection Facilities; and (c) generate, schedule and perform transmission services in compliance with all applicable CAISO operating policies, criteria, rules, guidelines and tariffs and Prudent Electrical Practices. Seller shall reimburse Buyer for any and all losses, damages, claims, penalties, or liability Buyer incurs as a result of Seller's failure to obtain or maintain any governmental

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authorizations and permits required for construction and operation of the Facility throughout the Term of this Agreement.

6.5. Access Rights.

6.5.1. Operations Logs. Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, fuel consumption (if applicable), efficiency, availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall provide this information electronically to Buyer within twenty (20) days of Buyer's request.

6.5.2. Access Rights. Buyer, its authorized agents, employees and inspectors may, on reasonable advance notice under the circumstances, visit the Project during normal business hours for purposes reasonably connected with this Agreement. Buyer, its authorized agents, employees and inspectors must (a) at all times adhere to all safety and security procedures as may be required by Seller; and (b) not interfere with the operation of the Project. Buyer shall make reasonable efforts to coordinate its emergency activities with the safety and security departments, if any, of the Project operator. Seller shall keep Buyer advised of current procedures for contacting the Project operator's safety and security departments, if any exist.

6.6. Protection of Property. Seller shall be solely responsible for protecting its own facilities from possible damage resulting from electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the Transmission/Distribution Owner's facilities. Buyer shall not be liable for any such damages so caused.

6.7. Forecasting. Seller shall comply with the forecasting in Appendix C.

6.8. Greenhouse Gas Emissions. Seller acknowledges that a Governmental Authority may require Buyer to take certain actions with respect to greenhouse gas emissions attributable to the generation of Energy, including, but not limited to, reporting, registering, tracking, allocating for or accounting for such emissions. Promptly following Buyer's written request, Seller agrees to take all commercially reasonable actions and execute or provide any and all documents, information, or instruments with respect to generation by the Facility reasonably necessary to permit Buyer to comply with such requirements, if any.

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6.9. Reporting and Record Retention.

- 6.9.1. Seller shall use commercially reasonable efforts to meet the Milestone Schedule set forth in Appendix E and avoid or minimize any delays in meeting such schedule. Seller shall provide Project development status reports in a format and a frequency, which shall not exceed one (1) report per month, specified by the Buyer. The report shall describe Seller's progress relative to the development, construction, and startup of the Facility, as well as a Notice of any anticipated change to the Commercial Operation Date and whether Seller is on schedule to meet the Commercial Operation Date.
- 6.9.2. Seller shall within ten (10) Business Days of receipt thereof provide to Buyer copies of any Interconnection Agreement and all other material reports, studies and analyses furnished by any Transmission/Distribution Owner, and any correspondence with the Transmission/Distribution Owner related thereto, concerning the interconnection of the Facility to the Transmission/Distribution Owner's electric system or the transmission of Energy on the Transmission/Distribution Owners' electric system.
- 6.9.3. Seller shall provide to Buyer on the Commercial Operation Date, and within thirty (30) days after the completion of each Contract Year thereafter during the Delivery Term, a copy of any inspection and maintenance report regarding the Facility that was also provided to the Transmission/Distribution Owner during the previous Contract Year.
- 6.10. Tax Withholding Documentation. Upon Buyer's request, Seller shall promptly provide to Buyer Internal Revenue Service tax Form W-9 and California tax Form 590 (or their equivalent), completed with Seller's information, and any other documentation necessary for Buyer to comply with its tax reporting or withholding obligations with respect to Seller.
- 6.11. Modifications to Facility. During the Delivery Term, Seller shall not repower or materially modify or alter the Facility without the written consent of Buyer. Material modifications or alterations include, but are not limited to, (a) movement of the Site, (b) changes that may increase or decrease the expected output of the Facility other than as allowed under Section 3.2, (c) changes that may affect the generation profile of the Facility, (d) changes that may affect the ability to accurately measure the output of Product from the Facility and (e) changes that conflict with elections, information or requirements specified elsewhere in this Agreement. Material modifications or alterations do not include maintenance and repairs performed in

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accordance with Prudent Electrical Practices. Seller shall provide to Buyer Notice not less than ninety (90) days before any proposed repowering, modification or alteration occurs describing the repowering, modification or alteration to Buyer's reasonable satisfaction.

- 6.12. No Additional Incentives. Seller agrees that during the Term of this Agreement it shall not seek additional compensation or other benefits pursuant to the Self-Generation Incentive Program, as defined in CPUC Decision 01-03-073, the California Solar Initiative, as defined in CPUC Decision 06-01-024, Buyer's net energy metering tariff, or other similar California ratepayer subsidized program relating to energy production with respect to the Facility.
- 6.13. Small Hydro/Private Energy Producer. Seller agrees to provide to Buyer copies of each of the documents identified in California Public Utilities Code Section 2821(d)(1), if applicable, as may be amended from time to time, as evidence of Seller's compliance with such Public Utilities Code section prior to the Commercial Operation Date and, after the Commercial Operation Date, within thirty (30) days of Seller's receipt of written request.
- 6.14. Site Control. Seller shall have Site Control as of the earlier of: (a) the Commercial Operation Date; or (b) any date before the Commercial Operation Date to the extent necessary for the Seller to perform its obligations under this Agreement and, in each case, Seller shall maintain Site Control throughout the Delivery Term. Seller shall promptly provide Buyer with Notice if there is any change in the status of Seller's Site Control.

7. INDEMNITY

Seller shall defend, save harmless and indemnify Buyer and its directors, officers, officials, and employees against and from any and all loss, liability, damage, expense, and costs (including without limitation costs and fees of litigation and reasonable attorneys' fees) of every nature resulting from or arising out of Seller's performance of its obligations under this Agreement, or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of Buyer.

8. INSURANCE

- 8.1. Insurance Coverage. Seller shall, at its own expense, starting on the Execution Date and until the end of the Term, and for such additional periods as may be specified below, provide and maintain in effect the following insurance policies and minimum limits of coverage as

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specified below, and such additional coverage as may be required by Law, with insurance companies authorized to do business in the state in which the services are to be performed, with an A.M. Best's Insurance Rating of not less than A-:VII.

- 8.1.1. Commercial general liability insurance, written on an occurrence, not claims-made basis, covering all operations by or on behalf of Seller arising out of or connected with this Agreement, including coverage for bodily injury, broad form property damage, personal and advertising injury, products/completed operations, contractual liability, premises-operations, owners and contractors protective, hazard, explosion, collapse and underground. Such insurance must bear a combined single limit per occurrence and annual aggregate of not less than two million dollars (\$2,000,000.00), exclusive of defense costs, for all coverages. Such insurance must contain standard cross-liability and severability of interest provisions. If Seller elects, with Buyer's written concurrence, to use a "claims made" form of commercial general liability insurance, then the following additional requirements apply: (a) the retroactive date of the policy must be prior to the Execution Date; and (b) either the coverage must be maintained for a period of not less than four (4) years after this Agreement terminates, or the policy must provide for a supplemental extended reporting period of not less than four (4) years after this Agreement terminates. Governmental agencies which have an established record of self-insurance may provide the required coverage through self-insurance.
- 8.1.2. Workers' compensation insurance with statutory limits, as required by the state having jurisdiction over Seller's employees, and employer's liability insurance with limits of not less than: (a) bodily injury by accident - one million dollars (\$1,000,000.00) each accident; (b) bodily injury by disease - one million dollars (\$1,000,000.00) policy limit; and (c) bodily injury by disease - one million dollars (\$1,000,000.00) each employee.
- 8.1.3. Commercial automobile liability insurance covering bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000.00) per occurrence. Such insurance must cover liability arising out of Seller's use of all owned, non-owned and hired automobiles in the performance of the Agreement.
- 8.1.4. Umbrella/excess liability insurance, written on an occurrence, not claims-made basis, providing coverage excess of the underlying employer's liability, commercial general liability, and commercial automobile liability insurance, on terms at least as broad as the

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underlying coverage, with limits of not less than four million dollars (\$4,000,000.00) per occurrence and in the annual aggregate.

8.2. Additional Insurance Provisions.

- 8.2.1. On or before the later of (a) sixty (60) days after the Execution Date and (b) the date immediately preceding commencement of construction of the Facility, and again within a reasonable time after coverage is renewed or replaced, Seller shall furnish to Buyer certificates of insurance evidencing the coverage required above, written on forms and with deductibles reasonably acceptable to Buyer. Notwithstanding the foregoing sentence, Seller shall in no event furnish Buyer certificates of insurance evidencing required coverage later than the Commercial Operation Date. All deductibles, co-insurance and self-insured retentions applicable to the insurance above must be paid by Seller. All certificates of insurance must note that the insurers issuing coverage must endeavor to provide Buyer with at least thirty (30) days' prior written notice in the event of cancellation of coverage. Buyer's receipt of certificates that do not comply with the requirements stated in this Section 8.2.1, or Seller's failure to provide such certificates, do not limit or relieve Seller of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 8 and do not constitute a waiver of any of the requirements of Section 8.
- 8.2.2. Insurance coverage described above in Section 8.1 shall provide for thirty (30) days written Notice to Buyer prior to cancellation, termination, alteration, or material change of such insurance.
- 8.2.3. Evidence of coverage described above in Section 8.1 shall state that coverage provided in primary and is not excess to or contributing with any insurance or self-insurance maintained by Buyer.
- 8.2.4. Buyer shall have the right to inspect or obtain a copy of the original policy(ies) of insurance.
- 8.2.5. All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance must be issued, clearly labeled with this Agreement's identification number and submitted in accordance with Section 9 and Appendix F.
- 8.2.6. The insurance requirements set forth in Section 8.1 shall apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, and employees, regardless of any conflicting provision in Seller's policies to the contrary. To the extent permitted by Law,

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Seller and its insurers shall be required to waive all rights of recovery from or subrogation against Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The commercial general liability insurance required in Section 8.1.1 and the umbrella/excess liability insurance required in Section 8.1.4 must name Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents and employees, as additional insureds for liability arising out of Seller's construction, use or ownership of the Facility.

8.2.7. Seller shall remain liable for all acts, omissions or default of any subcontractor or subsupplier and shall indemnify, defend and hold harmless Buyer for any and all loss or damages, as well as all costs, charges and expenses which Buyer may suffer, incur, or bear as a result of any acts, omissions or default by or on behalf of any subcontractor or subsupplier.

8.2.8. If Seller fails to comply with any of the provisions of this Section 8, Seller, among other things and without restricting Buyer's remedies under Law or otherwise, shall, at its own cost, act as an insurer and provide insurance in accordance with the terms and conditions of this Section 8. With respect to the required commercial general liability insurance set forth in Section 8.1.1, umbrella/excess liability insurance set forth in Section 8.1.4, and commercial automobile liability insurance set forth in Section 8.1.3, Seller shall provide a current, full and complete defense to Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third party claim in the same manner that an insurer with an A.M. Best's Insurance Rating of A:VII would have, had the insurance been maintained in accordance with the terms and conditions set forth in this Section 8 and given the required additional insured wording in the commercial general liability insurance and umbrella/excess liability insurance, and standard "Who is an Insured" provision in commercial automobile liability form.

9. NOTICES

Notices (other than forecasts and scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile, or electronic messaging (e-mail). A notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received on the next Business Day after such Notice is sent

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or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All Notices, requests, invoices, statements or payments for this Facility must reference this Agreement's identification number. Notices shall be provided as indicated in Appendix F.

10. FORCE MAJEURE

- 10.1. No Default for Force Majeure. Neither Party shall be in default in the performance of any of its obligations set forth in this Agreement when and to the extent failure of performance is caused by Force Majeure.
- 10.2. Requirements Applicable to Claiming Party. If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, such Party (the "Claiming Party") shall be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Agreement by reason of Force Majeure:
 - 10.2.1. The Claiming Party, on or before the fourteenth (14th) day after the initial occurrence of the claimed Force Majeure, must give the other Party Notice describing the particulars of the occurrence; and
 - 10.2.2. The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.
- 10.3. Limitations. The suspension of the Claiming Party's performance due to Force Majeure may not be greater in scope or longer in duration than is required by such Force Majeure. In addition, the Claiming Party shall use diligent efforts to remedy its inability to perform. When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.
- 10.4. Termination. Either Party may terminate this Agreement on at least five (5) Business Days' prior Notice, in the event of Force Majeure which materially interferes with such Party's ability to perform its obligations under this Agreement and which (a) extends, or is reasonably likely to extend, for more than 365 consecutive days, or (b) extends, or is reasonably likely to extend, for more than a total of 365 days in any consecutive 540-day period.

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11. EVENTS OF DEFAULT AND TERMINATION

11.1. Termination. Unless terminated earlier pursuant to Section 10.4 or this Section 11, this Agreement automatically terminates immediately following the last day of the Delivery Term.

11.2. Events of Default. An “Event of Default” means, with respect to a Party, the occurrence of any of the following:

11.2.1. With respect to either Party:

11.2.1.1.A Party becomes Bankrupt;

11.2.1.2.Except for an obligation to make payment when due, if there is a failure of a Party to perform any material covenant or obligation set forth in this Agreement (except to the extent such failure provides a separate termination right for the non-breaching Party or to the extent excused by Force Majeure), if such failure is not remedied within thirty (30) days after Notice thereof from the non-breaching Party to the breaching Party;

11.2.1.3.A Party fails to make any payment due and owing under this Agreement, if such failure is not cured within five (5) Business Days after Notice from the non-breaching Party to the breaching Party; or

11.2.1.4.Any representation or warranty made by a Party (a) is false or misleading in any material respect when made or (b) becomes false or misleading in any material respect during the Term.

11.2.2. With respect to Seller:

11.2.2.1.Seller fails to take all corrective actions specified in any Buyer Notice, within the time frame set forth in such Notice, that the Facility is out of compliance with any term of this Agreement; provided that if such corrective action falls under a specific termination right under Section 11.2.2, then the time frame, if any, set forth for such right shall apply;

11.2.2.2.The Facility has not achieved Commercial Operation by the expected Commercial Operation Date specified in Section 2.6.1 and Seller has not elected to pay daily delay damages pursuant to Section 2.6.4;

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- 11.2.2.3. Subject to Section 10, Seller delivers less than 80% of the applicable Contract Quantity from the Facility to Buyer for a period of two (2) consecutive Contract Years;
 - 11.2.2.4. Seller fails to maintain its status as an ERR as set forth in Section 4.5 of the Agreement;
 - 11.2.2.5. Seller abandons the Facility;
 - 11.2.2.6. Seller installs generating equipment at the Facility that exceeds the Contract Capacity and such excess generating capacity is not removed within five (5) Business Days after Notice from Buyer;
 - 11.2.2.7. Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement product that was not generated by the Facility;
 - 11.2.2.8. Seller fails to install any of the equipment or devices necessary for the Facility to satisfy the Contract Capacity set forth in Section 3.1;
 - 11.2.2.9. An unauthorized assignment of the Agreement, as set forth in Section 15;
 - 11.2.2.10. Seller fails to reimburse Buyer any amounts due under this Agreement;
 - 11.2.2.11. Seller breaches the requirements in Section 6.12 regarding incentives; or
 - 11.2.2.12. Seller fails to maintain the Collateral Requirement set forth in Section 3.9.
- 11.3. Declaration of an Event of Default. If an Event of Default has occurred, the non-defaulting Party shall have the right to: (a) send Notice, designating a day, no earlier than five (5) days after such Notice and no later than twenty (20) days after such Notice, as an early termination date of this Agreement ("Early Termination Date"); (b) accelerate all amounts owing between the Parties; (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date; (d) collect any Settlement Amount under Section 11.5; and (e) if the defaulting party is the Seller and Buyer terminates the Agreement prior to the start of the Commercial Operation Date, Buyer shall have the right to retain the entire Reservation Deposit.

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- 11.4. Suspension of Performance. If an Event of Default shall have occurred, the non-defaulting Party has the right to immediately suspend performance under this Agreement and pursue all remedies available at Law or in equity against the defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.
- 11.5. Calculation of Settlement Amount.
- 11.5.1. If either Party exercises a termination right under Section 11.3 after the Commercial Operation Date, the non-defaulting Party shall calculate a settlement amount ("Settlement Amount") equal to the amount of the non-defaulting Party's aggregate Losses and Costs less any Gains, determined as of the Early Termination Date. Prior to the Commercial Operation Date, the Settlement Amount shall be Zero dollars (\$0).
- 11.5.2. If the non-defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, determined as of the Early Termination Date, the Settlement Amount shall be Zero dollars (\$0).
- 11.5.3. The Buyer shall not have to enter into replacement transactions to establish a Settlement Amount.
- 11.5.4. Buyer shall have the right to draw upon the Collateral Requirement to collect any Settlement Amount owed to Buyer.
- 11.6. Rights and Remedies Are Cumulative. The rights and remedies of the Parties pursuant to this Section 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.
- 11.7. Duty to Mitigate. Buyer and Seller shall each have a duty to mitigate damages pursuant to this Agreement, and each shall use reasonable efforts to minimize any damages it may incur as a result of the other Party's non-performance of this Agreement, including with respect to termination of this Agreement.
- 11.8. Right of First Refusal.
- 11.8.1. If Seller terminates this Agreement pursuant to Section 10.4, or if Seller has an Event of Default prior to the Commercial Operation Date, neither Seller nor Seller's Affiliates may sell, or enter into a contract to sell, Energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits, generated by, associated with or attributable to a generating facility installed at the Site to a party other

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than Buyer for a period of two (2) years following the effective date of such termination ("Restricted Period").

11.8.2. This prohibition on contracting and sale shall not apply if, before entering into such contract or making a sale to a party other than Buyer, Seller or Seller's Affiliate provides Buyer with a written offer to sell the Energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits to Buyer at the Contract Price and on other terms and conditions materially similar to the terms and conditions contained in this Agreement and Buyer fails to accept such offer within forty-five (45) days after Buyer's receipt thereof.

11.8.3. Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site of the proposed Facility during the Restricted Period so long as the limitations contained in this Section 11.8 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.8 pursuant to a written agreement reasonably approved by Buyer.

11.8.4. Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach of the covenants contained within this Section 11.8.

12. GOVERNMENTAL CHARGES

12.1. Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority ("Governmental Charges") on or with respect to the Product or the Transaction arising at the Delivery Point, including, but not limited to, ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the Transaction from the Delivery Point. In the event Seller is required by Law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall reimburse Seller for such Governmental Charges within thirty (30) days of Notice by Seller. If Buyer is required by Law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall reimburse Buyer for such amounts within thirty (30) days of Notice from Buyer. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the Law. A Party that is exempt at any time and for any reason from one or more Governmental Charges bears the risk that such exemption shall be

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lost or the benefit of such exemption reduced; and thus, in the event a Party's exemption is lost or reduced, each Party's responsibility with respect to such Governmental Charge shall be in accordance with the first four sentences of this Section.

13. RELEASE OF INFORMATION AND RECORDING CONVERSATION

- 13.1. Release of Information. Seller authorizes Buyer to release to the FERC, CEC, the CPUC, other Governmental Authority, and/or media outlet information regarding the Facility, including the Seller's name and location, and the size, location and operational characteristics of the Facility, the Term, the ERR type, photographs of the project, the Commercial Operation Date, greenhouse gas emissions data, and the net power rating of the Facility, as requested from time to time pursuant to the CEC's, CPUC's or applicable Governmental Authority's rules and regulations.
- 13.2. Public Announcements. Seller shall make no public announcement regarding any aspect of this Agreement or the role of Seller in regards to the development or operation of the Project without the prior written consent of Buyer, which consent shall not be unreasonably withheld. Any public announcement by Seller must comply with California Business and Professions Code § 17580.5 and with the *Guides for the Use of Environmental Marketing Claims*, published by the Federal Trade Commission, as it may be updated from time to time.

14. ASSIGNMENT

- 14.1. General Assignment. Except as provided in Sections 14.2 and 14.3, Seller may not assign this Agreement or its rights hereunder without the prior written consent of the Buyer, which consent shall not be unreasonably withheld or delayed so long as among other things (a) the assignee assumes the Seller's payment and performance obligations under this Agreement, (b) the assignee agrees in writing to be bound by the terms and conditions hereof, (c) Seller delivers evidence satisfactory to Buyer of the proposed assignee's technical and financial capability to meet or exceed Seller's obligations hereunder and (d) the Seller delivers such tax and enforceability assurance as Buyer may reasonably request.
- 14.2. Assignment to Financing Providers. Seller may assign this Agreement as collateral for any financing or refinancing of the Project (including any tax equity or lease financing) with the prior written consent of the Buyer, which consent shall not be unreasonably withheld or delayed. The Parties agree that, the consent provided to Buyer in accordance with this Section 14.2 shall be in a form substantially similar to the Form of Financing Consent attached hereto as Appendix H; provided

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that (a) Buyer shall not be required to consent to any additional terms or conditions beyond those contained in Appendix H, including extension of any cure periods or additional remedies for financing providers, and (b) Seller shall be responsible at Buyer's request for Buyer's reasonable costs and attorneys' fees associated with the review, negotiation, execution and delivery of documents in connection with such assignment.

- 14.3. Notice of Change in Control. Except in connection with public market transactions of the equity interests or capital stock of Seller or Seller's Affiliates, Seller shall provide Buyer notice of any direct change of control of Seller (whether voluntary or by operation of Law).

15. 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.

16. DISPUTE RESOLUTION

- 16.1. Intent of the Parties. The sole procedure to resolve any claim arising out of or relating to this Agreement is the dispute resolution procedure set forth in this Section 16, except that either Party may seek an injunction in Superior Court Humboldt County, California if such action is necessary to prevent irreparable harm, in which case both Parties nonetheless will continue to pursue resolution of all other aspects of the dispute by means of this procedure.

- 16.2. Management Negotiations.

- 16.2.1. The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement by prompt negotiations between each Party's authorized representative, or such other person designated in writing as a representative of the Party (each a "Manager"). Either Manager may request a meeting, to be held in person or telephonically, to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such request, at a mutually agreed time and place.

- 16.2.2. All communication and writing exchanged between the Parties in connection with these negotiations shall be deemed inadmissible as evidence such that it cannot be used or referred to in any subsequent judicial or arbitration process between the Parties, whether with respect to this dispute or any other.

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16.2.3. If the matter is not resolved within forty-five (45) days of commencement of negotiations under Section 16.2.1, or if the Party receiving the written request to meet refuses or does not meet within the ten (10) Business Day period specified in Section 16.2.1, either Party may initiate arbitration of the controversy or claim according to the terms of Section 16.3.

16.3. Arbitration Initiation. If the dispute cannot be resolved by negotiation as set forth in Section 16.2 above, then the Parties shall resolve such controversy through arbitration ("Arbitration"). The Arbitration shall be adjudicated by one retired judge or justice from the JAMS panel. The Arbitration shall take place in Humboldt County, California, and shall be administered by and in accordance with JAMS' Commercial Arbitration Rules. If the Parties cannot mutually agree on the arbitrator who will adjudicate the dispute, then JAMS shall provide the Parties with an arbitrator pursuant to its then-applicable Commercial Arbitration Rules. The arbitrator shall have no affiliation with, financial or other interest in, or prior employment with either Party and shall be knowledgeable in the field of the dispute. Either Party may initiate Arbitration by filing with the JAMS a notice of intent to arbitrate at any time following the unsuccessful conclusion of the management negotiations provided for in Section 16.2.

17. MISCELLANEOUS

17.1. Severability. If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

17.2. Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission shall also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement shall not affect the validity or effectiveness of this Agreement.

17.3. General. No amendment to or modification of this Agreement shall be enforceable unless reduced to writing and executed by both Parties.

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This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only.

- 17.4. Interpretation. Whenever this Agreement specifically refers to any Law, tariff, Governmental Authority, regional reliability council, Transmission/Distribution Owner, or credit rating agency, the Parties hereby agree that the references also refers to any successor to such Law, tariff or organization.
- 17.5. Construction. The Agreement will not be construed against any Party as a result of the preparation, substitution, or other event of negotiation, drafting or execution thereof.
- 17.6. Joint Powers Authority. Seller hereby acknowledges and agrees that Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Third Amended and Restated Joint Powers Agreement dated October 13, 2016 (the “Joint Power Agreement”), that Buyer is a public entity separate from its members, and that under the Joint Powers Agreement the members have no liability for any obligations or liabilities of Buyer. Seller agrees that Buyer shall solely be responsible for all debts, obligations and liabilities to Seller accruing and arising out of this Agreement, and Seller agrees that it shall have no rights against, and shall not make any claim, take any actions or assert any remedies against, any of Buyer’s members, any cities or counties participating in Buyer’s community choice aggregation program, or any of Buyer’s retail customers in connection with this Agreement.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

(Seller)	REDWOOD COAST ENERGY AUTHORITY (Buyer)
(Signature)	(Signature)

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(Type/Print Name)

(Title)

(Date)

Matthew Marshall

(Type/Print Name)

Executive Director

(Title)

(Date)

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APPENDIX A - DEFINITIONS**

Appendix A – Definitions

“Affiliate” means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with that Party.

“Arbitration” has the meaning set forth in Section 16.

“As-Available Facility” means a generating facility that is powered by one of the following sources, except for a de minimis amount of Energy from other sources: (a) wind, (b) solar energy, (c) hydroelectric potential derived from small conduit water distribution facilities that do not have storage capability, or (d) other variable sources of energy that are contingent upon natural forces other than geothermal.

“Available Capacity” means the rated alternating current (AC) generating capacity of the Facility, expressed in whole kilowatts, that is available to generate Product.

“Bankrupt” means with respect to any entity, such entity:

(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, or has any such petition filed or commenced against it;

(b) Makes an assignment or any general arrangement for the benefit of creditors;

(c) Otherwise becomes bankrupt or insolvent (however evidenced);

(d) Has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to such entity or any substantial portion of its property or assets; or

(e) Is generally unable to pay its debts as they fall due.

“Baseload Facility” means a generating facility that does not qualify as an As-Available Facility.

“Business Day” means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving during the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party’s principal place of business where the relevant Party in each instance shall be the Party from whom the notice, payment or delivery is being sent.

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

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“CAISO Grid” means the system of transmission lines and associated facilities that have been placed under the CAISO’s operational control.

“CAISO Tariff” means the CAISO FERC Electric Tariff, Fifth Replacement Volume No. 1, as amended from time to time.

“California Renewables Portfolio Standard” means the renewable energy program and policies codified in California Public Utilities Code Sections 399.11 through 399.33 and California Public Resources Code Sections 25740 through 25751, as such provisions may be amended or supplemented from time to time.

“Capacity Attributes” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity of the Project to produce Energy or ancillary services, including, but not limited to, any accounting construct so that the full Contract Capacity of the Project may be counted toward a Resource Adequacy Requirement or any other measure by the CPUC, the CAISO, the FERC, or any other entity invested with the authority under federal or state Law, to require Buyer to procure, or to procure at Buyer’s expense, Resource Adequacy or other such products.

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

“CEC Certification” means certification by the CEC that the Facility is an ERR and that all Energy produced by the Facility qualifies as generation from an ERR.

“CEC Pre-Certification” means provisional certification of the proposed Facility as an ERR by the CEC upon submission by a facility of a complete application and required supplemental information.

“Check Meter” means the Buyer revenue-quality meter section(s) or meter(s), which Buyer may require at its discretion, and which will include those devices normally supplied by Buyer or Seller under the applicable utility electric service requirements.

“Claiming Party” has the meaning set forth in Section 10.2.

“Commercial Operation” means the Contract Capacity has been installed and the Facility is operating and able to produce and deliver the Product to Buyer pursuant to the terms of this Agreement.

“Commercial Operation Date” means the date on which the Facility achieves Commercial Operation.

“Contract Capacity” means the amount of electric energy generating capacity, set forth in Section 3.1, that Seller commits to install at the Site.

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“Contract Price” has the meaning set forth in Section 3.6.

“Contract Quantity” has the meaning set forth in Section 3.2.

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

“Costs” means (a) brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred either in terminating any arrangement pursuant to which it has hedged its obligations or in entering into new arrangements which replace the Transaction; and (b) all reasonable attorneys’ fees and expenses incurred in connection with the termination of the Transaction.

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

“Credit Rating” means, with respect to any entity, (a) the rating then assigned to such entity’s unsecured senior long-term debt obligations (not supported by third party credit enhancements), or (b) if such entity does not have a rating for its unsecured senior long-term debt obligations, then the rating assigned to such entity as an issuer rating by S&P and/or Moody’s. If the entity is rated by both S&P and Moody’s and such ratings are not equivalent, the lower of the two ratings shall determine the Credit Rating. If the entity is rated by either S&P or Moody’s, but not both, then the available rating shall determine the Credit Rating.

“Current Inverters” means devices used to convert DC electric energy to alternating current electric energy. *[for solar photovoltaic technology]*

“Curtailment Order” means any instruction from Buyer to Seller to reduce the delivery of Energy from the Facility for any reason other than as set forth in Sections 3.6.3 (a) or (b).

“DC” means direct current. *[for solar photovoltaic technology]*

“DC Collection System” means the DC equipment, cables, components, devices and materials that interconnect the Photovoltaic Modules with the Current Inverters. *[for solar photovoltaic technology]*

“Delivered Energy” means all Energy produced from the Facility and delivered by Seller to the Delivery Point, expressed in kWh, as recorded by the meter specified in Section 6.2.1 or the Check Meter, as applicable.

“Delivery Point” has the meaning set forth in Section 2.5.

“Delivery Term” has the meaning set forth in Section 3.5.

“Early Termination Date” has the meaning set forth in Section 11.3.

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“Eligible Renewable Energy Resource” or “ERR” has the meaning set forth in Public Utilities Code Sections 399.12 or Section 399.16 and California Public Resources Code Section 25741, as these code provision may be amended or supplemented from time to time.

“Emergency” means (a) an actual or imminent condition or situation which jeopardizes the integrity of the electric system or the integrity of any other systems to which the electric system is connected or any condition so defined and declared by the CAISO; or (b) an emergency condition as defined under an Interconnection Agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the electric system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.

“Energy” means three-phase, 60-cycle alternating current electric energy measured in kWh, net of Station Use. For purposes of the definition of “Green Attributes,” the word “energy” shall have the meaning set forth in this definition.

“Execution Date” means the latest signature date found at the end of the Agreement.

“Facility” has the meaning set forth in Section 2. The terms “Facility” or “Project” as used in this Agreement are interchangeable.

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

“Force Majeure” means any occurrence that was not anticipated as of the Execution Date that:

- (a) In whole or in part:
 - (i) Delays a Party’s performance under this Agreement;
 - (ii) Causes a Party to be unable to perform its obligations; or
 - (iii) Prevents a Party from complying with or satisfying the conditions of this Agreement;
- (b) Is not within the control of that Party; and
- (c) The Party has been unable to overcome by the exercise of due diligence, including war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute, or unforeseen curtailment or reduction in deliveries at the direction of a Transmission/Distribution Owner or the CAISO.

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Force Majeure does not include:

- (d) The lack of wind, sun or other fuel source of an inherently intermittent nature;
- (e) Reductions in generation from the Facility resulting from ordinary wear and tear, deferred maintenance or operator error; or
- (f) Any delay in providing, or cancellation of, interconnection service by a Transmission/Distribution Owner or the CAISO, except to the extent such delay or cancellation is the result of a Force Majeure claimed by the Transmission/Distribution Owner or the CAISO.

“Gains” means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of the Transaction, determined in a commercially reasonable manner, subject to Section 11.5. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, 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, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading platforms (e.g., NYMEX), all of which should be calculated for the remaining Delivery Term to determine the value of the Product.

“Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

“Governmental Charges” has the meaning set forth in Section 12.1.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat

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in the atmosphere¹; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

"Interconnection Agreement" means the small generator interconnection agreement entered into separately between Seller, Transmission/Distribution Owner, and CAISO (as appropriate) obtained by Seller pursuant to Transmission/Distribution Owner's Wholesale Distribution Tariff.

"Interconnection Facilities" has the meaning set forth in the tariff applicable to the Seller's Interconnection Agreement.

"Interconnection Point" has the meaning set forth in Section 2.4.

"Interest Rate" means the rate per annum equal to the "Monthly" Federal Funds Rate (as reset on a monthly basis based on the latest month for which such rate is available) as reported in Federal Reserve Bank Publication H.15-519, or its successor publication.

"JAMS" means JAMS, Inc. or its successor entity, a judicial arbitration and mediation service.

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

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“kW” means kilowatt.

“kWh” means kilowatt-hour.

“kWPC” means peak DC power. *[for solar photovoltaic technology]*

“Law” means any statute, law, treaty, rule, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective during the Delivery Term; or any binding interpretation of the foregoing.

“Letter of Credit” means an irrevocable, non-transferable standby letter of credit issued either by a U.S. commercial bank or a foreign bank with a U.S. branch office with a Credit Rating of at least “A-” by S&P and “A3” by Moody’s (without a “credit watch”, “negative outlook” or other rating decline alert if its Credit Rating is “A-” by S&P or “A3” by Moody’s). The Letter of Credit must be substantially in the form as contained in Appendix G to this Agreement; provided that if the Letter of Credit is issued by a branch of a foreign bank, Buyer may require changes to such form.

“Local Business Incentive” means an adjustment to the Contract Price available for Delivered Energy during the first five (5) Contract Years, as specified in Section 3.6.1 above, from a Facility where the applicant and/or prime contractor has applied for and been approved as meeting the requirements for being a local business pursuant to the requirements and process specified in the Feed-in Tariff. For purposes of this Agreement, the amount of the Local Business Incentive is equal to \$0.005 per kWh of Delivered Energy.

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from the termination of the Transaction, determined in a commercially reasonable manner, subject to Section 11.5. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties 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, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading platforms (e.g. NYMEX), all of which should be calculated for the remaining term of the Transaction to determine the value of the Product.

“Manager” has the meaning set forth in Section 16.2.

“Mechanical Completion” means that all equipment and systems that are necessary to generate the effective capacity of the Facility are installed. The Facility is

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX A - DEFINITIONS**

mechanically, electrically, and structurally constructed with all control systems installed and connected. The Facility is functionally complete to the extent necessary to begin commissioning and testing of the Facility, though commissioning and testing need not have commenced.”

“MW” means megawatt (AC).

“MWh” means megawatt-hour.

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

“Party” means the Buyer or Seller individually, and “Parties” means both collectively. For purposes of Section 15 (Governing Law) the word “party” or “parties” shall have the meaning set forth in this definition.

“Photovoltaic Module” means the individual module or component that produces DC electric energy from sun light. *[for solar photovoltaic technology]*

“Photovoltaic Module DC Rating” means, for each Photovoltaic Module installed or to be installed at the Site, the number (expressed in kWDC) stated on the nameplate affixed thereto representing the manufacturer’s maximum (at “peak” sunlight) DC power rating at the standard test condition (“Pmp” or Power maximum at peak). *[for solar photovoltaic technology]*

“Product” means all Energy produced by the Facility throughout the Delivery Term, net of Station Use and electrical losses from the Facility to the Delivery Point; all Green Attributes; all Capacity Attributes, if any; and all Resource Adequacy Benefits, if any; generated by, associated with or attributable to the Facility throughout the Delivery Term.

“Project” has the meaning set forth in Section 2. The terms “Facility” and “Project” as used in this Agreement are interchangeable.

“Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety. Prudent Electrical Practices shall include, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with manufacturers’ warranties, restrictions in this Agreement, and the requirements of Governmental Authorities,

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WECC standards, the CAISO and Laws. Prudent Electrical Practices also includes taking reasonable steps to ensure that:

- (a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility's needs;
- (b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Facility and Emergencies whether caused by events on or off the Site;
- (c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe operation of the Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- (e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the Transmission/Distribution Owner's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and
- (f) Equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

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

"Reservation Deposit" means the deposit submitted by Seller to Buyer at the time Seller submitted its application for a feed-in tariff contract, which amount shall equal four dollars (\$4.00) for each kilowatt of proposed alternating current (AC) generator capacity. Buyer shall return the Reservation Deposit to Seller once the Project achieves Commercial Operation by crediting Seller the full amount of the Reservation Deposit on Buyer's first payment for delivered Product. Buyer shall retain the full amount of the Reservation Deposit in the event the Project does not achieve Commercial Operation by the Commercial Operation Date.

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APPENDIX A - DEFINITIONS**

“Resource Adequacy” means the procurement obligation of load serving entities, including Buyer, as such obligations are described in CPUC Decisions D.04-10-035 and D.05-10-042 and subsequent CPUC decisions addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemakings (R.) 04-04-003 and (R.) 05-12-013 or by any successor proceeding, and all other Resource Adequacy obligations established by any other entity, including the CAISO.

“Resource Adequacy Benefits” means the rights and privileges attached to the Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Facility.

“Resource Adequacy Requirements” has the meaning set forth in Section 4.4.1.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 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, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time during the Delivery Term.

“Restricted Period” has the meaning set forth in Section 11.8.1.

“Settlement Amount” has the meaning set forth in Section 11.5.

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

“Site Control” means the Seller: (a) owns the Site, (b) leases the Site, (c) is the holder of a right-of-way grant or similar instrument with respect to the Site, or (d) prior to the Commercial Operation Date, has the unilaterally exercisable contractual right to acquire or cause to be acquired on its behalf any of (a), (b), or (c).

“Station Use” means energy consumed within the Facility’s electric energy distribution system as losses, as well as energy used to operate the Facility’s auxiliary equipment. The auxiliary equipment may include, but is not limited to, forced and induced draft fans, cooling towers, boiler feeds pumps, lubricating oil systems, plant lighting, fuel handling systems, control systems, and sump pumps. This use is not to exceed 1% of average annual output.

“Term” has the meaning set forth in Section 3.4.1.

“Transaction” means the particular transaction described in Section 3.3.

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX A - DEFINITIONS**

“Transmission/Distribution Owner” means any entity or entities responsible for operating the electric distribution system or transmission system, as applicable, at and beyond the Interconnection Point.

“WECC” means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.

“Wind Turbines” means the wind turbine generators installed on the Site as part of the Facility including any replacements or substitutes therefore. *[for wind technology]*

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

“WREGIS Certificate Deficit” has the meaning set forth in Section 4.3.5. *[for Facilities (1) 500 kW or greater and (2) eligible for a CAISO revenue meter.]*

“WREGIS Certificates” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard. *[for Facilities (1) 500 kW or greater and (2) eligible for a CAISO revenue meter.]*

“WREGIS Operating Rules” means those operating rules and requirements adopted by WREGIS as of December 2010, as subsequently amended, supplemented or replaced (in whole or in part) from time to time. *[for Facilities (1) 500 kW or greater and (2) eligible for a CAISO revenue meter.]*

*** End of Appendix A ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX B - COMMERCIAL OPERATION DATE
CONFIRMATION LETTER**

Appendix B – Commercial Operation Date Confirmation Letter

In accordance with the terms of that certain Small Renewable Generator Power Purchase Agreement dated [REDACTED] (“Agreement”) for the Facility named [REDACTED] by and between REDWOOD COAST ENERGY AUTHORITY “Buyer”) and [REDACTED] (“Seller”), this letter serves to document the Parties further agreement that (i) the conditions precedent to the occurrence of the Commercial Operation Date have been satisfied as of this ____ day of _____, _____. This letter shall confirm the Commercial Operation Date, as defined in the Agreement, as the date referenced in the preceding sentence.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below:

By:

By:

(Seller)

**REDWOOD COAST ENERGY
AUTHORITY**

(Buyer)

(Signature)

(Signature)

(Type/Print Name)

(Type/Print Name)

(Title)

(Title)

(Date)

(Date)

*** End of Appendix B ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX C - FORECASTING REQUIREMENTS**

Appendix C – Forecasting Requirements

A. AVAILABLE CAPACITY FORECASTING.

Seller shall provide the Available Capacity forecasts described below. ***[The following bracketed language applies to As-Available solar or wind Projects only]*** [Seller's availability forecasts below shall include Project availability and updated status of ***[The following bracketed language applies to solar Projects only]*** [photovoltaic panels, inverters, transformers, and any other equipment that may impact availability] or ***[The following bracketed language applies to wind Projects only]*** [transformers, wind turbine unit status, and any other equipment that may impact availability].] ***[The following bracketed language applies to As-Available Product only]*** Seller shall use commercially reasonable efforts to forecast the Available Capacity of the Project accurately and to transmit such information in a format reasonably acceptable to Buyer. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary.

1. Annual Forecast of Available Capacity. No later than (I) the earlier of July 1 of the first calendar year following the Execution Date or one hundred and eighty (180) days before the first day of the first Contract Year of the Delivery Term ("First Annual Forecast Date"), and (II) on or before July 1 for each calendar year from the First Annual Forecast Date for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly Available Capacity for each day in each month of the following calendar year in a form reasonably acceptable to Buyer.

2. Monthly Forecast of Available Capacity. Ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly Available Capacity for each day of the following month in a form reasonably acceptable to Buyer.

*** End of Appendix C ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX D - DESCRIPTION OF THE FACILITY**

Appendix D – Description of the Facility

Seller should complete the information below and attach a description of the Facility, including a summary of its significant components, a drawing showing the general arrangements of the Facility, and a single line diagram illustrating the interconnection of the Facility and loads with Buyer's electric distribution system.

Name of the Facility: _____

Address of the Facility: _____

Description of the Facility, including a summary of its significant components, such as for solar photovoltaic [Photovoltaic Modules, DC Collection System, Current Inverters], meteorological station, instrumentation and any other related electrical equipment:

Drawing showing the general arrangement of the Facility:

A single-line diagram illustrating the interconnection of the Facility with Buyer:

A legal description of the Site, including a Site map:

Longitude and latitude of the centroid of the Site:

*** End of Appendix D ***

FEED-IN TARIFF POWER PURCHASE AGREEMENT

APPENDIX E – SELLER’S MILESTONE SCHEDULE

APPENDIX E – FEED-IN TARIFF MILESTONES AND EXAMPLE ACTION STEPS

Action Steps	Time Allowance		Due On	Date Completed	Responsible Party
STEP 1. Submit Application & Fast Track					Developer
STEP 2. Approve Application	00 CD	after Step 1			RCEA
STEP 3. Sign conditional PPA	30 CD	after Step 2			Both
STEP 4. Acquire Full Interconnection Agreement	60 CD	after Step 3			Developer
4A. Submit Interconnection Agreement within 10 days of receipt	10 BD	after Step 4			Developer
STEP 5. Submit confirmation of RPS request receipt by CEC and copy of CEC-RPS 1	30 BD	after Step 4			Developer
STEP 7. File project with WREGIS & submit proof to RCEA	60 BD	after Step 5			Developer
STEP 8. Pay Interconnection Fees. & submit proof to RCEA	180 CD	after Step 4			Developer
STEP 9. Acquire conditional use and construction permits	180 CD	after Step 4			Developer
9A. Submit proof of permits to RCEA	10 BD	after Step 9			Developer
STEP 10. Notify RCEA 10 business days in advance of ground breaking	10 BD	prior to groundbreaking			Developer
STEP 10A. Submit Proof of Insurance	10 BD	prior to groundbreaking			Developer
STEP 11. Mechanical Completion	150 CD	after Step 9			Developer
STEP 12. Notify RCEA 30 business days in advance of commercial operation	30 BD	prior to Step 13			Developer
STEP 13. Start of Commercial Operation	18 months	after Step 3			Developer
STEP 14. Submit CEC Certification	90 BD	after Step 13			Developer
¹ For clarification, the tendered interconnection agreement is the final draft from PG&E's Wholesale interconnection Services prior to execution of that agreement.					
BD= Business Day, CD = Calendar Days					

*** End of Appendix E ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX F – NOTICES LIST**

Appendix F – Notices List

Name: _____ (“Seller”)

Name: REDWOOD COAST ENERGY
AUTHORITY, a California Joint Powers
Authority
 (“Buyer” or “RCEA”)

All Notices: ***[Seller to complete]***

All Notices:

Delivery Address:

Street:

City: State: Zip:

Delivery Address:

[UPDATE]

Mail Address: (if different from above)

Mail Address:

[UPDATE]

Attn:

Phone:

Facsimile:

Attn:

Phone:

Facsimile:

DUNS:

Federal Tax ID Number:

DUNS:

Federal Tax ID Number:

Invoices:

Attn:

Phone:

Facsimile:

Invoices:

Attn:

Phone:

Facsimile:

Payments:

Attn:

Phone:

Facsimile:

Payments:

Attn:

Phone:

Facsimile:

Wire Transfer:

BNK:

ABA:

ACCT:

Wire Transfer:

BNK:

ABA:

ACCT:

Credit and Collections:

Attn:

Phone:

Facsimile:

Credit and Collections:

Attn:

Phone:

Facsimile:

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX F – NOTICES LIST**

With additional Notices of an Event of
Default to Contract Manager:

Attn: _____

Phone: _____

Facsimile: _____

Contract Manager:

Attn: _____

Phone: _____

**** End of Appendix F****

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX G – FORM OF LETTER OF CREDIT**

Appendix G – FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [insert issue date]

Beneficiary: Redwood Coast Energy Authority **Applicant:** [Insert name and address of Applicant]
633 3rd St,
Eureka, CA 95501

Attention:

Letter of Credit Amount: [insert amount]

Expiry Date: [insert expiry date]

Ladies and Gentlemen:

By order of **[insert name of Applicant]** (“Applicant”), we hereby issue in favor of Redwood Coast Energy Authority (the “Beneficiary”) our irrevocable standby letter of credit No. **[insert number of letter of credit]** (“Letter of Credit”), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. \$ **[insert amount in figures followed by (amount in words)]** (“Letter of Credit Amount”). This Letter of Credit is available with **[insert name of issuing bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on **[insert expiry date]** (the “Expiry Date”).

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents:

1. Beneficiary’s signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[insert number]** and stating the amount of the demand; and
2. One of the following statements signed by an authorized representative or officer of Beneficiary:

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX G – FORM OF LETTER OF CREDIT**

A. “Pursuant to the terms of that certain **[insert name of the agreement]** (the “Agreement”), dated **[insert date of the Agreement]**, between Beneficiary and **[insert name of Seller under the Agreement]**, Beneficiary is entitled to draw under Letter of Credit No. **[insert number]** amounts owed by **[insert name of Seller under the Agreement]** under the Agreement; or

B. “Letter of Credit No. **[insert number]** will expire in thirty (30) days or less and **[insert name of Seller under the Agreement]** has not provided replacement security acceptable to Beneficiary.

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable; and
4. The Expiry Date of this Letter of Credit shall be automatically extended without a written amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to extend the Expiry Date of this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at our offices at **[insert issuing bank’s address for drawings]**.

All demands for payment shall be made by presentation of originals or copies of documents; or by facsimile transmission of documents to **[insert fax number]**, Attention: **[insert name of issuing bank’s receiving department]**, with originals or copies of documents to follow by overnight mail. If presentation is made by facsimile transmission, you may contact us at **[insert phone number]** to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the sixth (6th) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX G – FORM OF LETTER OF CREDIT**

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision*, International Chamber of Commerce (ICC) Publication No. 600 (the “UCP 600”); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The law of the State of California shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[insert number and any other necessary details]**.

Very truly yours,

[insert name of issuing bank]

By: _____
 Authorized Signature

Name: _____ **[print or type name]**

Title: _____

*** End of Appendix G ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX H – FORM OF CONSENT TO
ASSIGNMENT**

Appendix H – FORM OF CONSENT TO ASSIGNMENT

CONSENT AND AGREEMENT

This CONSENT AND AGREEMENT (“Consent and Agreement”) is entered into as of [_____, 2____], between REDWOOD COAST ENERGY AUTHORITY (“RCEA”), and [_____] , as collateral agent (in such capacity, “Financing Provider”), for the benefit of various financial institutions (collectively, the “Secured Parties”) providing financing to [_____] (“Seller”). RCEA, Seller, and the Financing Provider shall each individually be referred to as a “Party” and collectively as the “Parties”.

Recitals

A. Pursuant to that certain Power Purchase Agreement dated as of _____, 2____ (as amended, modified, supplemented or restated from time to time, as including all related agreements, instruments and documents, collectively, the “Assigned Agreement”) between RCEA and Seller, RCEA has agreed to purchase energy from Seller.

B. The Secured Parties have provided, or have agreed to provide, to Seller financing (including a financing lease) pursuant to one or more agreements (the “Financing Documents”), and require that Financing Provider be provided certain rights with respect to the “Assigned Agreement” and the “Assigned Agreement Accounts,” each as defined below, in connection with such financing.

C. In consideration for the execution and delivery of the Assigned Agreement, RCEA has agreed to enter into this Consent and Agreement for the benefit of Seller.

Agreement

1. **Definitions.** Any capitalized term used but not defined herein shall have the meaning specified for such term in the Assigned Agreement.
2. **Consent.** Subject to the terms and conditions below, RCEA consents to and approves the pledge and assignment by Seller to Financing Provider pursuant to the Loan Agreement and/or Security Agreement of (a) the Assigned Agreement, and (b) the accounts, revenues and proceeds of the Assigned Agreement (collectively, the “Assigned Agreement Accounts”).
3. **Limitations on Assignment.** Financing Provider acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Financing Document executed by Seller, Financing Provider shall not assume, sell or otherwise

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dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Financing Provider or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured and which are not personal to the Seller, (b) executes and delivers to RCEA a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to RCEA, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, (d) provides such tax and enforceability assurance as RCEA may reasonably request, and (e) is a Permitted Transferee (as defined below). Financing Provider further acknowledges that the assignment of the Assigned Agreement and the Assigned Agreement Accounts is for security purposes only and that Financing Provider has no rights under the Assigned Agreement or the Assigned Agreement Accounts to enforce the provisions of the Assigned Agreement or the Assigned Agreement Accounts unless and until an event of default has occurred and is continuing under the Financing Documents between Seller and Financing Provider (a "Financing Default"), in which case Financing Provider shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Financing Provider were an original party to the Assigned Agreement.

"Permitted Transferee" means any person or entity who is reasonably acceptable to RCEA. Financing Provider may from time to time, following the occurrence of a Financing Default, notify RCEA in writing of the identity of a proposed transferee of the Assigned Agreement, which proposed transferee may include Financing Provider, in connection with the enforcement of Financing Provider's rights under the Financing Documents, and RCEA shall, within thirty (30) business days of its receipt of such written notice, confirm to Financing Provider whether or not such proposed transferee is a "Permitted Transferee" (together with a written statement of the reason(s) for any negative determination) it being understood that if RCEA shall fail to so respond within such thirty (30) business day period such proposed transferee shall be deemed to be a "Permitted Transferee".

4. Cure Rights.

(a) Notice to Financing Provider by RCEA. RCEA shall, concurrently with the delivery of any notice of an event of default under the Assigned Agreement (each, an "Event of Default") to Seller (a "Default Notice"), provide a copy of such Default Notice to Financing Provider pursuant to Section 9(a) of this Consent and Agreement. In addition, Seller shall provide a copy of the Default Notice to Financing Provider the next business day after receipt from RCEA, independent of any agreement of RCEA to deliver such Default Notice.

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(b) Cure Period Available to Financing Provider Prior to Any Termination by RCEA. Upon the occurrence of an Event of Default, subject to (i) the expiration of the relevant cure periods provided to Seller under the Assigned Agreement, and (ii) Section 4(a) above, RCEA shall not terminate the Assigned Agreement unless it or Seller provides Financing Provider with notice of the Event of Default and affords Financing Provider an Additional Cure Period (as defined below) to cure such Event of Default. For purposes of this Agreement “Additional Cure Period” means (i) with respect to a monetary default, ten (10) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement, and (ii) with respect to a non-monetary default, thirty (30) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement.

(c) Failure by RCEA to Deliver Default Notice. If neither RCEA nor Seller delivers a Default Notice to Financing Provider as provided in Section 4(a), the Financing Provider’s applicable cure period shall begin on the date on which notice of an Event of Default is delivered to Financing Provider by either RCEA or Seller. Except for a delay in the commencement of the cure period for Financing Provider and a delay in RCEA’s ability to terminate the Assigned Agreement (in each case only if both RCEA and Seller fail to deliver notice of an Event of Default to Financing Provider), failure of RCEA to deliver any Default Notice shall not waive RCEA’s right to take any action under the Assigned Agreement and will not subject RCEA to any damages or liability for failure to provide such notice.

(d) Extension for Foreclosure Proceedings. If possession of the Project (as defined in the Assigned Agreement) is necessary for Financing Provider to cure an Event of Default and Financing Provider commences foreclosure proceedings against Seller within thirty (30) days of receiving notice of an Event of Default from RCEA or Seller, whichever is received first, Financing Provider shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed ninety (90) days; provided, however, that Financing Provider shall provide a written notice to RCEA that it intends to commence foreclosure proceedings with respect to Seller within ten (10) business days of receiving a notice of such Event of Default from RCEA or Seller, whichever is received first. In the event Financing Provider succeeds to Seller’s interest in the Project as a result of foreclosure proceedings, the Financing Provider or a purchaser or grantee pursuant to such foreclosure shall be subject to the requirements of Section 3 of this Consent and Agreement.

5. Setoffs and Deductions. Each of Seller and Financing Provider agrees that RCEA shall have the right to set off or deduct from payments due to Seller each and every amount due RCEA from Seller whether or not arising out of or in connection with the Assigned Agreement. Financing Provider further agrees that it takes the assignment for security purposes of the Assigned Agreement and the Assigned Agreement Accounts subject to any defenses or causes of action RCEA may have against Seller.

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6. No Representation or Warranty. Seller and Financing Provider each recognizes and acknowledges that RCEA makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement or the Assigned Agreement Accounts. Financing Provider is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement, and Financing Provider releases RCEA from any liability resulting from the assignment for security purposes of the Assigned Agreement and the Assigned Agreement Accounts.

7. Amendment to Assigned Agreement. Financing Provider acknowledges and agrees that RCEA may agree with Seller to modify or amend the Assigned Agreement, and that RCEA is not obligated to notify Financing Provider of any such amendment or modification to the Assigned Agreement. Financing Provider hereby releases RCEA from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

8. Payments under Assigned Agreement. RCEA shall make all payments due to Seller under the Assigned Agreement from and after the date hereof to [____], as depositary agent, to ABA No. [____], Account No. [____], and Seller hereby irrevocably consents to any and all such payments being made in such manner. Each of Seller, RCEA and Financing Provider agrees that each such payment by RCEA to such depositary agent of amounts due to Seller from RCEA under the Assigned Agreement shall satisfy RCEA's corresponding payment obligation under the Assigned Agreement.

9. Miscellaneous.

(a) Notices. All notices hereunder shall be in writing and shall be deemed received (i) at the close of business of the date of receipt, if delivered by hand or by facsimile or other electronic means, or (ii) when signed for by recipient, if sent registered or certified mail, postage prepaid, provided such notice was properly addressed to the appropriate address indicated on the signature page hereof or to such other address as a party may designate by prior written notice to the other parties, at the address set forth below:

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If to Financing Provider:	
Name:	
Address:	
Attn:	
Telephone:	
Facsimile:	
Email:	

If to RCEA:	
Name:	
Address:	
Attn:	
Telephone:	
Facsimile:	
Email:	

(b) No Assignment. This Consent and Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of RCEA, and shall be binding on and inure to the benefit of the Financing Provider, the Secured Parties and their respective successors and permitted transferees and assigns under the loan agreement and/or security agreement.

(c) No Modification. This Consent and Agreement is neither a modification of nor an amendment to the Assigned Agreement.

(d) Choice of Law. The parties hereto agree that this Consent and Agreement shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

(e) No Waiver. No term, covenant or condition hereof shall be deemed waived and no breach excused unless such waiver or excuse shall be in writing and signed by the party claimed to have so waived or excused.

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(f) Counterparts. This Consent and Agreement may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.

(g) No Third Party Beneficiaries. There are no third party beneficiaries to this Consent and Agreement.

(h) Severability. The invalidity or unenforceability of any provision of this Consent and Agreement shall not affect the validity or enforceability of any other provision of this Consent and Agreement, which shall remain in full force and effect.

(i) Amendments. This Consent and Agreement may be modified, amended, or rescinded only by writing expressly referring to this Consent and Agreement and signed by all parties hereto.

IN WITNESS WHEREOF, each of RCEA and Financing Provider has duly executed this Consent and Agreement as of the date first written above.

Redwood Coast Energy Authority (RCEA)

By: _____
Name: _____
Title: _____

[_____]
(Financing Provider), as collateral agent

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

The undersigned hereby acknowledges the Consent and Agreement set forth above, makes the agreements set forth therein as applicable to Seller, including the obligation of Seller to provide a copy of any Default Notice it receives from RCEA to Financing

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Provider the next business day after receipt by Seller, and confirms that the Financing Provider identified above and the Secured Parties have provided or are providing financing to the undersigned.

[_____][name of Seller]

By: _____

Name: _____

Title: _____

**** End of Appendix H****

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
BETWEEN
SAN DIEGO COMMUNITY POWER
AND
FIT PROJECT OWNER**

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COVER SHEET

Seller: Seller's Name, a Seller's form of business entity and state of organization

Buyer: San Diego Community Power, a California Joint Powers Authority

Facility Name: The Facility is named Name of Facility.

Description of Facility: A System Size as a number kW_{AC} Type of resource (e.g., photovoltaic, biomass, wind, etc. generation facility, as further described in Appendix D.

Facility Location: Facility address and/or cross streets.

Interconnection Point: The San Diego Gas & Electric Company ("SDG&E") electric system at description of physical interconnection point at a service voltage of voltage number kV.

Delivery Point: Interconnection Point

Milestones: As further described in Appendix E.

<u>Milestone</u>	<u>Expected Date for Completion</u>
Application	
Evidence of Site Control	
Draft Interconnection Agreement or evidence Project has passed Fast Track screening	
Evidence of Permit Application	
Executed Interconnection Agreement	
CEC Pre-Certification Obtained	
Final Use Permit	
Expected Construction Start Date	
Full Capacity Deliverability Status Obtained	
Initial Synchronization	
Expected Commercial Operation Date	
Guaranteed Commercial Operation Date	

Delivery Term:

- ☐ Ten (10) Contract Years
- ☐ Fifteen (15) Contract Years
- ☐ Twenty (20) Contract Years

Contract Capacity: Number of kWkW_{AC}

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Storage Capacity (if applicable): Number of kW kW_{AC}

Storage Output (if applicable): Number of kWh kWh_{AC}

Contract Quantity:

Contract Year	Contract Quantity (kWh _{AC})
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	

Capacity Attributes (if applicable): Capacity Attributes

Contract Price:

The Contract Price shall be determined hourly within each day of the Delivery Term as follows:

Time of Day (Hours PPT)	Contract Price (\$/MWh)
Hour Ending (HE) 01 - 18	\$60/MWh
Hour Ending (HE) 19 - 24	\$120/MWh

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Bonus Incentive:

The Bonus Incentive paid for the first five (5) Contract Years shall be:

- ☐ Local Business: \$2.50/MWh
- ☐ Previously Developed Site: \$2.50/MWh
- ☐ Sited within a Community of Concern: \$2.50/MWh

Non-Refundable Application Fee: \$500

Reservation Deposit:\$5 per kW of Contract Capacity

Development Security Deposit:\$10 per kW of Contract Capacity

Performance Security Deposit:\$20 per kW of Contract Capacity

FEED-IN TARIFF POWER PURCHASE AGREEMENT

This Feed-In Tariff Power Purchase Agreement ("Agreement") is entered into as of the Effective Date between San Diego Community Power, a California joint powers authority ("Buyer" or "SDCP"), and Seller's Name. ("Seller"), a Seller's form of business entity and state of organization. Seller and Buyer are sometimes referred to in this Agreement jointly as "Parties" or individually as "Party." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Appendix A to this Agreement.

In consideration of the mutual promises and obligations stated in this Agreement and its appendices, the Parties agree as follows:

1. DOCUMENTS INCLUDED

This Agreement includes the following appendices, which are specifically incorporated herein and made a part of this Agreement:

- Appendix A Definitions
- Appendix B Commercial Operation Date Confirmation Letter
- Appendix C Forecasting Requirements
- Appendix D Description of the Facility
- Appendix E Seller's Milestone Schedule
- Appendix F Notices List

2. SELLER'S FACILITY AND COMMERCIAL OPERATION DATE

2.1. Facility. This Agreement governs Buyer's purchase of the Product from the electrical generating facility (hereinafter referred to as the "Facility" or "Project") as described in this Section 2.1.

2.1.1. Facility Location. The Facility is physically located at the address or location identified on the Cover Sheet.

2.1.2. Facility Name. The Facility name is identified on the Cover Sheet.

2.1.3. Type of Facility. The Facility's renewable resource is identified on the Cover Sheet.

2.1.4. Interconnection Point. The Interconnection Point shall be the point of electrical interconnection as described on the Cover Sheet.

2.1.5. Delivery Point. The Delivery Point is the Interconnection Point.

2.1.6. Facility Description. A description of the Facility, including a summary of its significant components, a drawing showing the general arrangements of the Facility, and a single line diagram illustrating the interconnection of the

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Facility and loads with the Transmission/Distribution Owner's electric distribution system, is attached and incorporated herein as Appendix D.

2.2. Guaranteed Commercial Operation Date.

- 2.2.1. The Expected Commercial Operation Date is the date set forth on the Cover Sheet by which Seller reasonably expects to achieve Commercial Operation and which date shall be no later than twenty-four (24) months from the Effective Date.
- 2.2.2. The Guaranteed Commercial Operation Date means the Expected Commercial Operation Date. Seller shall achieve Commercial Operation no later than the Guaranteed Commercial Operation Date (as such date may be extended pursuant to Section 2.2.3 below up to one hundred twenty (180) days).
- 2.2.3. The Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the "Development Cure Period") for the duration of any and all delays arising out of the following circumstances:
 - 2.2.3.1. a Force Majeure event occurs; or
 - 2.2.3.2. the Interconnection Facilities are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date, despite the exercise of commercially reasonable efforts by Seller; or
 - 2.2.3.3. Buyer has not made all necessary arrangements to receive the Facility Energy at the Delivery Point by the Guaranteed Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under Section 2.2.3.1 and 2.2.3.2 above under the Development Cure Period shall not exceed one hundred twenty (180) days, for any reason, including a Force Majeure event, and no extension shall be given if the delay was the result of Seller's failure to take all reasonable actions to meet its requirements and deadlines. Notwithstanding anything to the contrary, no extension under the Development Cure Period shall be given if (i) the delay was the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide Notice to Buyer as required in the next sentence. Seller shall provide prompt Notice to Buyer of a delay, but in no case more than thirty (30) days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Expected Commercial Operation Date, or after such date, Seller must provide Notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation

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demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take reasonable actions.

- 2.2.4. Seller may extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of sixty (60) days of extensions by such payment of Commercial Operation Delay Damages. 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 2.2.4.
- 2.2.5. If the Facility has not achieved Commercial Operation within sixty (60) days after the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement.

2.3. Commercial Operation.

- 2.3.1. Seller shall provide Notice to Buyer of the Commercial Operation Date of the Facility no later than thirty (30) days before such date.
- 2.3.2. Commercial Operation shall occur only when all of the following conditions have been satisfied:
- 2.3.2.1. the Facility's status as an ERR is demonstrated by Seller's receipt of pre-certification from the CEC;
 - 2.3.2.2. the Parties have executed and exchanged the "Commercial Operation Date Confirmation Letter" attached as Appendix B;
 - 2.3.2.3. Seller has obtained and is in compliance with the Interconnection Agreement for the Facility, and Seller has satisfied all applicable metering requirements in Sections 6.1 and 6.2;
 - 2.3.2.4. Seller has furnished to Buyer all insurance documents required under Section 10;
 - 2.3.2.5. Seller has provided Notice thirty (30) days prior to the Commercial Operation Date as required under Section 2.3.1;

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- 2.3.2.6. Seller has obtained all permits necessary to operate the Facility and is in compliance with all Laws applicable to the operation of the Facility;
- 2.3.2.7. Seller has successfully installed and tested the Facility at its full Contract Capacity, and the Facility is capable of reliably generating at its full Contract Capacity; and
- 2.3.2.8. Seller has satisfied the Collateral Requirement set forth in Section 3.9.2.

3. CONTRACT CAPACITY AND QUANTITY; TERM; CONTRACT PRICE; BILLING; COLLATERAL REQUIREMENTS

- 3.1. Contract Capacity. The “Contract Capacity” is the quantity, expressed in kW alternating current (AC), set forth on the Cover Sheet. The Contract Capacity shall not exceed 1,000 kW AC. Seller shall not modify the Facility to increase the Contract Capacity without the prior written consent of Buyer. Any increase in Contract Capacity must be consistent with the interconnection requirements of the Transmission/Distribution Owner.
- 3.2. Contract Quantity. The “Contract Quantity” during each Contract Year is the quantity set forth in the applicable Contract Year in the Cover Sheet, which amount is net of Station Use.
- 3.3. Transaction. During the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, all Product produced by or associated with the Facility that is delivered to the Delivery Point. Whenever Facility output is not enough to supply Station Use and transformation and transmission losses to the Delivery Point, Seller shall purchase energy required to serve the Facility’s on-site load from Buyer pursuant to Buyer’s applicable retail rate schedule. In no event shall Seller have the right to procure the Product from sources other than the Facility for sale or delivery to Buyer under this Agreement. Buyer shall have no obligation to receive or purchase the Product from Seller prior to the Commercial Operation Date or after the end of the Delivery Term.
- 3.4. Term of Agreement; Survival of Rights and Obligations.
 - 3.4.1. The term shall commence upon the Effective Date and shall remain in effect until the conclusion of the Delivery Term, unless earlier terminated pursuant to Sections 11.4 or 12 of this Agreement (the “Term”).
 - 3.4.2. Notwithstanding anything to the contrary in this Agreement, applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Section 14.1 shall remain in full force and effect for two (2) years following the termination of this

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Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

3.5. Delivery Term. The Delivery Term shall commence on the Commercial Operation Date and continue for a period of ten (10), fifteen (15), or twenty (20) Contract Years, as specified on the Cover Sheet, unless the Agreement is earlier terminated pursuant to the terms of this Agreement.

3.6. Contract Price.

3.6.1. Throughout the Delivery Term, and subject to and in accordance with the terms of this Agreement, Buyer shall pay the Contract Price to Seller for the Product per MWh of Delivered Energy in accordance with the Cover Sheet.

3.6.2. During the first five (5) Contract Years of the Delivery Term, an additional Bonus Incentive may be paid by Buyer to Seller per MWh of Delivered Energy if elected on the Cover Sheet. If elected on the Cover Sheet, Seller agrees to meet the applicable criteria in the definition of "Bonus Incentive" set forth in Appendix A to qualify for the Bonus Incentive and shall promptly provide Buyer all necessary evidence and/or documents to confirm compliance with the criteria.

3.6.3. In any Contract Year, if the amount of Delivered Energy exceeds one hundred fifteen percent (115%) of the annual Contract Quantity amount, the Contract Price for such Delivered Energy in excess of one hundred fifteen percent (115%) shall be adjusted to be fifty percent (50%) of the applicable Contract Price.

3.6.4. Seller shall curtail production of the Facility upon: (i) Notice from the CAISO or the Transmission/Distribution Owner or any other jurisdictional entity to curtail Energy deliveries; or (ii) Notice that Seller has been given a curtailment order or similar instruction in order to respond to an Emergency. Buyer shall have no obligation to pay Seller for any Product delivered in violation of this Section 3.6.4 or for any Product that Seller would have been able to deliver but for the fact of a curtailment pursuant to this Section 3.6.4. Seller shall assume all liability and reimburse Buyer for any and all costs and charges incurred by Buyer as a result of Seller delivering Energy in violation of this Section 3.6.4.

3.7. Billing.

3.7.1. The amount of Delivered Energy shall be determined by the meter specified in Section 6.2.1 or Check Meter, as applicable. Buyer shall not have any obligation to purchase from Seller any Energy that is not or cannot be delivered to the Delivery Point, regardless of circumstance.

3.7.2. For the purpose of calculating monthly payments under this Agreement, the amount recorded by the meter specified in Section 6.2.1 or Check Meter, as applicable, will be multiplied by the Contract Price set forth in the Cover Sheet,

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as may be adjusted under Section 3.6.2, less any Energy produced by the Facility for which Buyer is not obligated to pay Seller pursuant to Section 3.7.1.

- 3.7.3. On or before the last Business Day of the month immediately following each calendar month, Seller shall determine the amount of Delivered Energy received by Buyer pursuant to this Agreement for each monthly period and issue an invoice showing the calculation of the payment. Seller shall also provide to Buyer: (i) records of metered data sufficient to document and verify the generation of Delivered Energy by the Facility during the preceding month; (ii) access to any records; and (iii) an invoice, in the format specified by Buyer. Buyer shall pay Seller by check or Automated Clearing House transfer no later than thirty (30) days of receipt of invoice from Seller if the value of the purchased energy in a month is at least fifty dollars (\$50.00); if less, Buyer may pay Seller quarterly. Buyer shall have the right, but not the obligation, to read the Facility's meter on a daily basis.
- 3.7.4. In the event an invoice or portion thereof or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. In the event adjustments to payments are required as a result of inaccurate meter(s), Buyer in its reasonable discretion shall determine the correct amount of Delivered Energy received under this Agreement during any period of inaccuracy and recompute the amount due from Buyer to Seller for the Delivered Energy delivered during the period of inaccuracy. The Parties agree to use good faith efforts to resolve the dispute or identify the adjustment as soon as possible. Upon resolution of the dispute or calculation of the adjustment, any required payment shall be made within thirty (30) days of such resolution.
- 3.8. Title and Risk of Loss. Title to and risk of loss related to the Energy from the Facility shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product from the Facility free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person.
- 3.9. Collateral Requirements. To secure its obligations under this Agreement, Seller shall deliver to Buyer Development Security and Performance Security (together, "Collateral Requirements") as follows:
- 3.9.1. 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 ten (10) 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. Upon the earlier of (i) Seller's delivery of the Performance Security, or (ii) sixty (60) days after termination of this Agreement, Buyer shall return the

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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 (a) fails to maintain the minimum Credit Rating specified in the definition of Letter of Credit, (b) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (c) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit in the amount of the Development Security and that otherwise meets the requirements set forth in the definition of Development Security.

- 3.9.2. On or before the Commercial Operation Date, Seller shall deliver Performance Security to Buyer in the form of cash or Letter of Credit. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) 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: (i) the Delivery Term has expired or terminated early; and (ii) all payment obligations of Seller then due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. If the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (a) fails to maintain the minimum Credit Rating set forth in the definition of Letter of Credit, (b) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (c) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Performance Security. Seller may at its option exchange one permitted form of Development Security or Performance Security for another permitted form of Development Security or Performance Security, as applicable.

4. GREEN ATTRIBUTES; RESOURCE ADEQUACY BENEFITS; ERR REQUIREMENTS

- 4.1. Green Attributes. Seller hereby provides and conveys all rights, title, and interest in all Green Attributes (whether now existing or that hereafter come into existence during the Term) from the Facility to Buyer as part of the Product being delivered to Buyer for the duration of the Delivery Term. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer to the fullest extent allowed by Law as included in the delivery of the Product from the Facility. Seller represents that the Product and Green Attributes from the Facility have not been, nor

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will be, sold or used to satisfy any California Renewables Portfolio Standard obligation other than the RPS Requirements applicable to Buyer.

- 4.2. Conveyance of Product. Throughout the Delivery Term, Seller shall provide and convey the Product to Buyer in accordance with the terms of this Agreement, and Buyer shall have the exclusive right to the Product. Seller shall, at its own cost, take all actions and execute all documents or instruments that are reasonable and necessary to effectuate the use of the Green Attributes, Resource Adequacy Benefits, if any, and Capacity Attributes, if any, for Buyer's benefit throughout the Delivery Term.
- 4.3. WREGIS. Prior to the Commercial Operation Date, Seller shall cause and allow Buyer, or Buyer's agent, to be the "Qualified Reporting Entity" and "Account Holder" (as such terms are defined by WREGIS) for the Facility. In the event that Buyer is not the Qualified Reporting Entity, Seller shall, at its sole expense, take all actions necessary and provide any documentation requested by Buyer in support of WREGIS account administration and compliance with the California Renewables Portfolio Standard. In addition, Seller shall, at its sole expense, take all necessary steps and submit or file all necessary documentation to ensure that the Facility remains an ERR throughout the Delivery Term as set forth in Section 4.5 and that all WREGIS Certificates associated with the Product accrue to Buyer and will satisfy the requirements of the California Renewables Portfolio Standard.
- 4.4. Resource Adequacy Benefits. During the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all of the Contract Capacity, including Capacity Attributes, if any, from the Project to enable Buyer to meet its Resource Adequacy or successor program requirements, as the CPUC, CAISO or other regional entity may prescribe ("Resource Adequacy Requirements"). If providing any Resource Adequacy, Seller shall (i) comply with the Resource Adequacy Requirements set forth in the CAISO Tariff, including Section 40 thereof, as may be amended from time to time; and (ii) cooperate in good faith with and comply with reasonable requests of Buyer and the CAISO to enable Buyer and/or the CAISO to assign Capacity Attributes and Resource Adequacy Benefits to the Facility.
- 4.5. Eligible Renewable Energy Resource. Seller shall take all actions necessary to achieve and maintain status as an ERR throughout the Delivery Term. Within thirty (30) days after the Commercial Operation Date, Seller shall file an application or other appropriate request with the CEC for CEC Certification for the Facility. Seller shall expeditiously seek CEC Certification, including promptly responding to any requests for information from the requesting authority.

5. REPRESENTATION AND WARRANTIES; COVENANTS

- 5.1. Representations and Warranties. On the Effective Date, each Party represents and warrants to the other Party that:

- 5.1.1. it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;

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- 5.1.2. the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Laws;
 - 5.1.3. this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms;
 - 5.1.4. it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt; and
 - 5.1.5. there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.
- 5.2. General Covenants. Each Party covenants that throughout the Term of this Agreement:
- 5.2.1. it shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;
 - 5.2.2. it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and
 - 5.2.3. it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any Law.
- 5.3. Seller's Representations, Warranties and Covenants. In addition to the representations, warranties and covenants specified in Sections 5.1 and 5.2, Seller makes the following additional representations, warranties and covenants to Buyer, as of the Effective Date:
- 5.3.1. Seller has not participated in the Self-Generation Incentive Program (as defined in CPUC Decision 01-03-073), the California Solar Initiative (as defined in CPUC Decision 06-01-024), and/or other similar California ratepayer subsidized program relating to energy production or rebated capacity costs with respect to the Facility.
 - 5.3.2. Seller's execution of this Agreement will not violate Public Utilities Code Section 2821(d)(1), if applicable;
 - 5.3.3. Seller has met all applicable legal and regulatory requirements to sell wholesale electricity in California;

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- 5.3.4. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an ERR as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law;
- 5.3.5. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement, the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law;
- 5.3.6. Throughout the Delivery Term, Seller shall: (i) own and operate the Facility; (ii) deliver the Product to Buyer free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any individual or entity; and (iii) hold the rights to all of the Product;
- 5.3.7. Seller is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of Buyer in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement;
- 5.3.8. Throughout the Delivery Term: (i) Seller shall not convey, transfer, allocate, designate, award, report or otherwise provide any or all of the Product, or any portion thereof, or any benefits derived therefrom, to any party other than Buyer; and (ii) Seller shall not start-up or operate the Facility per instruction of or for the benefit of any third party, except as required by other Laws;
- 5.3.9. Seller has not relied on any promises, representations, statements or information of any kind that are not contained in this Agreement in deciding to enter into this Agreement;
- 5.3.10. The construction of the Facility shall comply with all Laws, including applicable state and local laws, building standards, and interconnection requirements;

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- 5.3.11. No other person or entity, including any other generating facility, has any rights in connection with Seller's Interconnection Agreement or Seller's Interconnection Facilities and no other persons or entities shall have any such rights during the Term; and
- 5.3.12. During the Delivery Term, Seller shall not allow any other person or entity, including any other generating facility, to use Seller's Interconnection Facilities.

6. GENERAL CONDITIONS

6.1. Interconnection Agreements. If either Buyer or the Transmission/Distribution Owner does not deem Seller's existing interconnection service, equipment and agreement satisfactory for the delivery of Product under this Agreement, Seller shall execute an Interconnection Agreement for the Facility with the Transmission/Distribution Owner and pay and be responsible for designing, installing, operating, and maintaining the Facility in accordance with all applicable laws and regulations and shall comply with all applicable Buyer, Transmission/Distribution Owner, CAISO, CPUC and FERC tariff provisions, including applicable interconnection and metering requirements. Seller shall also comply with any modifications, amendments or additions to the applicable tariff and protocols. Prior to and during the Delivery Term, Seller shall arrange and pay independently for any and all necessary costs under any Interconnection Agreement with the Transmission/Distribution Owner. To make deliveries to Buyer, Seller must maintain the Interconnection Agreement with the Transmission/Distribution Owner in full force and effect.

6.2. Metering Requirements.

- 6.2.1. All Energy from the Project must be delivered through a single revenue quality meter and that meter must be dedicated exclusively to the Project. Such meter must be installed on the high side of the Facility's step up transformer, unless otherwise approved by Buyer. All Delivered Energy purchased under this Agreement must be measured by the Project's revenue quality meter(s) to be eligible for payment under this Agreement. Seller shall bear all costs relating to all metering equipment installed to accommodate the Project.
- 6.2.2. Buyer may, at its sole cost, furnish and install one Check Meter at the interconnection associated with the Facility at a location provided by Seller that is compliant with Buyer's electric service requirements. The Check Meter may be interconnected with Buyer's communication network, or the communication network of Buyer's agent, to permit periodic, remote collection of revenue quality meter data. In the event that Buyer elects to install a Check Meter, Buyer may compare the Check Meter data to the Facility's revenue meter data. If the deviation between the Facility's revenue meter data and the Check Meter data for any comparison is greater than 0.3%, Buyer may provide Notice to Seller of such deviation and the Parties shall mutually arrange for a meter check or recertification of the Check Meter or the Facility's revenue meter, as applicable. Each Party shall bear its own costs for any meter check or

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recertification. Testing procedures and standards for the Check Meter shall be the same as for a comparable Buyer-owned meter. The Parties shall have the right to have representatives present during all such tests. The Check Meter, if Buyer elects to install a Check Meter, is intended to be used for back-up purposes in the event of a failure or other malfunction of the Facility's revenue meter, and Check Meter data shall only be used to validate the Facility's revenue meter data and, in the event of a failure or other malfunction of the Facility's revenue meter, in place of the Facility's revenue meter until such time that the Facility's revenue meter is recertified.

- 6.3. Meter Data. Seller hereby agrees to provide all meter data to Buyer in a form acceptable to Buyer, including any inspection, testing and calibration data and reports. Seller shall grant Buyer the right to retrieve the meter readings from Seller or Seller's meter reading agent, which may be SDG&E.
- 6.4. Standard of Care. Seller shall: (i) maintain and operate the Facility and Interconnection Facilities in conformance with all Laws and Prudent Electrical Practices; (ii) obtain any governmental authorizations and permits required for the construction and operation of the Facility and Interconnection Facilities; and (iii) generate, schedule and perform transmission services in compliance with all applicable operating policies, criteria, rules, guidelines and tariffs and Prudent Electrical Practices. Seller shall reimburse Buyer for any and all losses, damages, claims, penalties, or liability Buyer incurs as a result of Seller's failure to obtain or maintain any governmental authorizations and permits required for construction and operation of the Facility throughout the Term of this Agreement.
- 6.5. Access Rights.
- 6.5.1. Operations Logs. Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, fuel consumption (if applicable), efficiency, availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall provide this information electronically to Buyer within twenty (20) days of Buyer's request.
- 6.5.2. Access Rights. Buyer, its authorized agents, employees and inspectors shall have the right to inspect the Facility on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement. Buyer, its authorized agents, employees and inspectors must (i) at all times adhere to all safety and security procedures as may be required by Seller; and (ii) not interfere with the operation of the Project. Buyer shall make reasonable efforts to coordinate its emergency activities with the safety and security departments, if any, of the Project operator. Seller shall keep Buyer advised of current procedures for contacting the Project operator's safety and security departments, if any exist.

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- 6.6. Protection of Property. Seller shall be solely responsible for protecting the Facility from possible damage resulting from electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the Transmission/Distribution Owner's facilities. Buyer shall not be liable for any such damages so caused.
- 6.7. Forecasting. Seller shall comply with the forecasting in Appendix C.
- 6.8. Greenhouse Gas Emissions. Seller acknowledges that a Governmental Authority may require Buyer to take certain actions with respect to greenhouse gas emissions attributable to the generation of Energy, including, but not limited to, reporting, registering, tracking, allocating for or accounting for such emissions. Promptly following Buyer's written request, Seller agrees to take all commercially reasonable actions and execute or provide any and all documents, information or instruments with respect to generation by the Facility reasonably necessary to permit Buyer to comply with such requirements, if any.
- 6.9. Reporting and Record Retention.
- 6.9.1. Seller shall use commercially reasonable efforts to meet the Milestone Schedule set forth in Appendix E and avoid or minimize any delays in meeting such schedule. Seller shall provide Project development status reports in a format and a frequency, which shall not exceed one (1) report per month, specified by Buyer. The report shall describe Seller's progress relative to the development, construction, and startup of the Facility, as well as provide Notice of any anticipated change to the Commercial Operation Date and whether Seller is on schedule to meet the Commercial Operation Date.
- 6.9.2. Seller shall within ten (10) Business Days of receipt thereof provide to Buyer copies of any Interconnection Agreement and all other material reports, studies and analyses furnished by any Transmission/Distribution Owner, and any correspondence with the Transmission/Distribution Owner related thereto, concerning the interconnection of the Facility to the Transmission/Distribution Owner's electric system or the transmission of Energy on the Transmission/Distribution Owners' electric system.
- 6.9.3. Seller shall provide to Buyer on the Commercial Operation Date, and within thirty (30) days after the completion of each Contract Year thereafter during the Delivery Term, a copy of any inspection and maintenance report regarding the Facility that was also provided to the Transmission/Distribution Owner during the previous Contract Year.
- 6.10. Tax Withholding Documentation. Upon Buyer's request, Seller shall promptly provide to Buyer Internal Revenue Service tax Form W-9 and California tax Form 590 (or their equivalent), completed with Seller's information, and any other documentation necessary for Buyer to comply with its tax reporting or withholding obligations with respect to Seller.

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- 6.11. Modifications to Facility. During the Delivery Term, Seller shall not repower or materially modify or alter the Facility without the written consent of Buyer. Material modifications or alterations include, but are not limited to, (i) movement of the Site, (ii) changes that may increase or decrease the expected output of the Facility, (iii) changes that may affect the generation profile of the Facility, (iv) changes that may affect the ability to accurately measure the output of Product from the Facility and (v) changes that conflict with elections, information or requirements specified elsewhere in this Agreement. Material modifications or alterations do not include maintenance and repairs performed in accordance with Prudent Electrical Practices. Seller shall provide to Buyer Notice not less than ninety (90) days before any proposed repowering, modification or alteration occurs describing the repowering, modification or alteration to Buyer's reasonable satisfaction.
- 6.12. No Additional Incentives. Seller agrees that, during the Term of this Agreement, it shall not seek additional compensation or other benefits pursuant to the Self-Generation Incentive Program, as defined in CPUC Decision 01-03-073, the California Solar Initiative, as defined in CPUC Decision 06-01-024, Buyer's net energy metering tariff, or other similar California ratepayer subsidized program relating to energy production with respect to the Facility.
- 6.13. Small Hydro/Private Energy Producer. Seller agrees to provide to Buyer copies of each of the documents identified in California Public Utilities Code Section 2821(d)(1), if applicable, as may be amended from time to time, as evidence of Seller's compliance with such Public Utilities Code section prior to the Commercial Operation Date and, after the Commercial Operation Date, within thirty (30) days of Seller's receipt of written request.
- 6.14. Site Control. Seller shall have Site Control as of the earlier of: (i) the Commercial Operation Date; or (ii) any date before the Commercial Operation Date to the extent necessary for Seller to perform its obligations under this Agreement and, in each case, Seller shall maintain Site Control throughout the Delivery Term. Seller shall promptly provide Buyer with Notice if there is any change in the status of Seller's Site Control.

7. INDEMNITY

- 7.1. Each Party as indemnitor shall defend, save harmless and indemnify the other Party and the directors, officers, and employees of such other Party against and from any and all loss and liability (including reasonable attorneys' fees) for injuries to persons, including employees of either Party, and physical damage to property, including property of either Party, resulting from or arising out of: (i) the engineering, design, construction, maintenance, or operation of the indemnitor's facilities; (ii) the installation of replacements, additions, or betterments to the indemnitor's facilities; or (iii) the negligence or willful misconduct of the indemnitor relating to its obligations under this Agreement. This indemnity and save harmless provision shall apply notwithstanding the active or passive negligence of the indemnitee. Neither Party shall be indemnified for liability or loss resulting from its sole negligence or willful misconduct. The indemnitor shall, on the other Party's request, defend any

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suit asserting a claim covered by this indemnity and shall pay all costs, including reasonable attorneys' fees that may be incurred by the other Party in enforcing this indemnity.

7.2. Each Party shall defend, save harmless and indemnify the other Party, its directors, officers, employees, and agents, assigns, and successors in interest, for and against any penalty imposed upon the other Party to the extent caused by the Party's failure to fulfill its obligations under this Agreement.

7.3. Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss and liability (including reasonable attorneys' fees) in connection with any breach made by the indemnifying Party of its representations, warranties and covenants in this Agreement.

8. LIMITATION OF DAMAGES

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 7 (INDEMNITY), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. NOTICES

Notices (other than forecasts and scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a Notice by overnight mail or

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courier shall be deemed to have been received on the next Business Day after such Notice is sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such Notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All Notices, requests, invoices, statements or payments for this Facility must reference this Agreement's identification number. Notices shall be provided as indicated in Appendix F.

10. INSURANCE

10.1. Insurance Coverage. Seller shall, at its own expense, starting on the Effective Date and until the end of the Term, and for such additional periods as may be specified below, provide and maintain in effect the following insurance policies and minimum limits of coverage as specified below, and such additional coverage as may be required by Law, with insurance companies authorized to do business in the State of California, with an A:M. Best's Insurance Rating of not less than A-:VII.

10.1.1. Commercial general liability insurance, written on an occurrence, not claims-made basis, covering all operations by or on behalf of Seller arising out of or connected with this Agreement, including coverage for bodily injury, broad form property damage, personal and advertising injury, products/completed operations, contractual liability, premises-operations, owners and contractors protective, hazard, explosion, collapse and underground. Such insurance must bear a combined single limit per occurrence and annual aggregate of not less than one million dollars (\$1,000,000.00), exclusive of defense costs, for all coverages. Such insurance must contain standard cross-liability and severability of interest provisions. If Seller elects, with Buyer's written concurrence, to use a "claims made" form of commercial general liability insurance, then the following additional requirements apply: (i) the retroactive date of the policy must be prior to the Effective Date; and (ii) either the coverage must be maintained for a period of not less than four (4) years after this Agreement terminates, or the policy must provide for a supplemental extended reporting period of not less than four (4) years after this Agreement terminates.

10.1.2. Workers' compensation insurance with statutory limits, as required by the state having jurisdiction over Seller's employees, and employer's liability insurance with limits of not less than: (i) bodily injury by accident - one million dollars (\$1,000,000.00) each accident; (ii) bodily injury by disease - one million dollars (\$1,000,000.00) policy limit; and (iii) bodily injury by disease - one million dollars (\$1,000,000.00) each employee.

10.1.3. Commercial automobile liability insurance covering bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000.00) per occurrence. Such insurance must cover liability arising out of Seller's use of all owned, non-owned and hired automobiles in the performance of the Agreement.

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10.1.4. Umbrella/excess liability insurance, written on an occurrence, not claims-made basis, providing coverage excess of the underlying commercial general liability and commercial automobile liability insurance, on terms at least as broad as the underlying coverage, with limits of not less than one million dollars (\$1,000,000.00) per occurrence and in the annual aggregate.

10.2. Additional Insurance Provisions.

10.2.1. On or before the later of (i) sixty (60) days after the Effective Date and (ii) the date immediately preceding commencement of construction of the Facility, and again within a reasonable time after coverage is renewed or replaced, Seller shall furnish to Buyer certificates of insurance evidencing the coverage required above, written on forms and with deductibles reasonably acceptable to Buyer. Notwithstanding the foregoing sentence, Seller shall in no event furnish Buyer certificates of insurance evidencing required coverage later than the Commercial Operation Date. All deductibles, co-insurance and self-insured retentions applicable to the insurance above must be paid by Seller. Such certificates shall specify that Buyer shall be given at least thirty (30) days' prior Notice 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. Buyer's receipt of certificates that do not comply with the requirements stated herein, or Seller's failure to provide such certificates, do not limit or relieve Seller of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 10 and do not constitute a waiver of any of the requirements of Section 10.

10.2.2. All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance must be issued, clearly labeled with this Agreement's identification number and submitted in accordance with Section 9 and Appendix F. Buyer shall have the right to inspect or obtain a copy of the original policy(ies) of insurance.

10.2.3. The insurance requirements set forth herein shall apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, and employees, regardless of any conflicting provision in Seller's policies to the contrary. To the extent permitted by Law, Seller and its insurers shall be required to waive all rights of recovery from or subrogation against Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The commercial general liability insurance and umbrella/excess liability insurance required herein must name Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents and employees, as additional insureds for liability arising out of Seller's construction, use or ownership of the Facility.

10.2.4. Seller shall remain liable for all acts, omissions or default of any subcontractor or subsupplier and shall indemnify, defend and hold harmless Buyer for any

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and all loss or damages, as well as all costs, charges and expenses which Buyer may suffer, incur, or bear as a result of any acts, omissions or default by or on behalf of any subcontractor or subsupplier.

10.2.5. If Seller fails to comply with any of the provisions of this Section 10, Seller, among other things and without restricting Buyer's remedies under Law or otherwise, shall, at its own cost, act as an insurer and provide insurance in accordance with the terms and conditions of this Section 10. With respect to the required commercial general liability insurance, umbrella/excess liability insurance, and commercial automobile liability insurance, Seller shall provide a current, full and complete defense to Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third party claim in the same manner that an insurer would have, had the insurance been maintained in accordance with the terms and conditions set forth above.

11. FORCE MAJEURE

11.1. No Default for Force Majeure. Notwithstanding the limitation set forth in Section 2.2.3.1 with respect to an extension of the Guaranteed Commercial Operation Date due to Force Majeure, once Seller has achieved Commercial Operation, neither Party shall be in default in the performance of any of its obligations set forth in this Agreement, except for obligations to pay money, when and to the extent failure of performance is caused by Force Majeure.

11.2. Requirements Applicable to Claiming Party. If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, such Party (the "Claiming Party") shall be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Agreement by reason of Force Majeure, (i) the Claiming Party must, as soon as practicable, give the other Party Notice of the nature, cause, estimated date of commencement thereof, and the anticipated extent of any delay or interruption in performance; and (ii) the Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.

11.3. Limitations. The suspension of the Claiming Party's performance due to Force Majeure may not be greater in scope or longer in duration than is required by such Force Majeure. In addition, the Claiming Party shall use diligent efforts to remedy its inability to perform. When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.

11.4. Termination. If an event of Force Majeure has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, 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

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upon Notice to the other Party, save and except for those obligations specified in Section 3.4.2, and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

12. EVENTS OF DEFAULT AND TERMINATION

12.1. Termination. Unless terminated earlier pursuant to Section 11.4 or this Section 12, this Agreement shall automatically terminate immediately following the last day of the Delivery Term.

12.2. Events of Default. An “Event of Default” means, with respect to a Party, the occurrence of any of the following:

12.2.1. With respect to either Party:

12.2.1.1. A Party fails to make any payment due and owing under this Agreement, if such failure is not cured within five (5) Business Days after Notice from the non-breaching Party;

12.2.1.2. Except for an obligation to make payment when due, if there is a failure of a Party to perform any material covenant or obligation set forth in this Agreement (except to the extent such failure provides a separate termination right for the non-breaching Party or to the extent excused by Force Majeure), if such failure is not remedied within thirty (30) days after Notice thereof;

12.2.1.3. Any representation or warranty made by a Party (a) is false or misleading in any material respect when made or (b) becomes false or misleading in any material respect during the Term, and such default is not remedied within thirty (30) days after Notice thereof; or

12.2.1.4. A Party becomes Bankrupt.

12.2.2. With respect to Seller:

12.2.2.1. Seller fails to take all corrective actions specified in any Buyer Notice, within the time frame set forth in such Notice, that the Facility is out of compliance with any term of this Agreement; provided that if such corrective action falls under a specific termination right under Section 12.2.2, then the time frame, if any, set forth for such right shall apply;

12.2.2.2. The Facility has not achieved Commercial Operation by the Expected Commercial Operation Date specified in Section 2.2.1 and Seller has not elected to pay Commercial Operation Delay Damages pursuant to Section 2.2.4;

12.2.2.3. Subject to Section 11, Seller delivers less than eighty percent (80%) of the applicable Contract Quantity from the Facility to Buyer for a period of two (2) consecutive Contract Years, and Seller fails to (i)

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deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the eighty percent (80%) threshold and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition within a reasonable period of time, not to exceed one hundred eighty (180) days (the “Cure Plan”) and (ii) completes such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

12.2.2.4. Seller fails to maintain its status as an ERR as set forth in Section 4.5 of the Agreement and does not restore such status following thirty (30) days’ Notice from Buyer;

12.2.2.5. Seller abandons the Facility;

12.2.2.6. Seller installs generating equipment at the Facility that exceeds the Contract Capacity and such excess generating capacity is not removed within five (5) Business Days after Notice from Buyer;

12.2.2.7. Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement product that was not generated by the Facility;

12.2.2.8. Seller fails to install any of the equipment or devices necessary for the Facility to satisfy the Contract Capacity set forth in Section 3.1;

12.2.2.9. An unauthorized assignment of the Agreement, as set forth in Section 15;

12.2.2.10. Seller fails to reimburse Buyer any amounts due under this Agreement and such failure is not cured within five (5) Business Days after Notice from Buyer;

12.2.2.11. Seller has not sold or delivered Energy from the Facility to Buyer for a period of twelve (12) consecutive months;

12.2.2.12. Seller breaches the requirements in Section 6.12 regarding incentives; or

12.2.2.13. Seller fails to maintain the Collateral Requirement set forth in Section 3.9 and such failure is not cured within five (5) Business Days after Notice from Buyer.

12.3. Declaration of an Event of Default. If an Event of Default has occurred, the non-defaulting Party shall have the right to: (i) send Notice, designating a day, no earlier than five (5) days after such Notice and no later than twenty (20) days after such Notice, as an early termination date of this Agreement (“Early Termination Date”); (ii) accelerate all amounts owing between the Parties; (iii) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date; and (iv) collect

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any Termination Payment under Section 12.5. If the defaulting party is Seller and Buyer terminates this Agreement prior to the start of the Commercial Operation Date, Buyer shall have the right to retain the entire Development Security as the Damage Payment.

12.4. Release of Liability for Termination. If an Event of Default shall have occurred, the non-defaulting Party shall have the right to immediately suspend performance under this Agreement and pursue all remedies available at Law or in equity against the defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

12.5. Calculation of Termination Payment. If either Party exercises a termination right under Section 12 after the Commercial Operation Date, the payment owed by the defaulting Party to the non-defaulting Party (the “Termination Payment”) shall be the aggregate of all Settlement Amounts, plus any and all other amounts due to or from the 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, the Termination Payment as of the Early Termination Date. Prior to the Commercial Operation Date, if Buyer is the defaulting Party, the Settlement Amount shall be Zero dollars (\$0). Buyer shall not have to enter into replacement transactions to establish a Settlement Amount. Buyer shall have the right to draw upon the Collateral Requirement to collect any Settlement Amount owed to Buyer.

12.6. Rights and Remedies Are Cumulative. The rights and remedies of the Parties pursuant to this Section 12 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

12.7. Duty to Mitigate. Buyer and Seller shall each have a duty to mitigate damages pursuant to this Agreement, and each shall use reasonable efforts to minimize any damages it may incur as a result of the other Party’s non-performance of this Agreement, including with respect to termination of this Agreement.

12.8. Right of First Refusal.

12.8.1. If Seller terminates this Agreement pursuant to Section 11.4, or if Seller has an Event of Default prior to the Commercial Operation Date, neither Seller nor Seller’s Affiliates may sell, or enter into a contract to sell, Energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits, generated by, associated with or attributable to a generating facility installed at the Site to a party other than Buyer for a period of two (2) years following the effective date of such termination (“Restricted Period”).

12.8.2. This prohibition on contracting and sale shall not apply if, before entering into such contract or making a sale to a party other than Buyer, Seller or Seller’s Affiliate provides Buyer with a written offer to sell the Energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits to Buyer at the Contract Price and on other terms and conditions materially similar to the terms

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and conditions contained in this Agreement and Buyer fails to accept such offer within forty-five (45) days after Buyer's receipt thereof.

12.8.3. Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site of the proposed Facility during the Restricted Period so long as the limitations contained in this Section 12.8 apply, unless the transferee agrees to be bound by the terms set forth in this Section 12.8 pursuant to a written agreement reasonably approved by Buyer.

12.8.4. Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach of the covenants contained within this Section 12.8.

13. GOVERNMENTAL CHARGES

13.1. Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority ("Governmental Charges") on or with respect to the Product or the Transaction arising at the Delivery Point, including, but not limited to, ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the Transaction from the Delivery Point. In the event Seller is required by Law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall reimburse Seller for such Governmental Charges within thirty (30) days of Notice by Seller. If Buyer is required by Law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall reimburse Buyer for such amounts within thirty (30) days of Notice from Buyer. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the Law. A Party that is exempt at any time and for any reason from one or more Governmental Charges bears the risk that such exemption shall be lost or the benefit of such exemption reduced; and thus, in the event a Party's exemption is lost or reduced, each Party's responsibility with respect to such Governmental Charge shall be in accordance with the first four sentences of this Section 13.1.

14. CONFIDENTIALITY; RELEASE OF INFORMATION

14.1. Confidentiality. The Parties hereto acknowledge and agree that this Agreement and any transactions entered into in connection herewith are subject to the provisions of the California Public Records Act (Cal. Government Code Section 6250 et seq.). In the event that Seller contends that any information disclosed or required to be disclosed by Seller pursuant to this Agreement is confidential, Seller shall clearly identify such documents as such before transmitting the same to Buyer. In the event that any claim or action is filed against Buyer pursuant to the Public Records Act seeking the disclosure of any records or documents provided by Seller which were marked confidential hereunder, Buyer shall notify Seller in writing of such fact and Seller shall thereupon defend, save harmless and indemnify Buyer from all costs and

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expenses in connection with said claim or litigation, including attorney's fees, and agrees to abide by the final decision of a court of competent jurisdiction in connection therewith.

- 14.2. Release of Information. Seller authorizes Buyer to release to the FERC, CEC, the CPUC, or other Governmental Authority, information regarding the Facility, including Seller's name and location, and the size, location and operational characteristics of the Facility, the Term, the ERR type, photographs of the Project, the Commercial Operation Date, greenhouse gas emissions data and the net power rating of the Facility, as requested from time to time pursuant to the CEC's, CPUC's or applicable Governmental Authority's rules and regulations.

15. ASSIGNMENT

- 15.1. General Assignment. Except as provided in this Section, neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof to its financing providers and the financing provider(s) shall assume the payment and performance obligations provided under this Agreement with respect to the transferring Party, provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request. Notwithstanding anything to the contrary set forth herein, Seller may transfer or assign its interest under this Agreement without the consent of Buyer, to (a) an Affiliate of Seller, or a corporation, partnership or other legal entity wholly owned by Seller, or (b) a successor to Seller by purchase, merger, consolidation or reorganization (each such transfer a "Permitted Transfer" and any such assignee or transferee of a Permitted Transfer, a "Permitted Transferee"); provided that (i) the Permitted Transferee is of equal or greater creditworthiness than Seller, and (ii) Seller shall give Buyer Notice of the Permitted Transfer and any such Permitted Transferee shall agree in writing to be bound by the terms and conditions hereof.

- 15.2. Notice of Change of Control. Seller shall provide Buyer at least thirty (30) days' prior Notice of any Change of Control of Seller (whether voluntary or by operation of Law) and any such Change of Control will be deemed an assignment and require the prior written consent of Buyer, which consent shall not be unreasonably withheld.

16. GOVERNING LAW

- 16.1. 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.

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17. DISPUTE RESOLUTION

17.1. Intent of the Parties. The sole procedure to resolve any claim arising out of or relating to this Agreement is the dispute resolution procedure set forth in this Section 17, except that either Party may seek an injunction in Superior Court in San Diego, California if such action is necessary to prevent irreparable harm, in which case both Parties nonetheless will continue to pursue resolution of all other aspects of the dispute by means of this procedure.

17.2. Management Negotiations.

17.2.1. The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement by prompt negotiations between each Party's authorized representative, or such other person designated in writing as a representative of the Party (each, a "Manager"). Either Manager may request a meeting, to be held in person or telephonically, to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such request, at a mutually agreed time and place.

17.2.2. All communication and writing exchanged between the Parties in connection with these negotiations shall be deemed inadmissible as evidence such that it cannot be used or referred to in any subsequent judicial or arbitration process between the Parties, whether with respect to this dispute or any other.

17.2.3. If the matter is not resolved within forty-five (45) days of commencement of negotiations under Section 17.2.1, or if the Party receiving the written request to meet refuses or does not meet within the ten (10) Business Day period specified in Section 17.2.1, 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.

18. MISCELLANEOUS

18.1. Severability. If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

18.2. Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission shall also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement shall not affect the validity or effectiveness of this Agreement.

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- 18.3. General. No amendment to or modification of this Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only.
- 18.4. Interpretation. Whenever this Agreement specifically refers to any Law, tariff, Governmental Authority, regional reliability council, Transmission/Distribution Owner, or credit rating agency, the Parties hereby agree that the references also refers to any successor to such Law, tariff or organization.
- 18.5. Construction. The Agreement will not be construed against any Party as a result of the preparation, substitution, or other event of negotiation, drafting or execution thereof.
- 18.6. Joint Powers Authority. Seller hereby acknowledges and agrees that Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement, and Seller agrees that it shall have no rights against, and shall not make any claim, take any actions or assert any remedies against, any of Buyer’s constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, or any of Buyer’s retail customers in connection with this Agreement.
- 18.7. 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.

[Signature page follows on next page.]

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IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

_____ (Seller)	<u>SAN DIEGO COMMUNITY POWER</u> (Buyer)
_____ (Signature)	_____ (Signature)
_____ (Print Name)	_____ (Print Name)
_____ (Title)	_____ (Title)
_____ (Date)	_____ (Date)

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Appendix A - Definitions

“Affiliate” means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with that Party.

“AC” means alternating current.

“Application Fee” means the fee submitted by Seller to Buyer in the amount specified on the Cover Sheet at the time Seller submitted an application for a Feed-In Tariff Power Purchase Agreement. The Application Fee is non-refundable.

“Available Capacity” means the rated AC generating capacity of the Facility, expressed in whole kilowatts, that is available to generate Product.

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

“Bonus Incentive” means an additional amount, as specified in the Cover Sheet, added to the Contract Price for the first five (5) Contract Years of the Delivery Term for Projects that meet any of the following criteria:

- (a) Local Business: The applicant and/or prime contractor must have a place of business (i.e., possesses a business license) physically headquartered within a member community of SDCP, as such membership exists on the date of submission of the FIT Application.
- (b) Previously Developed Sites: Such sites are defined as areas that either contain or have contained structures or were used for parking, loading or storage related to a previous or existing land use other than agricultural grazing or crop production within the last twenty (20) years. To claim this bonus, the previously developed land must make up at least twenty percent (20%) of the project footprint. Development documentation, in the form of building permits or verifiable ground, aerial, or satellite photography, as solely determined by Buyer, must be provided by Seller.
- (c) Sited within a Community of Concern: To qualify for the Sited within Communities of Concern incentive, the Eligible Resource must be located entirely within a Disadvantaged Community, as defined by the California Office of Environmental Health Hazard Assessment (<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>), or within a very

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low to low access census tract found in the City of San Diego's Climate Equity Index (<https://www.sandiego.gov/sustainability/social-equity-and-job-creation>), at the time of submission of the FIT Application. The geographical eligibility of Communities of Concern may expand as SDCP member cities enact their own Climate Equity Index designated census tracts.

"Business Day" means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving during the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party's principal place of business where the relevant Party in each instance shall be the Party from whom the notice, payment or delivery is being sent.

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

"CAISO Tariff" means the CAISO FERC Electric Tariff, Fifth Replacement Volume No. 1, as amended from time to time.

"California Renewables Portfolio Standard" or "RPS" means the renewable energy program and policies codified in California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions may be amended or supplemented from time to time.

"Capacity Attributes" means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity of the Project to produce Energy or ancillary services, including, but not limited to, any accounting construct so that the full Contract Capacity of the Project may be counted toward a Resource Adequacy Requirement or any other measure by the CPUC, the CAISO, the FERC, or any other entity invested with the authority under federal or state Law, to require Buyer to procure, or to procure at Buyer's expense, Resource Adequacy or other such products.

"CEC" means the California Energy Commission or its successor agency.

"CEC Certification" means certification by the CEC that the Facility is an ERR and that all Energy produced by the Facility qualifies as generation from an ERR.

"CEC Pre-Certification" means provisional certification of the proposed Facility as an ERR by the CEC upon submission by a facility of a complete CEC-RPS-1B application and required supplemental information.

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

(a) any ownership interest in Seller held by Seller's Parent indirectly through one or more intermediate entities shall not be counted towards Seller's Parent's ownership interest in

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Seller unless Seller's 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.

For purposes of this definition, "Seller's Parent" means an entity which owns a majority of Seller's voting equity.

"Check Meter" means the Buyer revenue-quality meter section(s) or meter(s), which Buyer may require at its discretion, and which will include those devices normally supplied by Buyer or Seller under the applicable utility electric service requirements.

"Claiming Party" has the meaning set forth in Section 11.2.

"Collateral Requirement" has the meaning set forth in Section 3.9.

"Commercial Operation" means the Contract Capacity has been installed and the Facility is operating and able to produce and deliver the Product to Buyer pursuant to the terms of this Agreement.

"Commercial Operation Date" means the date on which the Facility achieves Commercial Operation.

"Commercial Operation Delay Damages" means an amount equal to \$0.20/kW per day.

"Contract Capacity" means the amount of electric energy generating capacity, set forth in the Cover Sheet, that Seller commits to install at the Site.

"Contract Price" has the meaning set forth in the Cover Sheet.

"Contract Quantity" has the meaning set forth in the Cover Sheet.

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

"Costs" means (a) brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred either in terminating any arrangement pursuant to which it has hedged its obligations or in entering into new arrangements which replace the Transaction; and (b) all reasonable attorneys' fees and expenses incurred in connection with the termination of the Transaction.

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

"Credit Rating" means, with respect to any entity, (a) the rating then assigned to such entity's unsecured senior long-term debt obligations (not supported by third party credit enhancements), or (b) if such entity does not have a rating for its unsecured senior long-term debt obligations, then the rating assigned to such entity as an issuer rating by S&P and/or Moody's. If the entity is rated by both S&P and Moody's and such ratings are not equivalent, the lower of the

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two ratings shall determine the Credit Rating. If the entity is rated by either S&P or Moody's, but not both, then the available rating shall determine the Credit Rating.

"Cure Plan" has the meaning set forth in Section 12.2.2.3.

"Damage Payment" means the amount to be paid by Seller as the defaulting Party to Buyer as the non-defaulting Party after a termination of this Agreement prior to the Commercial Operation Date which shall be equal to the entire Development Security amount.

"Delivered Energy" means all Energy, expressed in kWh, produced by the Facility throughout the Delivery Term and delivered to the Delivery Point, net of Station Use and electrical losses from the Facility, as recorded by the meter specified in Section 6.2.1 or the Check Meter, as applicable.

"Delivery Point" has the meaning set forth in the Cover Sheet.

"Delivery Term" has the meaning set forth in the Cover Sheet.

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

"Early Termination Date" has the meaning set forth in Section 12.3.

"Eligible Renewable Energy Resource" or "ERR" has the meaning set forth in Public Utilities Code Sections 399.12 and California Public Resources Code Section 25741, as either code provision may be amended or supplemented from time to time.

"Emergency" means (a) an actual or imminent condition or situation which jeopardizes the integrity of the electric system or the integrity of any other systems to which the electric system is connected or any condition so defined and declared by the CAISO; or (b) an emergency condition as defined under an Interconnection Agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the electric system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.

"Energy" means three-phase, 60-cycle alternating current electric energy measured in kWh, net of Station Use. For purposes of the definition of "Green Attributes," the word "energy" shall have the meaning set forth in this definition.

"Effective Date" means the latest signature date found at the end of the Agreement.

"Facility" has the meaning set forth in Section 2. The terms "Facility" or "Project" as used in this Agreement are interchangeable.

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

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“FIT Application” means the Feed-in Tariff Application that each developer is required to submit through Buyer’s website.

“Force Majeure” means any occurrence that was not anticipated as of the Effective Date that:

(a) in whole or in part: (i) delays a Party’s performance under this Agreement; (ii) causes a Party to be unable to perform its obligations; or (iii) prevents a Party from complying with or satisfying the conditions of this Agreement;

(b) is not within the control of that Party; and

(c) the Party has been unable to overcome by the exercise of due diligence, including an act of God, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute, or curtailment or reduction in deliveries at the direction of a Transmission/Distribution Owner.

Force Majeure does not include:

(a) the lack of wind, sun or other fuel source of an inherently intermittent nature;

(b) reductions in generation from the Facility resulting from ordinary wear and tear, deferred maintenance or operator error; or

(c) any delay in providing, or cancellation of, interconnection service by a Transmission/Distribution Owner, except to the extent such delay or cancellation is the result of a force majeure claimed by the Transmission/Distribution Owner.

“Gains” means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of the Transaction, determined in a commercially reasonable manner, subject to Section 12.5. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, 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, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading platforms (e.g., NYMEX), all of which should be calculated for the remaining Delivery Term to determine the value of the Product.

“Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

“Governmental Charges” has the meaning set forth in Section 13.1.

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided

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emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere¹; and (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production or investment tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

"Interconnection Agreement" means the small generator interconnection agreement entered into separately between Seller and Transmission/Distribution Owner obtained by Seller pursuant to Transmission/Distribution Owner's Wholesale Distribution Tariff.

"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 Seller's Interconnection Agreement.

"Interconnection Point" has the meaning set forth in the Cover Sheet.

"JAMS" means JAMS, Inc. or its successor entity, a judicial arbitration and mediation service.

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

¹ Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

FEED-IN TARIFF POWER PURCHASE AGREEMENT

“Joint Powers Agreement” means that certain Joint Powers Agreement dated October 1, 2019, as amended by the First Amendment to the Joint Powers Agreement dated November 22, 2019, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

“kW” means kilowatt.

“kWh” means kilowatt-hour.

“Law” means any statute, law, treaty, rule, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Effective Date, and which becomes effective during the Delivery Term; or any binding interpretation of the foregoing.

“Letter of Credit” means an irrevocable, non-transferable standby letter of credit issued either by a U.S. commercial bank or a foreign bank with a U.S. branch office with a Credit Rating of at least “A-” by S&P and “A3” by Moody’s (without a “credit watch”, “negative outlook” or other rating decline alert if its Credit Rating is “A-” by S&P or “A3” by Moody’s).

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from the termination of the Transaction, determined in a commercially reasonable manner, subject to Section 12.5. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties 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, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading platforms (e.g. NYMEX), all of which should be calculated for the remaining term of the Transaction to determine the value of the Product.

“Manager” has the meaning set forth in Section 17.2.1.

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

“MW” means megawatt (AC).

“MWh” means megawatt-hour.

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

“Party” means Buyer or Seller individually, and “Parties” means both collectively.

“Performance Security” means (a) cash or (b) a Letter of Credit in the amount set forth on the Cover Sheet.

FEED-IN TARIFF POWER PURCHASE AGREEMENT

“Permitted Transfer” has the meaning set forth in Section 15.1.

“Permitted Transferee” has the meaning set forth in Section 15.1.

“Product” means all Delivered Energy; all Green Attributes; all Capacity Attributes, if any; and all Resource Adequacy Benefits, if any; generated by, associated with, or attributable to the Facility throughout the Delivery Term.

“Project” has the meaning set forth in Section 2. The terms “Facility” and “Project” as used in this Agreement are interchangeable.

“Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety. Prudent Electrical Practices shall include, at a minimum, those professionally responsible practices, methods and acts described in the preceding sentence that comply with manufacturers’ warranties, restrictions in this Agreement, and the requirements of Governmental Authorities, WECC standards, the CAISO and Laws. Prudent Electrical Practices also includes taking reasonable steps to ensure that:

(a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility’s needs;

(b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Facility and Emergencies whether caused by events on or off the Site;

(c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe operation of the Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;

(d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;

(e) Equipment is not operated in a reckless manner, in violation of manufacturer’s guidelines or in a manner unsafe to workers, the general public, or the Transmission/Distribution Owner’s electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and

(f) Equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature

FEED-IN TARIFF POWER PURCHASE AGREEMENT

and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

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

“Reservation Deposit” means the deposit submitted by Seller to Buyer in the amount specified on the Cover Sheet at the time Buyer has accepted as complete Seller’s application for a Feed-In Tariff Power Purchase Agreement. Buyer shall return the Reservation Deposit to Seller upon receipt of the Development Security.

“Resource Adequacy” means the procurement obligation of load serving entities, including Buyer, as such obligations are described in CPUC Decisions D.04-10-035 and D.05-10-042 and subsequent CPUC decisions addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemakings (R.) 04-04-003 and (R.) 05-12-013 or by any successor proceeding, and all other Resource Adequacy obligations established by any other entity, including the CAISO.

“Resource Adequacy Benefits” means the rights and privileges attached to the Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Facility.

“Resource Adequacy Requirements” has the meaning set forth in Section 4.4.1.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022 and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time during the Delivery Term.

“Restricted Period” has the meaning set forth in Section 12.8.1.

“S&P” means the Standard & Poor’s Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

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

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

FEED-IN TARIFF POWER PURCHASE AGREEMENT

“Site Control” means Seller: (a) owns the Site, (b) leases the Site, (c) is the holder of a right-of-way grant or similar instrument with respect to the Site, or (d) prior to the Commercial Operation Date, has the unilaterally exercisable contractual right to acquire or cause to be acquired on its behalf any of (a), (b), or (c).

“Station Use” means energy consumed within the Facility’s electric energy distribution system as losses, as well as energy used to operate the Facility’s auxiliary equipment. The auxiliary equipment may include, but is not limited to, forced and induced draft fans, cooling towers, boiler feeds pumps, lubricating oil systems, plant lighting, fuel handling systems, control systems, and sump pumps. This use is not to exceed 1% of average annual output.

“Term” has the meaning set forth in Section 3.4.1.

“Termination Payment” has the meaning set forth in Section 12.5.1.

“Transaction” means the particular transaction described in Section 3.3.

“Transmission/Distribution Owner” means any entity or entities responsible for operating the electric distribution system or transmission system, as applicable, at and beyond the Interconnection Point.

“WECC” means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.

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

“WREGIS Certificates” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard. *[for Facilities (1) 500 kW or greater and (2) eligible for a CAISO revenue meter.]*

“WREGIS Operating Rules” means those operating rules and requirements adopted by WREGIS as of December 2010, as subsequently amended, supplemented or replaced (in whole or in part) from time to time. *[for Facilities (1) 500 kW or greater and (2) eligible for a CAISO revenue meter.]*

*** End of Appendix A ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT**

Appendix B – Commercial Operation Date Certificate

This certification (“**Certification**”) of Commercial Operation is delivered by Name of licensed professional engineer (“**Engineer**”) to San Diego Community Power, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Feed-In Tariff Power Purchase Agreement dated Agreement Effective Date] (“**Agreement**”) by and between Seller’s Name (“**Seller**”) and Buyer. All capitalized terms used in this Certificate 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 operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.
2. Seller has installed equipment for the Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Contract Capacity.
3. The Facility’s testing included a performance test demonstrating peak electrical output of no less than ninety-five percent (95%) of the Contract Capacity for the Facility at the Delivery Point, adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was Peak output in MW_{AC}.
4. *[If installing storage]* The Storage Facility is fully capable of charging, storing and discharging energy up to no less than ninety-five percent (95%) of the Storage Contract Output and is receiving instructions to charge, store and discharge energy, all within the operational constraints and subject to the applicable Operating Restrictions.
5. Authorization to parallel the Facility was obtained by the PTO, Name of Participating Transmission Owner as appropriate on Date of Authorization.
6. The PTO has provided documentation supporting full unrestricted release for Commercial Operation by Name of Participating Transmission Owner as appropriate on Date of release.

EXECUTED by [LICENSED PROFESSIONAL ENGINEER] this Day day of Month, 20Year.

[LICENSED PROFESSIONAL ENGINEER]

X: _____

Title: _____

Date: _____

*** End of Appendix B ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT**

Appendix C – Forecasting Requirements

Seller shall provide the Available Capacity forecasts described below. *[The following bracketed language applies to As-Available solar or wind Projects only]* [Seller's availability forecasts below shall include Project availability and updated status of *[The following bracketed language applies to solar Projects only]* [photovoltaic panels, inverters, transformers, and any other equipment that may impact availability] or *[The following bracketed language applies to wind Projects only]* [transformers, wind turbine unit status, and any other equipment that may impact availability].] *[The following bracketed language applies to As-Available Product only]* Seller shall use commercially reasonable efforts to forecast the Available Capacity of the Project accurately and to transmit such information in a format reasonably acceptable to Buyer. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary.

1. Annual Forecast of Available Capacity. No later than (a) the earlier of July 1 of the first calendar year following the Effective Date or one hundred and eighty (180) days before the first day of the first Contract Year of the Delivery Term ("First Annual Forecast Date"), and (b) on or before July 1 for each calendar year from the First Annual Forecast Date for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly Available Capacity for each day in each month of the following calendar year in a form reasonably acceptable to Buyer.

2. Monthly Forecast of Available Capacity. Ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly Available Capacity for each day of the following month in a form reasonably acceptable to Buyer.

*** End of Appendix C ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT**

Appendix D – Description of the Facility

Seller should complete the information below and attach a description of the Facility, including a summary of its significant components, a drawing showing the general arrangements of the Facility, and a single line diagram illustrating the interconnection of the Facility and loads with Buyer's electric distribution system.

Name of the Facility: Insert Name of the Facility

Address of the Facility: Insert Street Address , City, State, ZIP

Description of the Facility, including a summary of its significant components, such as for solar photovoltaic [Photovoltaic Modules, DC Collection System, Current Inverters], meteorological station, instrumentation and any other related electrical equipment:

Drawing showing the general arrangement of the Facility:

A single-line diagram illustrating the interconnection of the Facility with Buyer:

A legal description of the Site, including a Site map:

Longitude and latitude of the centroid of the Site:

*** *End of Appendix D* ***

FEED-IN TARIFF POWER PURCHASE AGREEMENT

Appendix E – Seller’s Milestone Schedule

Action Steps	Time Allowance		Due On*	Date Completed	Responsible Party
STEP 1. Submit Application & Tendered Interconnection Agreement ¹				10/1/2021	Developer
1A. Submit Documentation in Support of Bonuses (if applicable)	Due with Initial Application				Developer
1B. Review Application for Eligibility & Assign FIT Record Number	20 BD	from Step 1	10/29/2021		SDCP
STEP 2. Approve Application	30 BD	from Step 1	11/12/2021		SDCP
STEP 3. Sign conditional PPA	30 BD	from Step 2	12/24/2021		Both
STEP 4. Submit Proof of Insurance	30 CD	from Step 3	1/23/2022		Developer
STEP 5. Acquire Full Interconnection Agreement	60 CD	from Step 3	2/22/2022		Developer
5A. Submit Interconnection Agreement to SDCP within 10 days of receipt	10 CD	from Step 5	3/4/2022		Developer
STEP 6. Pay Interconnection Fees & submit proof to SDCP	30 CD	from Step 5	3/24/2022		Developer
STEP 7. Submit confirmation of RPS request receipt by CEC and copy of CEC-RPS 1.	30 CD	from Step 5	3/24/2022		Developer
STEP 8. File project with WREGIS & submit proof to SDCP	30 CD	from Step 5	3/24/2022		Developer
STEP 9. Acquire conditional use & construction permits	180 CD	from Step 3	6/22/2022		Developer
9A. Submit proof of permits to SDCP	5 BD	from Step 9	6/29/2022		Developer
STEP 10. Notify SCP 10 business days in advance of ground breaking	10 BD	prior to ground breaking			Developer
STEP 11. Mechanical Completion	360 CD	from Step 9	6/17/2023		Developer
STEP 12. Notify SDCP 90 business days in advance of commercial operation	90 BD	prior to Step 13	4/12/2023		Developer
STEP 13. Start of Commercial Operation	60 CD	from Step 11	8/16/2023		Developer
STEP 14. Submit CEC Certification	90 CD	from Step 13	11/14/2023		Developer

* Please note that once FIT application is received and processed by San Diego Community Power the due dates become binding milestones. Missing due dates may be grounds for changing a project's queue position and/or contract termination.

¹ For clarity, the tendered interconnection agreement is the final draft from SDG&E's Wholesale Interconnection Services prior to execution of that agreement.

BD = Business Days, CD = Calendar Days

*** End of Appendix E ***

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT**

Appendix F – Notices List

SELLER

Name: Seller's Name, a include place of formation and business type. ("Seller")

All Notices:

Delivery Address:

Street Address

City, State ZIP

Mail Address: *(if different from above)*

Street Address

City, State ZIP

Attn: Contract Manager's Name.

Phone: Phone Number

Facsimile: Fax Number

D-U-N-S: D-U-N-S

Federal Tax ID Number:

Federal Tax ID Number

Invoices:

Attn: Invoice Contact Person

Phone: Phone Number

Facsimile: Fax Number

Payments:

Attn: Payments Contact Person

Phone: Phone Number

Facsimile: Fax Number

Wire Transfer:

BNK: Name of Bank

ABA: ABA Routing Number

ACCT: Account Number

Credit and Collections:

Attn: Credit/Collect. Contact Person

Phone: Phone Number

Facsimile: Fax Number

**With additional Notices of an Event of
Default to Contract Manager:**

Attn: Contract Manager Name

Phone: Phone Number

BUYER

Name: **SAN DIEGO COMMUNITY POWER**, a California joint powers authority ("Buyer" or "SDCP")

All Notices:

Delivery Address:

815 E Street, Suite 12716

San Diego, CA 92112

Mail Address:

815 E Street, Suite 12716

San Diego, CA 92112

Attn:

Phone:

Facsimile:

DUNS:

Federal Tax ID Number:

Invoices:

Attn:

Phone:

Facsimile:

Payments:

Attn:

Phone:

Facsimile:

Wire Transfer:

BNK:

ABA:

ACCT:

Credit and Collections:

Attn:

Phone:

Facsimile:

SDCP Contract Manager:

Attn:

Phone:

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT**

Facsimile: Fax Number

**** End of Appendix F****

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 11

To: Orange County Power Authority Board of Directors

From: Joe Mosca, Interim Chief Executive Officer

Subject: CHIEF EXECUTIVE OFFICER’S REPORT

Date: February 20, 2024

Strategic Plan

Board members received an email dated February 6 regarding our 2024 Strategic Plan Workshop, the email included proposed agenda items for the day. Staff are in the process of scheduling with your offices and coordinating day of details. Please share your input if you have not done so already.

Rate Implementation Update

On January 1, 2024, SCE updated their bundled generation rates, reducing them by approximately 1.3 cents/kWh, and their PCIA by approximately 1.2 to 1.5 cents/kWh. As both SCE's bundled generation and PCIA rates were reduced by similar amounts, the impact on OCPA rates for 2024 is minimal. On January 24, 2024, the OCPA Board approved the ratification of OCPA’s rate change, to be effective January 22, 2024.

Due to internal miscommunication at Calpine during their billing system update process, the effective date for OCPA’s rate change was delayed to January 23, 2024. The customer billing impact from this incident is minimal, as SCE’s rate change had a minimal impact on OCPA’s rates. Calpine has since strengthened their rates implementation protocol to prevent such occurrences in the future.

Request for Proposals

The Request for Proposal for Managed IT services is in the final stages. The panel has interviewed top candidates and selected a finalist. Staff will be reaching out to establish a contact based on the winning proposal. This item will be presented for Board consideration at our following Board meeting.

Human Resources Update

Energy Programs Analyst and Administrative Assistant interviews were completed, and selections were made for both positions. On February 1, we welcomed Julio Sanchez to our team as our Administrative Assistant, and on February 16, we will welcome Nataly Sandoval as our new Energy Programs Analyst.

For upcoming recruitments, the position of Intern will be open very soon. Internships will last a minimum of six months and we will be performing outreach to our local college and university programs to source new talent.

The Mercer Compensation Study has been completed and we have received the final report. Staff are analyzing the results and will be reporting on them as well as making recommendations for any movement in salary or benefits based on our comparison with CCA's, public agencies, the energy and utilities industry, and general industry. This information will be included in the March Board packet.

Employee enrichment training occurred Friday, February 2 and was well received. Making Time for Everything - Dual Careers & Family Life was attended by many staff and we look forward to our next training on April 5 on Sleep Success, Tips and Tricks. This training is provided under our existing services contracted with Concern Health Employee Assistance Program.

We have considered and feel it will be supportive of our continuing effort to place talented, effective staff in our positions, introducing a three-month introductory period to our onboarding practices. At the conclusion of the first three months of employment we will conduct an evaluation of the new staff member's performance, and if satisfactory will continue the individual's employment, and if not, take steps to remedy or release the employee. This is in alignment with the practices of other CCA's and will affect no change to the at-will employment status of our new hires.

Events & Stakeholder Outreach

Community events and stakeholder meetings are starting to pick up and we are also able to provide more coverage with the recent expansion of the Communications & External Affairs team.

The OCPA team attended the following events and community meetings since our last Board meeting:

City	Event	Date	Time
Irvine	Electrification 101 Workshop	Wednesday, January 17	6:00 PM - 8:00 PM
Irvine	Sustainability Meeting & Tour of the Irvine Ranch Historical Park	Thursday, January 25	12:00 PM - 1:00 PM
Fountain Valley	Introductory Presentation to the Fountain Valley City Council	Tuesday, January 30	6:00 PM - 8:00 PM
Irvine	Small Business Diversity Network - Business and Breakfast	Friday, February 2	8:45 AM - 11:00 AM
Santa Ana	Tet Celebration	Saturday, February 3	2:00 PM – 7:00 PM

Irvine	UCI Lunar New Year	Monday, February 5	3:30 PM - 6:00 PM
Buena Park	Buena Park Collaborative General Meeting	Thursday, February 8	10:00 AM - 11:00 PM
Costa Mesa	CA Green Business Community Meeting	Thursday, February 8	4:00 PM – 6:00 PM
Garden Grove	Little Saigon TV – Lunar New Year Event	Friday, February 9	7:30 PM – 12:00 AM
Anaheim	OCBC 2024 Annual Dinner & Board Installation	Thursday, February 15	5:00 PM – 8:00 PM

We are looking forward to many opportunities to engage with the community and key stakeholders, including:

City	Event	Date	Time
Irvine	OCCACC Installation & CNY Ceremony	Sunday, February 25	5:00 PM - 11:00 PM
Remote	"Reform & Sustain" Meeting	Tuesday, February 27	7:00 PM - 8:00 PM
Anaheim	Black Chamber Future Leaders Luncheon	Thursday, February 29	11:00 AM - 1:30 PM
Fullerton	State of The City	March 2024	

Attachments:

A) OCPA Contract Tracker as of December 31, 2023

**Orange County Power Authority Contracts
As of December 31, 2023**

No.	Vendor	Start Date	End Date	NTE Amount	Expenses recorded against contract	Remaining NTE Amount	Notes	Contract Approved by the Board?	Contract Reported to the Board?	RFP to be issued?
1	Baker Tilly (Management Partners, Inc.)	7/1/2023	6/30/2024	75,000.00	31,612.50	43,387.50	HR Consulting Support		Yes	
2	Balance Public Relations	1/1/2023	9/30/2023	121,500.00	121,500.00	-	Strategic Consulting and Audit Compliance Advisory Services		Yes	
3	Best Best & Krieger	12/16/2020	See Notes	See Notes	2,016,056.78	See Notes	General Counsel, Financial & Power Procurement, Regulatory, Labor Related, and Special Legal Services. No NTE amount and contract end date. Costs are variable (time and materials).	Yes		RFP was issued on 2/24/2023 with one proposal rec'd on 3/17/2023. Pending for Board direction.
4	Calpine Energy Solutions	9/14/2021	9/13/2026	See Notes	2,466,192.62	See Notes	Data Management & Call Center Services. NTE and Amount Paid depend on the number of active accounts during the month.	Yes		
5	Golden Communications	3/1/2022	2/29/2024	140,000.00	123,251.00	16,749.00	Digital Services - Strategic Marketing, Branding, Communications, and Public Education and Outreach Campaign/Program, Website Development Svc	Yes		See Remark below
6	Hana Park Place/LBA IV-PPI, LLC	2/9/2021	10/31/2023	See Notes	396,706.57	See Notes	Office lease	Yes	Yes	
7	Littler Mendelson P.C.	8/10/2022	12/31/2023	125,000.00	114,040.68	10,959.32	Labor and Employment Legal Services		Yes	See Remark below
8	Maier Accountancy	1/1/2023	12/31/2023	231,000.00	218,088.85	12,911.15	Accounting Service and Annual Financial Audit Support	Yes		RFP was issued on 10/27/2023 with one proposal rec'd on 11/24/2023. On 12/20/2023, the Board approved a 1-year agreement with Maier Accountancy effective from 1/1/2024 through 12/31/2024. This agreement includes the option to extend for four additional 4-year terms. The NTE for CY2024 is \$268k, excluding the reimbursement of accounts payable subscriptions and transaction system fees, which are billed by third-party vendors at cost.
9	Method Technologies	2/1/2023	3/1/2024	See Notes	-	See Notes	IT Support - The Initial term is 1 year with an option for a 1-year renewal. The vendor has agreed to a month-to-month extension after 1/31/2024. No NTE as costs include monthly fees that will vary month to month as services and subscriptions will be added/removed due to the change of active users and hourly service rates that will be billed by time and materials.		No as contract value < \$50k	
10	Newgen Strategies & Solutions	7/19/2023	6/30/2025	495,750.00	45,293.75	450,456.25	Rates Strategies, Budget and Projection Modeling, and FP&A Services	Yes		
11	Orange County Printing Company	7/1/2022	6/30/2024	722,201.60	642,328.71	79,872.89	Print House Services, add scope of work to validate PS invoices with 6 months term ending 12/31/2023 NTE \$75,000	Yes		
12	Pacific Energy Advisors, Inc.	6/9/2021	12/31/2024	1,791,800.00	1,299,097.13	492,702.87	Portfolio Management Services; Amendment 1: Added to scope, back-office support invoice validation NTE 75K	Yes	Yes - For the additional service scope of back-office support invoice validation service for \$75k	
13	Pisenti & Brinker	See Notes	See Notes	84,044.00	54,644.00	29,400.00	External Financial Audit Services. Amendment to extend the terms through the issuance of the final audit report for FY23/24 and increase the contract amount to \$79,400 (FY21/22 \$21k, FY22/23 \$29k, FY23/24 \$29.4k). Further amendment to increase the contract amount by \$4,644 for the FY21/22 audit services due to unexpected out-of-scope work in connection to the member agency and state audits. The total NTE has been adjusted from \$79,400 to \$84,044.		Yes	
14	Reveille, Inc.	7/1/2023	6/30/2025	2,999,686.00	772,755.22	2,226,930.78	Strategic Marketing and Branding Material, PR and Social Media Support	Yes		
15	San Diego Gas & Electric	7/27/2022	See Notes	See Notes	-	See Notes	CCA Service Agreement. Contract term from 7/27/2022 to CCA termination date. Billing provided by SDG&E is set forth in SDG&E's community choice aggregation tariff, as stated in SDG&E's Electric Rule 23 and SDG&E's rate schedules. Due to the departure of Unincorporated Orange County in 6/2023, the service agreement with SDG&E has been terminated.		Yes	
16	Southern California Edison	3/28/2021	See Notes	See Notes	836,587.32	See Notes	CCA Service Agreement. Contract term from 3/28/2021 to CCA termination date. Billing provided by SCE is set forth in SCE's community choice aggregation tariff, as stated in SCE's Electric Rule 23 and SCE's rate schedules.		Yes	
17	The Energy Authority	4/1/2022	9/3/2026	770,960.00	344,940.00	426,020.00	Scheduling Coordinator, Day Ahead Load Forecasting, and CRR Management Services. Full Service from Commencement Date to 9/3/2026. Amendment to add the load forecast service for \$12,160.	Yes	Yes - For the additional service scope of forecast service fee for \$12,160	
18	Zodiac Solutions LLC	3/1/2022	2/29/2024	260,000.00	128,235.00	131,765.00	Project Management - Strategic Marketing, Branding, Communications, and Public Education and Outreach Campaign/Program	Yes		
19	CPS HR Consulting	6/26/2023	12/31/2023	54,000.00	18,000.00	36,000.00	Professional services for the executive recruitment for the Chief Operating Officer position and the Power Resources Director position		Yes	See Remark below
20	CPS HR Consulting	8/1/2023	7/31/2024	30,000.00	-	30,000.00	Professional services for the executive recruitment for the Chief Executive Officer position.	Yes		
21	The Energy Federation	7/1/2023	6/30/2024	400,000.00	130,009.06	269,990.94	Online marketplace to sell devices	Yes		
22	Clean Peaks Energy Services	8/14/2023	2/13/2024	97,500.00	-	97,500.00	Provide project management services related to OCPA's return of customers receiving retail electricity service within the City of Huntington Beach to SCE.		Yes	On 1/24/2024, the Board approved an amendment with Clean Peaks Energy Services for the term of 2/14/2024 through 12/31/2024, with a revised NTE of \$187,500.

Remark:

Golden Communications: Staff will issue a Purchase Requisition to solicit bids for a new website maintenance contract. The expected contract terms are: a 2-year contract with a NTE of \$95k, effective 3/1/2024.

Littler Mendelson: Staff issued a Purchase Requisition on 12/15/2023 and rec'd three bids. Littler's proposal met all the needs of OCPA. A new 2-year contract from 1/1/2024 through 12/31/2025, with a NTE of \$94,900 (excluding reimbursement billed by third-party vendors at cost), is currently under review by Littler.

CPS HR Consulting (for COO/PRD recruitment): Staff is working on extending the contract to 6/2024, which aligns with the original date specified on the Purchase Requisition. The NTE remains unchanged.